

GENERAL PURPOSE COMMITTEE

SECTION 1 ENVIRONMENT

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GENERAL PURPOSE COMMITTEE - ENVIRONMENT

Meeting Date: 26 September 1995

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ITEM: 43 CONSTRUCTION OF GARDEN SHEDS FOR THE HOUSING AND
KEEPING OF EIGHTEEN (18) CHIHUAHUAS - LOT 1 DP566369 NO.
17 ROSE STREET, WILBERFORCE

FILE NUMBER: DA49/95/EVD

Applicant: Mrs E A Tracey
Applicants Reps: Not Advised
Owner: Mr J & Mrs E A Tracey
Stat. Provisions: Hawkesbury Local Environmental Plan 1989. DCP3/92 "The Housing &
Keeping of Dogs"
Area: 1011m²
Zone: Residential 2(a)
Advertising: 6 Adjoining Owners Notified with 2 Submissions
Date Received: Received 16 March 1995, Refused 6 July 1995. A letter requesting that the
application be reconsidered was received on 29 August 1995

Key Issues:

, Noise
, Development Control Plan

Action:

Refusal

REPORT:

Application was made in March 1995 to keep 18 chihuahuas in 3 gardens sheds on the subject property. This application was refused under delegated authority. The applicant has requested that the application be reconsidered at a General Purpose Committee Meeting. This request is reproduced as follows:

"The reason is to ask that this matter be put to a Council meeting that I may address the meeting and maybe have neighbours attend with me to put my case.

Being an only child animals have been my brothers, sisters and friends all my life. The past ten years have been really bad for me and without my dogs I would not have made it.

All I ask is to live quietly, although there are many funny noises come from the Australian Village opposite and the abattoirs at the back. I am hopeful that my husband will move to live here with me when he retires next July. At that time we will most likely be selling the property at Frenchs Forest and looking for a 5 acre property. Until this time I would ask to stay at Rose Street.

I do anticipate that through the Summer heat I may lose some of my little ones. It is not something to look forward to but something that is inevitable. To my knowledge they are not an annoyance to neighbours.

Please reconsider my application."

Statutory Situation

The proposal is defined as an "animal establishment" and is permissible with Council's consent in a Residential 2(a) zone. Council's Development Control Plan, "The Keeping and Housing of Dogs" also applies to this proposal.

Community Consultation

Six adjoining owners were notified and 2 submissions were received, objecting on the following grounds:-

the 18 dogs are noisy;

problems with smell and hygiene from the dogs waste products;

not enough space for 18 dogs; and

non-compliance with Council's policy of no more than 3 dogs on a residential property.

Planning Assessment

The subject land is regular in shape and has road frontage to Rose Street. The adjoining properties are residential in character with 2 villas units and a detached dwelling located adjacent. Located on the subject property is a detached residential dwelling. The rear boundary of the property is segregated into four separate yards of approximately 3m by 4m which are enclosed by paling fences. Three of these yards contain garden sheds where the dogs are locked during the night. The 18 chihuahuas are confined to these enclosures during the day.

Waste disposal

Dog faeces are currently collected, along with the soiled newspaper from the garden sheds and composted off the subject property. These methods are considered to be inappropriate as the development should be able to sustain the waste produced. The applicant has indicated that a composting toilet is to be purchased to dispose of the waste generated by the dogs. This system composts the waste through the use of worms, the by-product being suitable for reuse on gardens.

Noise

With respect to noise, submissions indicate that the dogs are noisy and that the occupants of Unit 1 cannot go into the backyard without the dogs barking. Upon inspection of the site, the dogs barked when the enclosures were approached. As the sheds are also located on the rear boundary, they are in close proximity to the dwelling on the adjoining property. The noise emanating from the enclosures on the subject property is considered to have more impact on the adjoining property than the subject property due to their location on the boundary.

Development Control Plan

Council's Development Control Plan (DCP) 3/92 "The Keeping and Housing" does not permit the keeping of more than 3 dogs on land that:-

- a) is zoned residential;
- b) is proposed to become residential; or
- c) has a residential character, even if zoned residential.

An allowance has been made in the DCP for retaining dogs where it can be proven that the dogs legally existed prior to the implementation of the plan. The dogs on the subject property have been there since early 1995, well after the implementation of the plan.

The subject property is zoned residential 2(a) and the surrounding land consists of residential property with some villa development. One of the objectives of the residential zone is:-

"to enable development for the purposes other than Residential only if it is compatible with the character of the living area and has a domestic character and scale".

The keeping and housing of 18 dogs on a residential property is not compatible with the character of the area.

Conclusion

The adjoining properties are clearly affected by the noise emanating from the subject property. The proposal does not comply with the DCP for the housing and keeping of dogs and it is considered that there will be adverse impacts on the amenity of the locality.

RECOMMENDATION:

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

1. The proposed development is inconsistent with the objectives contained in the Development Control Plan, "The Housing and Keeping of Dogs".
2. The proposed development could adversely affect the existing and future amenity of the locality.

3. The proposed development is inconsistent with the objectives of the Residential 2(a) zone.
- B. The dogs are to be removed from the subject property over a period of not more than 6 (six) months so that there are not more than 3 (three) dogs on the property by 1 December 1995.

ATTACHMENTS:

AT-1 Locality map showing site and objectors.

FN:EN926NAX.V11

****** END OF ITEM 43 ******

ITEM: 44 UNDERSTOREY REMOVAL FOR THE PURPOSES OF RABBIT
CONTROL AND FIRE CONTROL - LOT 12 DP846650 NO. 124
TIZZANA ROAD, EBENEZER

FILE NUMBER: DA115/95/EVD

Applicant: Mr D Tolson
Applicants Reps: Not Advised
Owner: Mr D Tolson
Stat. Provisions: Hawkesbury Local Environmental Plan, 1989
Area: 13.62 hectares
Zone: Environmental Protection (Scenic)
Advertising: 3 Adjoining Owners
Date Received: 29 May 1995, amended plans were Submitted on 26 July 1995

Key Issues:

- , Agricultural Capability
- , Fire control
- , Rabbit control

Action:

Refusal

REPORT:

The application is to clear the subject property of vegetation with the exception of large established trees, for the purposes of rabbit and fire control. The application initially proposed to clear the understorey of the entire property. These plans were considered to be unsatisfactory and amended plans were submitted limiting the clearing to certain areas on the property. The proposed methods of clearing of the understorey are by bulldozer, slasher and by hand. Following the clearing it is proposed to pasture improve the land presumably for grazing purposes.

Statutory Situation

The proposal is permissible with Council's Consent under the provisions of Hawkesbury Local Environmental Plan, 1989.

Background

In 1994, Council resolved to support a Mushroom Growing Operation (DA 132/94) on the subject property. This facility included growing rooms, peak heat and spawn room building, parking areas, a rural workers dwelling and a managers residence. A Building Application has not been lodged for this development.

It should be noted that the outcome of this application has no effect on the Mushroom Growing Operation that was approved in 1994.

Planning Assessment

The subject property is regularly shaped with an area of 14.340 hectares and has road frontage to Tizzana Road. The subject property is relatively flat at the front and slopes towards the southern boundary which is the Hawkesbury River.

The site of the approved mushroom growing operations is relatively flat and clear of vegetation. The proposed method for clearing of the vegetation in this section is through the use of a bulldozer and slasher. The area south of escarpment is vegetated, consisting of large trees as well as shrubs, regrowth and lantana. The proposed method of clearing in this area is through the use of a slasher and spraying methods.

Within both of these areas there are rock outcrops with the soil being very sandy and shallow with a high erosion capability. There are also two species located on the property that are listed as Vulnerable in the Western Sydney context. These species are:-

1. Acacia binervia; and
2. Persoonia oblongata.

There are no buildings located on the subject property and buildings on the adjoining properties are not located near the common boundary. This application was not required to be referred to Fire Control for comments, however, the applicant has indicated that the property is a high fire risk and therefore needs to be cleared. In these instances, with no buildings located on the property, Fire Control would, at the most, require 15 m around the boundary to be cleared. It is therefore considered that removal of the understorey for the purposes of fire control is not justified at this stage. Building approval for the Mushroom Growing Operation would allow the applicant to clear around the complex for the purposes of fire control. Since the Building Application has not been lodged, consent to remove the understorey would be premature.

With respect to rabbit control, the Moss Vale Rural Protection Board inspected the property and recommended that a baiting program be undertaken on the property to control the rabbits. This is considered to be a more appropriate method of rabbit control than clearing the vegetation.

Conclusion

There is no obvious reason to clear the property. The applicant has indicated that the he will pasture improve but provides no justification as to why this will done or what the land will be used for once "improved". In terms of agricultural classification, the property is classed 3 and 4, land suitable for grazing but not intensive cultivation. If this land is cleared and pasture improved, it will have little economic value in terms of agriculture and would have detrimental environmental effects.

Furthermore, building approval for the mushroom growing operation would allow sufficient areas to be cleared for fire control. Until a Building Application is lodged and approved, there is little justification to clear the understorey for the purposes of bushfire control.

RECOMMENDATION:

That the application be refused 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.

ATTACHMENTS:

AT-1 Locality map showing agricultural land capability.

FN:EN926NAX.V10

****** END OF ITEM 44 ******

ITEM: 45 EDUCATIONAL FACILITY BEING ANIMAL FARM AND DEER
PARK FOR PRE-SCHOOL AND SCHOOL CHILDREN - LOT 12
DP775129 NO. 111 WEATHERBOARD RIDGE ROAD, KURRAJONG

FILE NUMBER: DA170/95/EVD

Applicant: C Blaydon
Applicants Reps: None Stated
Owner: C Blaydon
Stat. Provisions: Hawkesbury LEP 1989
Area: 4.34ha
Zone: Rural 1(c1)
Advertising: 14 days to adjoining owners, 6 submissions received
Date Received: 24 July 1995

Key Issues:

- , Parking and Access
- , Buffer Areas
- , Amenity

Action:

Approval.

REPORT:

Application is to use the existing farm to bring pre-school and school children for hands on experience with farm animals. The applicant currently operates a mobile farm visiting various schools and shopping centres and wishes to extend the range of animals available by having children visit the farm in groups.

The application includes a report which illustrates the range of "services" proposed on the animal farm. A circular driveway is to be provided at the front of the site but no parking area is designated for visitors' vehicles. There is, however, ample space to provide for buses and cars. The proposal is intended to operate 10.00am to 4.00pm 5 days a week, Monday to Friday.

Statutory Situation

The site is zoned as Rural 1(c1) and a tourist facility and educational establishment are allowable uses with Council's consent.

Council's Parking Policy has no specific requirements for the proposed development, however, it would seem appropriate to require parking for 2 coach/buses and 3 cars.

Community Response

The receipt of the application was advised to adjoining owners and 6 submissions have been received. The submissions include the following objections and concerns:-

- object if proposal for 7 days, no objections to week days only for school children not tourists;
- adjoins Wollemi National Park;
- site already overstocked, appearance of a feed lot;
- hygiene and animal husbandry practices have been of low standard;
- degrading land, no grass on deer pen, deer ringbarking trees;
- existing development could be polluting Wheeney Creek;
- odours disgusting in summer;
- in the rutting season, the noise from the bucks goes on all day and night;
- fencing of property not complete, trespassing could occur;
- privacy could be affected;
- parking must be provided on-site;
- no signs or boarding should be permitted;
- commercial development not appropriate for quiet residential area; and
- increased traffic could be dangerous to children living in the area.

The plan included in the Business Paper shows the site and the location of objectors. It is noted, 2 submissions are from the one property.

Environmental Assessment**Access and Parking**

It is considered that all weather access and parking should be provided for a minimum of 2 bus/coaches and for 3 vehicles. The access and parking should be designed so that all vehicles can enter and leave in a forward direction.

Buffer Areas

Due to the close proximity of the adjacent dwelling on the northern side, a 15 metre wide planted buffer should be provided and fenced to exclude stock.

Amenity

The development should be controlled at all times so that adverse impact on the amenity of the area by noise, odours, traffic and activities is minimised at all times.

In regard to overstocking, two of the paddocks used were devoid of grass and another had been turfed but was not growing due to the drought. The applicant explained that, due to the drought, all the grass in the two used paddocks had been eaten but there was an intension to fence other parts of the property so the stock could be rotated in times of drought. There were other paddocks with grass but with incomplete fencing.

There is also a need to provide sediment control over the heavily grazed areas so as pollution does not occur to the creeks in the area.

The restriction of the approval to pre-school and school children, Monday to Friday only and with hours 10.00am to 4.00pm is likely to keep adverse impacts to within acceptable limits.

RECOMMENDATION:

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

1. Provision of a landscaped buffer 15 (fifteen) metres wide along the northern side boundary with such area being fenced to stop any stock from grazing on this 15 (fifteen) metres strip. The 15 (fifteen) metre wide strip is to extend from the front boundary along all paddocks used by stock or used as part of the educational facility.
2. Provision of parking on the site for a minimum of 2 (two) bus/coaches and 3 (three) cars for visitors to the site with all parking spaces and access being to the requirements of Council's Parking Policy, and such that all vehicles can enter and leave the site in a forward direction.
3. Access from Weatherboard Ridge Road and the parking area to be constructed to an all weather surface. Full details of works shall be submitted for approval prior to commencement of construction.
4. Footpath planting to be to the requirements of Prospect Electricity and to consist of species that do not interfere with the power lines in the area.
5. Submission of a building application, plans and specifications complying with the Building Code of Australia.

6. No advertising structures to be erected, displayed or affixed on any building or land without prior approval. Any unauthorised advertising structure will be removed at the expense of the advertiser.
7. A waste management plan shall be submitted for consideration with the building application. Such plan shall address any builder's waste and waste generated during day to day operations and shall include types and quantities, recycling, reuse, storage and disposal.
8. Provision of toilets in accordance with the requirements of the Building Code of Australia.
9. Any building or part thereof to be used for the purpose of storage, preparation or sale of food for human consumption shall be constructed in accordance with the requirements of the Food Act 1989 and Regulations thereunder and Council's Food Premises Code.
10. No excavation or site works shall be commenced prior to the issue of the building permit.
11. The submission of an erosion and sedimentation control plan for approval prior to any works commencing.
12. Submission of a schedule of proposed external finishes including sample materials for consideration and approval in conjunction with the submission of a building application.
13. A detailed plan of landscaping shall be submitted and approved by the Divisional Manager Environment and Development prior to the approval of the building application. Such landscaping is to be completed prior to the occupation of the building and shall be maintained for the life of the development.
14. 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.
15. 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.
16. Operating hours shall be limited to 10.00am to 4.00pm Mondays to Fridays with no operating on weekends or public holidays. Any alteration of these hours will require the approval of the Divisional Manager Environment and Development.
17. The development shall be carried out in accordance with plan dated 8 June 1995, prepared by Linda Hanlon except where modified by conditions of this Development Consent.

ATTACHMENTS:

AT-1 Site Plan.

FN:EN926NAX.V03

****** END OF ITEM 45 ******

ITEM: 46 REFRESHMENT ROOM - USE OF AN EXISTING BUILDING - LOT 1
DP997462 NO. 36 BERAMBING CRESCENT, BERAMBING

FILE NUMBER: DA139/95/EVD

Applicant: Teresa Plane
Owner: As Above
Area: 14.16ha
Zone: Environmental Protection (Scenic) (7(d))
Advertising: Advertised with 6 submissions - 3 objecting, 3 supporting
Date Received: 16th June, 1995

Key Issues:

, Amenity
, Traffic
, Commercialisation

Action:

Approval with conditions

REPORT:

Application is made to use an existing meeting room as a 'refreshment room'. Operating hours proposed will be 10.30am to 5.00pm Saturdays, Sundays and Public Holidays.

In support of the proposal the applicant has submitted the following:-

"Part of the development at 36 Berambing Crescent has for the past three years been used as the National Headquarters of the Outstretched Hand Foundation. We have had our offices in the Windsor/Richmond area since 1984. Our services, offered without charge, have been widely used by the residents of the Hawkesbury Valley in the past eleven years.

Prior to his death in February 1995, Mr Jack Plane provided the finance to create new buildings in the paddock adjoining the main house. These were the Meeting House and Counselling Room, House of Prayer (a non-denominational Chapel), a Gate House, a large Gazebo and the Cherub House (a safe play area for children). All the walkways in the garden are paved for wheelchairs and there are ramps and toilets for the disabled. Along with the landscaping of what before was a rough paddock the total development amounted to \$300,000 all of which has been approved by Council. These buildings are used for seminars for Health Professionals as well as public education, "Touch the Earth Days" ie. days out for residents of nursing homes and our Cancer Support Group's monthly "Living and Learning" luncheons.

Following the death of Mr. Jack Plane the Foundation's income was considerably reduced. We felt that utilising the existing Meeting House as a Tearoom/Refreshment Room would be a creative way of generating income for the Foundation. On March 9th I applied to Council (correctly as I thought) for a Refreshment Room permit to operate on Saturdays, Sundays and Public Holidays. During a later telephone conversation, I was advised that we were permitted to operate. Subsequently we received a telephone call advising us our permit was not in order, that a complaint had been received by Council and that we could no longer open to the public. As you can imagine I and the Committee were deeply shocked and concerned, due to the fact that we had committed a large proportion of our available funds to equipping and operating the Tearooms.

Also, because our senior citizens and frail aged groups have been delighted with their experience of "Touch the Earth" days, and were wanting return visits, we have installed handrails for extra security when walking about, at a cost of \$3,300, and ordered a Walkabout buggy to convey our frail aged from car parking to the other facilities, at a quoted price of \$4,800. Both these amounts of money were donated to the Foundation for these specific purposes.

With regard to the complaint received, I am personally in attendance at the Gate House on Saturdays and Sundays to greet visitors and distribute literature and information about the Foundation.

On only two occasions can I recall vehicles being parked on the grass verge of the Berambing Crescent and always adjacent to No.36. One was Mother's Day, when we had a special afternoon for bereaved mothers, and the second occasion was when two large vehicles with trailers arrived together, restricting the availability of parking in our six car parking facility. We do provide two further car spaces adjacent to the Chapel, and the house entrance can accommodate an additional four cars in the driveway if required. A staff car park has also been made available inside the top entrance at the western end of the property."

Statutory Situation

The proposal may be defined as either a 'tourist facility' under Council's planning scheme or 'refreshment rooms' under the Environmental Planning and Assessment Model Provisions, 1980:-

"tourist facilities" means a building or place that is used to provide refreshment, accommodation, recreation or amusement facilities for the travelling or holidays public, and includes craft shops and the like;

"refreshment room" means a restaurant, cafe, tea room, eating house or the like;

Clause 23 (Advertising Signs) is applicable where, approval is required for displaying only purposes for which the use is intended, such as tourist facilities.

Amongst others, objectives of the zone are:-

to prevent the establishment of traffic generating development along main and arterial roads; and

to control outdoor advertising so that it does not disfigure the rural landscape.

Public Submissions

Residents within the street were notified of the proposal, with 3 (three) property owners objecting. Three submissions were also received in support of the proposal.

Concerns raised within the objections relate to signs on the road, street parked vehicles and commercialisation. Comments read:

"In our opinion commercial development of this type conflicts with the "environment" of private orchards and gardens along Berambing Crescent.

We would add that for historic and geographic reasons most of the dwellings along the crescent are close to the road and are particularly sensitive to traffic. It would be entirely inappropriate for the normal traffic flow to be increased to the detriment of all other residents (including those belong to the Blue Mountains Council) in favour of a development which militates against our life-style in the first place.

General tourists are well catered for in this area by either the Mt.Tomah Botanical Gardens facilities or the Mount Inn at Bilpin itself."

"Increased traffic flow will detract from the quiet, rural nature of the crescent. Road and parking facilities are inadequate. Previous restaurant signs have been unsightly and dangerously placed on the main road.

Already there have been over 10 building/development applications approved since the present owner has purchased this rural subdivision.

The "Outstretched Hand Foundation" operates as a business A.C.N. 001995464. For example, apart from the recent restaurant venture, a \$3.00, per person fee has been charged for entry to the grounds, overnight accommodation has been charged for, a wedding and reception has been held there. Therefore "The outstretched Hand Foundation" should not attract special consideration as a charity because it charges for services."

Letters of support reflect the charitable nature of the organisation and that:-

"The centre is dedicated to people with life threatening illness and to those who are bereaved, and we don't know when these things will touch our own lives."

Planning Assessment**Site Characteristics**

Generally rectangular in shape, the subject property is mostly covered with medium/dense vegetation. Existing buildings are within the cleared areas adjacent to the road. Elevated above the street, the land provides scenic views particularly from the existing meeting room. Berambing Crescent, accessed off Bells Line of Road to the east and west, is reasonably sealed with grass shoulders, providing two way traffic.

Traffic and Parking

Parking will be provided at various designated locations with caretakers in attendance during busy periods (see Plan No.1). Parking will be provided in excess of Councils Parking Policy of 1 per 10m² of floor area. It is considered that no traffic hazard exists.

Concerns regarding traffic and parking can be overcome by imposing conditions and reviewed after 12 (twelve) months.

Amenity

Concerns are expressed by objectors as to the commercialisation of the proposal. Tourist facilities are encouraged within the Hawkesbury region and it is considered that this particular proposal will not interfere with the amenity of the area.

Other than visitors, the existing building to be used, will not be seen from the road. In this respect adjoining privacy will not be compromised.

Signage within the property can be overcome by conditions, so as not to be on the road. Directional signs maybe used within proximity of the intersection of Bells Line of Road and Berambing Crescent.

Notwithstanding that the tea room will operate on Saturdays, Sundays and Public Holidays, it is considered that minimal noise will be generated due to the nature of the organisation.

RECOMMENDATION:

That consent be granted subject to:-

1. The development shall be carried out generally in accordance with plans and documentation submitted with the application.
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. All waste materials to be stored and disposed of at regular intervals to the satisfaction of the Divisional Manager Environment and Development.
4. 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.
5. Parking shall be provided for 6 (six) 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.
6. No signs shall be displayed on the footpaths, pedestrianways, roadways or in the vicinity.
7. 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.
8. Operating hours shall be limited to 10.30am to 5.00pm for Saturday, Sunday and Public Holidays. Any alteration of these hours will require the approval of the Divisional Manager Environment and Development.
9. Parking signs shall be provided to parking areas.

ATTACHMENTS:

AT-1 Site Plan.

FN:EN926NAX.V02

****** END OF ITEM 46 ******

ITEM: 47 ALTERATIONS TO A HERITAGE ITEM AND ITS USE AS A RESTAURANT - LOT 3 DP803879 NO. 663 GROSE VALE ROAD, GROSE VALE

FILE NUMBER: DA106/95/EVD

REPORT:

A request has been received that this application be reconsidered by the new Council. It has been suggested that reconsideration may obviate the potential for expense in the Land and Environment Court by both the applicant and Council. In the interests of mediation, there is no legal constraint to reconsideration.

Reproduced below is the report to the General Purpose Committee on 22 August 1995:-

"Applicant: *Mr A O'Grady*
Applicant's Reps: *Not known*
Property Owner: *Grose Vale Properties (G Kable)*
Stat. Provisions: *Hawkesbury LEP 1989*
Area: *6.36ha*
Zone: *Rural 1(c1)*
Advertising: *Adjoining owners notified with 12 submissions and a petition containing 96 signatures.*
Date Received: *18th May, 1995*

Key Issues:

*Noise
Amenity
Parking*

Action:

Conditional approval

Report:

Council is in receipt of an application proposing alterations to 'Wyanbah', an existing heritage item, and its use as a restaurant.

Four persons are to be employed in respect of the use which is proposed to operate between the hours of 6.00pm to 12.00pm on weekdays and 12.00 noon to 12.00pm on Saturdays and Sundays. The restaurant will be capable of seating 45 persons.

Statutory Situation

The proposal would be defined as a 'refreshment room' and is a use permissible, with Council's consent, under the provisions contained in Hawkesbury LEP, 1989.

Submissions

Of the 12 submissions received, 2 were in support of the proposal on the basis that this development will help ensure the longevity of the heritage building. The remaining submissions object to the development on the following grounds:-

- impact on traffic in Grose Vale Road*
- inadequate car parking*
- financial viability of the development*
- fire hazard*
- on-site disposal and stormwater*
- adverse impact on amenity*
- noise*
- supply of water*

The petition containing 96 signatures is in support of the proposal.

Environmental Assessment

The subject property is a rural allotment with an area of 6.36ha containing a single dwelling - house known as 'Wyanbah' which is a heritage item listed in Schedule 1 of Hawkesbury LEP 1989.

The locality is generally rural in nature. The development proposes minor internal alterations only which will not impact on the significance of the heritage item.

Traffic and Parking

Car parking is to be provided for 9 cars within a gravel surface parking area located behind the existing dwelling house. Council's Parking DCP requires for restaurants that 1 space be provided for each 10m² of dining area, plus 1 space per 2 employees. This development proposes 86m² of such area, plus 4 employees, thus requiring 11 spaces. Ample area is available to provide these spaces on site. Furthermore, it is considered reasonable to provide additional space on the property to cater for parking in excess of that formally provided for any overflow requirements.

Access to the site is via a driveway off Grose Vale Road. The driveway is located almost immediately opposite a dwelling on the other side of Grose Vale Road and it is considered that the driveway should be relocated to avoid the shining of motor vehicle headlights into the dwelling-house. The relocation of the driveway further down hill will have the added advantage of improving sight distances for vehicles exiting the site.

Amenity

It is considered that the proposed development is a reasonable use for the site, however, it has the potential to impact upon the amenity of the area, particularly by way of noise from patrons at the restaurant and leaving the site. It is recommended, therefore, that conditions be imposed preventing outdoor eating and further limiting the hours of operation to 10.00pm Sunday to Thursdays and 11pm Fridays and Saturdays. This should adequately protect the amenity of the locality.

Services

The disposal of effluent is to be carried out by way of an aerated treatment system which will spray irrigate on-site. The property has sufficient area to accommodate this type of system. The on-site collection and storage of water will provide adequate water for the development. This can be supplemented by tanker.

Conclusion

The proposed development is considered to be a reasonable use for the site and is recommended for approval with conditions."

RECOMMENDATION:

That approval be granted subject to the following conditions:-

1. The development shall be carried out in accordance with Plan No. K1.84, dated 15 May 1994.
2. Submission of a building application, plans and specifications complying with the Building Code of Australia.
3. All waste materials to be stored and disposed of at regular intervals to the satisfaction of the Divisional Manager Environment and Development.
4. Provision of toilets in accordance with the requirements of the Building Code of Australia.
5. 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.

6. No advertising structures to be erected, displayed or affixed on any building or land without prior approval. Any unauthorised advertising structure will be removed at the expense of the advertiser.
7. No signs shall be displayed on the footpaths, pedestrianways, roadways or in the vicinity.
8. Parking shall be provided for 11 (eleven) 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 including driveway shall be submitted for consideration with the Building Application by the Divisional Manager of Environment and Development.
9. All parking required by this activity shall be provided on the property and no vehicles shall be parked on the surrounding road network.
10. Provision of adequate loading and unloading facilities to cater for the proposed use of the land.
11. The provision of a sealed driveway 4.5m (four point five) wide from the footway crossing in Grose Vale Road to the parking area.
12. The provision of a sealed rural type footway crossing.
13. The driveway being relocated to the satisfaction of the Divisional Manager of Environment and Development. Details to be submitted prior to works commencing.
14. 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.
15. The use of the verandah for dining or other entertaining or like use is prohibited.
16. Operating hours shall be limited to 6.00pm to 10.00pm on Mondays to Thursdays; 6.00pm to 11.00pm on Fridays; 12.00 noon to 11.00pm on Saturdays and 12.00 noon to 10.00pm on Sundays. Any alteration of these hours will require approval of the Divisional Manager Environment and Development."

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN926NBX.V16

****** END OF ITEM 47 ******

ITEM: 48 REJECTION OF PROPOSED REZONING OF KEMSLEY DOWNS AT
NORTH RICHMOND FOR URBAN DEVELOPMENT**FILE NUMBER:** LEP002/95 PT01/EVD**REPORT:**

Council at its meeting on 14 March 1995, resolved to support the potential of possible development of the Kemsley Downs property for residential purposes by preparing a Draft Local Environmental Plan and further that support, in principle, be provided to the provision of reticulated water from Cranebrook to South Windsor as a means of servicing the additional urban development.

The land, which is in single ownership, has the potential for approximately 2,000 dwellings which is an equivalent scale to Bligh Park.

The Department of Urban Affairs and Planning have now advised that the proposal was referred to the Land and Housing Committee of the State Government for consideration. At its meeting on 26 June 1995, the Land and Housing Committee decided that the proposed rezoning was inconsistent with the Metropolitan Strategy and that the Committee would not be prepared to consider the land for the Urban Development Program.

The Committee also considered that Council and the Department of Urban Affairs and Planning should consider a more strategic approach to the location of new developments in relation to existing towns and villages.

Whilst there is regular communication between Council and the Department in relation to proposed urban development, it would be of benefit to discuss desirable strategic approaches with the Land and Housing Committee direct.

Accordingly, the Land and Housing Committee should be requested to invite attendance by representatives of Council at a scheduled Committee meeting to discuss their preferred strategic approach to the location of new urban development in the North West Sector and in the City of Hawkesbury in particular. In the event that Council is invited to attend a scheduled Committee meeting, the matter will be reported back to Council for the determination of Council representatives.

RECOMMENDATION:

That the Land and Housing Committee be requested to receive a small delegation from Council to discuss their preferred strategic approach to the location of new urban development in the North West Sector and in particular the City of Hawkesbury.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN926NBX.V15

****** END OF ITEM 48 ******

GENERAL PURPOSE COMMITTEE - ENVIRONMENTMeeting Date: **26 September 1995**Item: **49****ITEM: 49****OFF STREET PARKING REQUIREMENT FOR KURRAJONG
BETWEEN THE KURRAJONG PUBLIC SCHOOL AND THE
BUSHFIRE STATION****FILE NUMBER:** 722/R PT05 & 1501/R PT03/EVD**REPORT:**

It had been requested that a report be brought forward as to the extent of compliance with development consent conditions for off street parking between Kurrajong Public School and the Bushfire station.

A search was undertaken of Council records to 1981 to ascertain developments with outstanding on site parking conditions. This search indicated that there are two developments which have not complied with the provision of on site parking conditions attached to the consent. The two developments are identified in the table below:-

DA FILE	LOCATION	TYPE OF DEVELOPMENT	NO OF CAR SPACES	CONSENT DATE	COMPLIED
DA102/82	LOT 27 DP13541	SHOPS	6	12/5/82	NO
DA145/82	LOT 4 DP13541	DOCTORS SURGERY	3	9/6/82	NO

In May 1982, Development Consent was issued for the use of the existing building for the storage, restoration and refurbishing of antiques and the sale by retail of antiques, secondhand goods and arts and crafts at the intersection of Grose Vale Road and Old Bells Line of Road at Kurrajong. Since the issue of consent use of the building has substantially changed and today the building is used as shops, ie. pizza, video, real estate agent and lolly shop. The consent issued by Council in 1982 was conditioned on provision of six on site spaces. To date no provision has been made for this. On 4 September 1994, the applicant was advised that this outstanding condition had to be complied with, but there has still been no action.

In June 1982, Development Consent was issued to convert the front rooms of an existing dwelling to be used for the purpose of professional consulting rooms. The dwelling is currently used as a Doctors Surgery. The consent issued by Council was conditioned on the provision of three on-site car parking spaces. To date no provision has been made of this. Currently the surgery operates Monday to Friday for only 1 hour per day being 2.00pm to 3.00pm. Whilst provision of the spaces will ensure that there is on site parking available for the doctor and patients it will not alleviate any parking congestion that occurs in the village on Saturdays and Sundays as the surgery is not open.

RECOMMENDATION:

That:-

1. The information in the report be received.
2. Appropriate action be taken to ensure the provision of 9 (nine) outstanding car parking spaces required for DA102/82 and DA145/82.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN926NBX.V14

****** END OF ITEM 49 ******

ITEM: 50**HAWKESBURY CITY COUNCIL & FOSTER - V - MUSHROOM
COMPOSTERS PTY LTD - APPLICATION FOR COSTS & PROCEEDS
OF PENALTY****FILE NUMBER:** P1609/110 PT11/EVD**REPORT:**

Following a Notice of Motion filed on behalf of Council, argument on the question of costs has been set down for hearing on 18 December 1995, before the Chief Justice. Full costs are also being sought (on an indemnity basis) given that Mushroom Composters changed their plea several days before the hearing and also acknowledged that they were in contempt at the hearing and would be continuing their contempt after the hearing of the matter.

In relation to the penalty, the second applicant (Foster) has sought an order that they be granted the penalty of \$80,000 under the Fines and Penalties Act 1901, as well as any continuing penalty. Council's Solicitors have been instructed to oppose the granting of the penalty to the second applicant on the basis that Council is entitled to the whole of the fine pursuant to Section 694 of the Local Government Act 1993, which reads:-

- "1. Any penalty, fine or forfeiture under any Act recovered in proceedings instituted by or under the direction or on behalf of or for the benefit of the Council is;
- (a) to be paid to the Council; and
 - (b) to be allocated by the Council to the Council's consolidated funds."

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN926NBX.V13

****** END OF ITEM 50 ******

ITEM: 51 AMENDMENTS TO INDUSTRIAL DEVELOPMENT CONTROL PLAN
BASED ON URBAN CONSOLIDATION AND "GREENSTREET"
PHILOSOPHIES**FILE NUMBER:** DCP001/93 PT1/EVD**REPORT:**

On 27 June 1995, the General Purpose Committee considered a report in relation to amendments to the Industrial Development Control Plan based on Urban Consolidation and "Greenstreet" philosophies. At its Ordinary meeting on 11 July 1995, Council resolved the following:-

"The suggestions contained in this report be incorporated into an amendment of the current development control plan for industrial development which will be presented to Council for adoption when complete."

The issues to be addressed included setbacks, construction materials, parking, security fencing and the reversing of trucks onto properties. The Development Control Plan - Industrial Development has now been amended in accordance with Council's resolution. A copy of the amended Development Control Plan - Industrial Development is enclosed with this Business Paper for Council's perusal.

The amendments will essentially facilitate improvements of existing industrial areas in the City. Given the above, it is considered that the amended Development Control Plan - Industrial Development should be placed on exhibition in accordance with the Environmental Planning and Assessment Regulations.

RECOMMENDATION:

1. That information contained in the report be received.
2. That the amended Development Control Plan - Industrial Development be placed on exhibition in accordance with the Environmental Planning and Assessment Regulations, 1994.

ATTACHMENTS:

AT-1 Amended Development Control Plan - Industrial Development.

FN:EN926NBX.V12

****** END OF ITEM 51 ******

ITEM: 52 DRAFT DEVELOPMENT CONTROL PLAN - DRAFT GUIDELINES FOR DEVELOPMENT IN THE MACDONALD VALLEY AND ST ALBANS VILLAGE CONSERVATION AREA

FILE NUMBER: DCP4/92/EVD

REPORT:

Council at its Ordinary meeting on 11 November 1993, resolved that a Draft Development Control Plan be prepared for development in the Macdonald Valley and St Albans Village Conservation Area. As a consequence of exhibition of the Draft Plan 2 submissions were received, 1 from the Macdonald Valley Association and 1 from the Macdonald Valley landowners.

The submission from the Macdonald Valley Association states:-

"We have tried to produce an easily accessible and easily understood document, consistent with Council's 1989 Local Environmental Plan, appropriate building codes, and the practical circumstances of Valley life, but allowing, within those constraints for the exercise of architectural innovation and personal lifestyle preferences.

In general, a redraft is considerably shorter than Council's document. It omits the reference material supplied on your pages 21 to 34 and sets the main provisions of Council's Bush Fire Mitigation Policy (modified, as in the case of water reserves, to meet the practical consideration of tank sizes) side by side with other provisions. We have excluded or relaxed some provisions, included or tightened others. We have added information about noxious weeds. Although the diagrams on pages 9 and 14 of your document have been omitted from our redraft we found them helpful, and would like to see them in the final plan."

The submission from the Macdonald Valley landowners states:-

"After careful consideration of your draft guidelines we approve in principle the draft subject to any future amendment/redesigns being submitted to the people of the Valley. Your guidelines it seems, are designed around ensuring the heritage usage of the Valley in terms of building design/development is retained and conserved and is consistent with its historical background. We believe this is important, however, building design/development is not the only issue.

In terms of your guidelines you have addressed design/development standards for construction of dwellings in an environmental, cultural and heritage context. However, you have not addressed development in its true sense/definition/scope as the title of your document lends itself to. On the basis of dwelling design/development, the intent of the document, we see no real problems. Although, if you are concerned objectively with development of the Valley then other issues need to be addressed. Briefly we believe these issues should include:-

- * *altering the document title or subject matter to communicate your objectives/intent/scope/design outcomes to "Guidelines for development and construction of dwellings in the Macdonald Valley" or alternately "Guidelines for development in the Macdonald Valley and St Albans Village" encompassing the following:-*
1. *greater autonomy for land holders to utilise resources;*
 2. *roads in terms of condition, dust, pollution and measures to prevent accidents (speed limits);*
 3. *tourism development, eg. ferry queues. Suspend all tourist development until roads can support the increased traffic movement;*
 4. *river management issues;*
 5. *sand inundation to properties;*
 6. *policies, fire hazard reduction - cold burning; and*
 7. *subdivision.*

The owners of the Valley believe that the issues listed above are the main concerns in the context of developing the Macdonald Valley for the betterment of all residents and landowners alike. We would like to point out that these issues briefly outline issues that need to be considered in toto.

Recommendation

1. *That the issues raised be addressed and included in a clear and concise development plan for the Valley and subsequently presented to the people of the Valley for comment through a formal forum through initial consultation and assistance from the Macdonald Valley landowners.*
2. *If the Council in its document is primarily concerned with the design/development of dwellings, then the title should reflect its intent and, therefore, be changed to guidelines for design and development of dwellings in the Macdonald Valley and St Albans Village."*

The Draft Development Control Plan was written by staff in conjunction with Council's Heritage Adviser, Mr Robert Staas, following extensive field work and research. The work undertaken prior to the preparation of the Draft Development Control Plan revealed that recent development was often at odds with the historic character of the Macdonald Valley. More importantly, the work revealed the urgent need for a document which would provide appropriate guidelines for development. The Draft Development Control Plan was written to assist property owners in the Macdonald Valley and St Albans Village with the design and siting of new development. It was envisaged that implementation of the Draft Development Control Plan would ensure that new development did not detract from the existing landscape but rather was designed to compliment and reinforce its historic character.

Whilst the intent of the Draft Development Control Plan, as written, was merely to be an advisory document to facilitate achievement of a good result for each property owner, it should not be seen as the panacea for every planning "ill" in the Macdonald Valley. Planning "ills" identified in the submissions include roads, tourism development, sand inundation, river management and subdivision. These "ills" are beyond the ambit of this document and more appropriately fall within the "Our City Our Future" planning strategy. It is, however, acknowledged that the title of the Draft Development Control Plan should be changed to "Guidelines for Development and Construction of Dwellings in the Macdonald Valley" as suggested by the Macdonald Valley Landowners. The title change as suggested will clarify the intent and ambit of the document.

RECOMMENDATION:

That:

1. Information in the report relating to the Draft Development Control Plan - Macdonald Valley be received.
2. The title of the Draft Development Control Plan be changed to "Guidelines for Development and Construction of Dwellings in the Macdonald Valley".
3. The Draft Development Control Plan be adopted as a Development Control Plan in accordance with the provisions of the Environmental Planning and Assessment Act and Regulations.

ATTACHMENTS:

AT-1 Draft Development Control Plan

FN:EN926NBX.V09

****** END OF ITEM 52 ******

ITEM: 53 REZONING APPLICATION - LOT 1 DP201294 NO. 53 ARGYLE STREET, SOUTH WINDSOR

FILE NUMBER: LEP006/95/EVD

REPORT:

Council, at its Ordinary meeting of 11 July 1995, resolved as follows:-

- "1. Council prepare a draft local environmental plan to rezone Lot 1 DP201294 from Special Uses 5(a) County Council Depot under Hawkesbury Local Environmental Plan 1989 to General Industrial 4(a).
2. An environmental study not be required in view of the relatively minor nature of the proposal.
3. Council exercise its delegation under Sections 65 and 69 of the Act in respect of the proposal."

The Section 65 Certificate was issued by the Divisional Manager Environment and Development, as the delegate of the Director of Urban Affairs and Planning and the draft plan was exhibited from 2 August 1995, to 1 September 1995. No submissions have been received under Section 67 of the Act, and no hearing is required under Section 68 of the Act.

The proposal was referred under Section 62 of the Act to the Roads and Traffic Authority, Sydney Water, Environment Protection Authority, Department of Conservation and Land Management and Telecom Australia.

Replies have been received from the Environment Protection Authority, Sydney Water and Roads and Traffic Authority who have no objections to the proposed rezoning.

The matter can now be referred to the Department of Urban Affairs and Planning for finalisation.

RECOMMENDATION:

That Council:-

1. Exercise its delegation under Section 69 of the Environmental Planning and Assessment Act 1979.
2. Refer the local environmental plan, Hawkesbury Local Environmental Plan 1989 (Amendment 50) to the Department of Urban Affairs and Planning for final gazettal.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN926NBX.V07

****** END OF ITEM 53 ******

ITEM: 54 DRAFT LOCAL ENVIRONMENTAL PLAN - LOT DP836577 & LOT 1
DP736139 NO. 1 MARCH STREET, RICHMOND AND NO. 21
BRABYN STREET, WINDSOR - STATE RAIL AUTHORITY

FILE NUMBER: LEP5/94/EVD

REPORT:

Council at its Ordinary meeting held on 10 May 1994, resolved to support the preparation of a draft local environmental plan to rezone the subject properties from Special Uses 5(b) Railway to Residential 2(a). Both properties contain dwellings which were sold by the State Rail Authority as each was considered surplus to the Authority's needs.

As a result of the draft plan being of a minor nature, no state Authorities were notified pursuant to Section 62 of the Environmental Planning and Assessment Act 1979.

Adjoining owners were notified of the proposal and advertisements were placed in the Gazette exhibiting the plan between 14 June and 14 July 1995. One submission was received from Prospect Electricity stating no objection to the plan.

The Section 65 Certificate was issued by the then Department of Planning on 2 November 1994.

RECOMMENDATION:

That the plan be forwarded to the Department of Urban Affairs and Planning for gazettal.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN926NBX.V06

****** END OF ITEM 54 ******

ITEM: 55 TOURIST FACILITY - EXTENSION TO OPERATING HOURS - LOT 182 DP593791 NO. 39 NORTH STREET, WINDSOR - MR C WELLS

FILE NUMBER: DA320/93/EVD

REPORT:

Council, at its Ordinary meeting of 8 March 1994, resolved to approve a tourist facility with conditions. The conditions required the operating hours to be 10.00am to 5.00pm on weekends and public holidays and that extensions to these hours require Council approval and that a 12 month review be carried out.

Proposal

The owners of the subject property have requested an extension to the operating hours for the existing craft shop. The proposed hours from 10.00am to 5.00pm are to include trading 7 days a week.

Notification has been carried out to those people who previously made submissions. However, no objections have been received.

It is considered that based on the above and that the amenity of the area will not be compromised as a result of the proposed extended hours, the request be supported.

RECOMMENDATION:

That Condition No. 8 to Development Consent DA320/93 be amended to read:-

"8. *Operating hours shall be limited to 10.00am to 5.00pm 7 (seven) days a week. Any alteration to these hours will require the approval of the Divisional Manager Environment and Development.*"

ATTACHMENTS:

AT-1 Site Plan.

FN:EN926NBX.V05

****** END OF ITEM 55 ******

ITEM: 56 DRAFT LOCAL ENVIRONMENTAL PLAN - LOT 5 & 3 & PT LOT 1
FP977347 NO. 63 BELLS LINE OF ROAD, NORTH RICHMOND

FILE NUMBER: LEP9/95/EVD

REPORT:

Application is made to rezone the subject property from Residential 2(a) to Business Special 3(b) to allow commercial/office development.

The subject property is vacant and has an area measuring over 4800m² with a street frontage measuring approximately 170m.

Located adjacent to and west of the intersection of Grose Vale Road and Bells Line of Road, the land is surrounded by the following land use zones (see attached map):-

Residential;
Light Industrial; and
Open Space.

In proximity to the site is the redeveloped Shell Service Station with existing shops adjoining to the east.

It is considered that the subject land is not suitable for residential development because of increasing traffic and noise, and being opposite existing industrial development. Further, it is better to create a commercial zone rather than a spot 'non-conforming' zone which will allow Council to consider a variety of uses.

Plans have not been prepared at this stage without the knowledge of the end land use. However, preliminary discussions with prospective clients such as Homebase Hardware, Motels, Hungry Jacks and other restaurant users have taken place providing possible proposals.

RECOMMENDATION:

That Council resolve to proceed with the draft local environmental plan and then further consider the matter following its advertising and receipt of any submissions.

ATTACHMENTS:

AT-1 Map.

FN:EN926NBX.V04

****** END OF ITEM 56 ******