

GENERAL PURPOSE COMMITTEE

SECTION 1 ENVIRONMENT

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GENERAL PURPOSE COMMITTEE - ENVIRONMENT

Meeting Date: 25 June 1996

Item: **161**

ITEM: 161

1. EXHIBITION OF DRAFT LOCAL ENVIRONMENTAL PLAN - "THE ISLANDS", HERMITAGE ROAD, KURRAJONG - PROPOSED 32 LOT COMMUNITY TITLE SUBDIVISION ON LITTLE ISLAND - PROPOSED LIMITS ON DEVELOPMENT 2. APPLICATION FOR A DEFERRED COMMENCEMENT (IN PRINCIPLE) APPROVAL FOR EQUESTRIAN FACILITIES ON MIDDLE ISLAND.

FILE NUMBER: LEP02/96; LEP03/96; LEP04/96; SA065/94; DA065/95/EVD; SA 052/96/EVD

Applicant: Don Fox Planning Pty Ltd
Applicants Reps: Don Fox Planning Pty Ltd
Owner: Mr JH Harris
Stat. Provisions: Hawkesbury LEP 1989
Area: 845ha
Zone: Environment and Protection 7(d)
Advertising: Adjoining and nearby property owners; Community Consultative Committee; Local Press
Date Received: March 1995; delays due to the Department of Urban Affairs and Planning not accepting a SEPP1 application; consultation with residents; preparation and advertising of a Draft Local Environmental Plan; Council inspection; assessment of revised application

Key Issues:

- , Effluent disposal & water quality
- , Traffic
- , Bush fire
- , Escarpment preservation
- , Ecological values

Action:

Support amended Draft Local Environmental Plan.

Not support the application for a deferred commencement approval for the equestrian facilities on Middle Island at this stage because of the requirement for an EIS for effluent disposal.

REPORT:

At Council's meeting on 7 May 1996 it was resolved to defer consideration of the Draft Local Environmental Plans and the community title subdivision application until after an inspection of Big Island.

The inspection of Big Island occurred on Saturday 11 May 1996. At the inspection the view was expressed that the application for deferred commencement approval for the equestrian complex should be considered simultaneously with the proposed community title subdivision as the finance for the former is dependent upon the approval of the latter.

Since the inspection on 11 May 1996, the applicant has finalised the scale of the equestrian complex and there has also been an assessment of traffic impacts on Hermitage Road. Consequently both the draft local environmental plan for the community title subdivision and the deferred commencement development application for the equestrian complex can be reported.

As the proposed community title subdivision on Little Island and the proposed equestrian complex on Middle Island are separate applications, they are dealt with separately in the report.

1. EXHIBITION OF DRAFT LOCAL ENVIRONMENTAL PLANS - PROPOSED 32 LOT COMMUNITY TITLE SUBDIVISION ON LITTLE ISLAND - PROPOSED LIMITS ON DEVELOPMENT

At Council's meeting on 11 July 1995 it was resolved as follows:-

- "1. That Council support the principle of a 32 lot community title subdivision (30 lots with building entitlement) generally as proposed with the final lot boundaries and conditions to be determined by the Divisional Manager Environment and Development under delegated authority in consultation with the Hawkesbury Nepean Catchment Management Trust with particular attention to effluent disposal, water supply, erosion control, runoff and proximity of development to the creek.
2. That the final application and conditional approval be referred to the Director of Urban Affairs and Planning for concurrence under State Environmental Planning Policy No 1.
3. Council resolve to prepare a draft local environmental plan to:
 - prevent any subdivision of Middle Island and Big Island;
 - prevent vegetation clearing on Big Island;
 - prevent vegetation clearing on the escarpment being that area above the existing cleared areas of Little Island and Middle Island;
 - limit development on Big Island to a single dwelling with consent and recreation use not involving the felling of trees and/or removal of vegetation.

4. *That Council chair a consultative committee of the applicant and committee members in relation to the progress of this matter and the committee operate for 12 (twelve) months with quarterly reports to Council."*

Subsequently the Department of Urban Affairs and Planning advised that they would not consider the application for subdivision under State Environmental Planning Policy No 1 but would require the preparation of a draft local environmental plan.

A draft local environmental plan was subsequently referred to the Department and a section 65 certificate allowing the draft local environmental plan for the subdivision to be placed on public exhibition was received on 28 December 1995.

The Section 65 certificate required that the draft local environmental plan be amended to require the provision of an integrated system of waste water management to be implemented and maintained on the land and that water discharge and runoff will maintain or improve the existing levels of water quality.

The LEP was also certified on the understanding that Council would proceed to consolidate the subdivision potential of Middle and Big Islands and that the LEPs be processed concurrently.

Three related local environmental plans were placed on public exhibition from 24 January 1996 up to and including 23 February 1996.

LEP02/96 aims to permit a 32 lot community title subdivision (30 lots with building entitlement) on part of lot 182 DP701978 (Little Island), Hermitage Road, Kurrajong. The proposed subdivision would be generally in accordance with that considered by Council in July 1995, although the exact lot boundaries and lot areas have yet to be finalised.

LEP03/96 proposes to rezone the residue of the Islands (part of Little Island, all of Middle Island and all of Big Island) Environmental Protection 7(e) (Consolidated Land Holdings). This would control the use of the residue of the Islands and prohibit subdivision. The 7(e) zone proposes a significant restriction on land uses being limited to a dwelling house; agriculture not requiring the felling of trees carried out on lawfully cleared land; home activity; recreational establishment not involving the felling of trees; tourist facility not involving the felling of trees; works for the purpose of landscaping, gardening or bushfire hazard reduction; recreational uses not involving the felling of trees.

LEP04/96 proposes to add two new zones to Hawkesbury Local Environmental Plan 1989. These are the environmental protection 7(e) (consolidated land holdings) zone and a second zone which could be applied to the residue of agricultural land which may be the subject of lot averaging (eg the Kemsley Downs property at North Richmond). This zone is titled Rural 1(d) (consolidated land holdings) and similarly prohibits subdivision but permits a broader range of land uses including agriculture.

As a consequence of the public exhibition process, submissions have been received from the applicant, residents and public authorities. The following is a summary of the submissions:-

Don Fox Planning Pty Ltd (the applicant)

Objects to the proposed zoning provisions restricting land uses on the residue of The Islands because of their severe financial impact on Mr Harris, the draft plans being outside the terms of Council's resolution of 11 July 1995, loss of land use entitlements under the existing zoning and also the likely administration costs for Council, should such plans be implemented on other properties throughout the local government area.

Specifically, it is proposed that a separate local environmental plan for the 32 lot community title subdivision on Little Island be prepared, with the residue of Little, Middle and Big Islands restricted from further subdivision. Don Fox Planning recommends that the existing range of permissible land uses under the current 7(d1) Environmental Protection Scenic zone be retained for the residue.

Requests that Council reconsider its position in respect of the draft local environmental plans on exhibition.

Mr F Scharfe

Proposes that there be development only to the east of the Hawkesbury River. Suggests that there is ample land east of Windsor/Richmond, such as Pitt Town, Oakville, Maraylya and Vineyard for development.

E Conquest

Expresses concern about the narrowness and widening nature of Hermitage Road, the quality of the buildings on the proposed subdivision and the community title not being financially viable.

J Shand

Expresses concern about access to Lot 3 from the existing public road as well as from a lower entrance which is being used by agreement with Mr Harris. Accepts an assurance from M Coulter that Hawkesbury Council would not allow Lot 3 to become landlocked.

Suggests the best alternative would be for Mr Harris to dedicate the access road down to the current entrance gate or, alternatively, to the first bridge.

Hawkesbury Nepean Catchment Management Trust

Recommends that the subdivision of Little Island not be gazetted before the LEP to control the use of the residue of the property. Generally supports the provisions of the draft local environmental plans. Recommends further fauna studies and queries whether the new Threatened Species Conservation Act 1995 applies to the site.

Recommends that only a single dwelling be allowed on each lot and that development consent be required for dwellings.

The Trust strongly supports the preparation of Amendment No.72 to rezone the remainder of the property 7(e) to prohibit subdivision, vegetation clearing and limit development.

Marie Bird, Hawkesbury Action Group

Requests a response to a number of questions, being whether the developer has been granted permission to draw a water supply from the existing creeks; whether arrangements have been made to collect manure and urine from two hundred horses; has developer been requested to remove the horses at present grazing on National Park land; whether Council permitted/supervised the large amount of tree clearing undertaken; future of wildlife and flora; relationship to World Heritage listing for the Blue Mountains; consider increase in traffic if site becomes an Olympic venue; whether details have been provided to minimise soil erosion.

National Parks and Wildlife Service

The Service supports the objectives of the Council resolutions and states that the draft LEP has the potential to protect most of the values of concern to the Service. A number of minor comments were made including the scale of a dwelling on Big Island; the term "felling of trees" be replaced with "felling of trees or clearing of native vegetation"; horse riding activities should require Council consent in the 7(e) zoning; Council should consider whether any threatened species list on Schedules 1 and 2 of the Threatened Species Act 1995 occur in the area.

The Committee met and discussed the draft report and in particular the external road requirements. There was still some concern about the scale of the equestrian complex but most discussion concerned the requirements for the road upgrading. Mr Fox on behalf of Mr Harris expressed concern about the liability for all of the works being imposed on Mr Harris. Given the use of the intersection of Bells Line of Road and Hermitage the majority view was that Council should be proportionally liable for the cost of its upgrading.

Concern was expressed by the owner of No.90 Hermitage Road regarding the proposed road widening with a suggestion that it be located to the other side of the road. It was also requested that the structural integrity of the Bridge immediately past the Diamond Hill intersection be investigated.

The Islands Consultative Committee

The Islands Consultative Committee met on the 28 February 1996 and on 19 March 1996. At the date of preparing this report a meeting had been scheduled at the corner of Hermitage Road and Mountain View Close on Sunday 16 June to discuss this draft report and particularly requirements for road upgrading. The minutes of the consultative committee to be held on 16 June will be separately reported to the General Purpose Committee.

The major issues which have been raised by the Consultative Committee have been traffic and particularly the upgrading of Hermitage Road and also water cycle concerns in relation to both the subdivision on Little Island and the equestrian facility on Little Island.

Planning Assessment

In general, there has been no principle objection to the proposed trade off which provides an increased subdivision entitlement for the property on Little Island in exchange for the prohibition on subdivision over the remainder of the property and the limitation on land uses.

As a consequence of the exhibition of the draft local environmental plans and discussions with the applicant and the property owner, it is apparent that there is disagreement as to the land use and restrictions which should apply over the residue of the property.

The applicant takes issue with the provisions of the proposed 7(e) zone which prohibits the felling of trees on Big Island and also the limitation on development of Middle Island and Big Island to a very restricted range of activities not involving the felling of trees.

The applicant proposes that it would be more appropriate to have a separate local environmental plan providing for the 32 lot community title subdivision on Little Island, with the residue of Little Island, Middle Island and Big Island restricted from further subdivision, however, retaining the existing land uses permissible under the present 7(d) (Environmental Protection Scenic) zone. The local environmental plan would also show areas where development such as agriculture or other uses is prohibited in order that the areas remain in the present pristine state. These restricted areas are generally as shown on the concept plan prepared by McKinlay Morgan Surveyors and denoted as Scenic Reserve.

The issue concerns the appropriate land use for Big Island which remains largely uncleared. There has been logging and relatively limited clearing for pasture on Big Island.

Big Island contains a substantial area of land which has been classified by NSW Agriculture as Class 4. In an agricultural land classification rating from 1 to 5, class 4 land is marginal land not suitable for cultivation and with low to very low productivity for grazing. Overall level of production is low and environmental constraints make arable agriculture uneconomic. Any agriculture use is generally based on native pastures or improved pastures established using minimum tillage techniques.

On the basis of the contour map and inspection of Big Island, its definition as Class 4 Agriculture Land is appropriate. There is perhaps in excess of 100 hectares of reasonably level land which could be cleared to provide relatively poor to average pasture for grazing. The productivity of the land would be dependent upon the extent of clearing and pasture improvement including the use of introduced grass species and fertiliser.

The environmental cost/benefit of substantial clearing on Big Island is questioned, given the extensive area of natural vegetation and the fact that it is more marginal agricultural land. In particular, the clearing of the land for grazing purposes is not supported given its relatively low productivity and the extent of the vegetation cover.

The applicant states that any clearing of trees on Big Island would need Council's approval and accordingly the need for a more restrictive zoning is redundant. It is also possible that alternative land uses may be developed on Big Island which may justify the removal of some vegetation.

The proposed 7(e) zone is quite restrictive in the permissible land uses and may result in a future amending local environmental plan. As Council retains authority in determining any application for the clearing of trees on Big Island and to resolve the concerns of the applicant, it is recommended that the existing 7(d) zoning for Big Island be retained with the more restrictive 7(e) zone being limited to the escarpment and creek gullies generally as set out by McKinlay Morgan Surveyors. The retention of this existing zoning does not mean that Council will approve an application for tree clearing on Big Island and to this end it is not recommended that Council sanction such clearing for grazing purposes.

Roads (Community Title Subdivision)

There are currently 127 lots which utilise all or part of Hermitage Road for access. This does not include lots on Mill Road which may use the intersection of Bells Line of Road and Hermitage Road and a short section of Hermitage Road.

These 127 lots are located as follows:-

- (1) North of Hermitage Road/Mountain View close intersection - 49 lots
- (2) Between Hermitage Road/Mountain View Close intersection and Hermitage/Douglas Farm Road intersection - 48 lots
- (3) Between Hermitage/Douglas Farm Road and Hermitage/Bells Line of Road intersection - 30 lots

The proposed community title subdivision with 30 additional building entitlements represents an approximate 24 percent increase in traffic volumes on the road. If Hermitage Road was incapable of accommodating additional vehicles for reasons of its construction standard and/or safety it would be appropriate to either refuse the application or require its complete upgrading. However it is not accepted that Hermitage Road, given existing and likely future traffic volumes, is at such a poor standard.

Some localised road widening and intersection improvements are desirable particularly from a traffic safety perspective. These are as follows:-

(proceeding from Bells Line of Road)

Widening of Bells Line of Road at the Hermitage Road intersection to improve sight distance for right turning traffic. A right turn bay should also be provided

Localised widening of Hermitage Road at No 90 to increase the pavement width by a maximum of approximately 1.5m tapering away either side of the bend.

Localised widening at the bend opposite the Douglas Farm Road intersection to increase the pavement width by a maximum of approximately 1.0m tapering away either side of the bend.

Edge reconstruction adjacent to No. 143 Hermitage Road for the frontage of Part Portion

168 DP 751649 (property opposite Douglas Farm Road intersection) being a distance of approximately 400 metres.

Relocate poles and remove trees close to the road adjacent to No. 144 Hermitage Road for a distance of approximately 400 metres (opposite the edge reconstruction identified above).

The reconstruction and realignment of the curve outside Lot 1002 DP 848888 (No. 244).

Construction of Hermitage Road, including a sealed pavement and any necessary drainage from Mountain View Close to the property boundary (note: the road would need to be constructed past this point as a condition of approval for the community title subdivision). The tree in the road reservation at the Mountain View Close intersection should be retained in a traffic island.

These works involve approximately 1.2km of roadworks compared to the total length of Hermitage Road of approximately 2.8km. These works then represent an upgrading of approximately 42% of the total length of Hermitage Road compared to the estimated 24% increase in traffic attributable to the subdivision. Most of the work does not require the acquisition of property and from this perspective the proposed works are considered reasonable conditions of subdivision approval.

Whilst Council is currently only considering the draft local environmental plan for the community title subdivision, the above works are identified to provide the applicant and residents with an indication of the road upgrading requirements which will be required by Council.

2. APPLICATION FOR A DEFERRED COMMENCEMENT (IN PRINCIPLE) APPROVAL FOR EQUESTRIAN FACILITIES ON MIDDLE ISLAND

The applicant has further addressed proposals for the development of Middle Island for both equestrian and tourist related facilities and has advised of the following changes to the application:-

" We confirm that there is existing infrastructure already established on Middle Island which comprises a water supply, manager's residence, agricultural/machinery sheds, roadways, dams, riding and walking tracks, improved pastures and the like. The tourist/equestrian activities will be facilitated on land already cleared for agricultural purposes and no further removal of vegetation is proposed.

In respect to the facilities, there has been a down grading of stabling and accommodation and these can be briefly summarised as:

- Deletion of major accommodation and conference centre proposed in Stage 2 comprising approximately 50 bedrooms;*
- Reducing the permanent stabling for horses from 200 to 50 only;*

- *Reducing the number of tennis courts from 4 to 2;*
- *Deleting the provision of a general store;*
- *Deletion of quarantine facilities.*

Accordingly, the proposals for Middle Island are as follows:-

Stage 1 Development of Middle Island provides for:

- *Jumping arenas, dressage arenas and floodlighting;*
- *Stabling for 50 horses*
- *Horse stud paddocks*
- *Internal trails and roads;*
- *Water reticulation, water features and irrigation systems;*
- *3 clusters of bunkhouse accommodation incorporating seven bedrooms in each cluster;*
- *Landscaped gardens;*
- *Refreshment room;*
- *Parking areas;*
- *Manager's residence*
- *Machinery sheds; and*
- *Fencing and pasture improvement*

Stage 2 Development of Middle Island provides for:

- *4 clusters of bunkhouse accommodation, incorporating seven bedrooms in each cluster;*
- *2 tennis courts*
- *a swimming pool*
- *landscaped gardens;*
- *veterinary clinic; and*
- *parking areas.*

Our client confirms previous undertakings to pay or carry out works on proportional traffic basis of the upgrading of Hermitage Road and related intersections...."

Planning Assessment

The proposed equestrian facility is a use permissible with the consent of Council in the zoning.

A "deferred commencement" approval is sought to enable the applicant to proceed with the design of the bunkhouses, horse stabling, arenas and other facilities with some assurance that an approval will be forthcoming.

As the equestrian facilities will be restricted to land on Middle Island which has already been cleared there is no requirement for habitat investigations.

The major planning issues are the disposal of effluent from the bunkhouses, the disposal of manure and traffic generation.

It was proposed that aerated waste water treatment plants be used for the development. Considering the cleared area of land available on Middle Island for effluent disposal, the use of aerated waste water treatment plants should in principle be satisfactory. This would be subject to appropriate design, siting and maintenance of each aerated system.

From the information provided effluent disposal from the bunkhouses is designated development. The Environmental Planning and Assessment Regulations provided that:-

"Sewerage systems or works" that:-

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

(a) in or within 100 metres of a natural waterbody, wetlands, coastal dune fields or an environmentally sensitive area; or

(b) in an area of :

high watertable; or

highly impermeable soils; or

acid sulphate, sodic or saline soils; or

(c) on land that slopes at more than 6 degrees to the horizontal; or

(d) within a drinking water catchment; or...

The proposed effluent disposal from the bunkhouses will involve sewerage systems of more than 20 persons equivalent capacity. In addition all of the land is within an environmentally sensitive area which is defined as including land within an Environmental Protection Zone (the land is zoned Environmental Protection (Scenic) 7(d)). It would seem likely from contour information that most of the land has a slope in excess of 6 degrees.

Details need to be provided for the management of manure from the stabling but it can either be removed from the site entirely or applied at an agreed application rate in place of artificial fertilisers.

The proposed equestrian complex has the potential to be a valuable addition to the City's tourist infrastructure, particularly as a host for national and international events. Given the "downsized" amended proposal and the area of cleared land available on Middle Island, the owner should be encouraged to complete the environmental investigations. The owner has proposed that the bunkhouses be deleted at this stage to enable a deferred commencement development approval for the remainder of the equestrian facility.

Roads (Equestrian Facilities on Middle Island)

The changes to the development application as set out by the applicant constitute a major "downsizing" of the equestrian facilities. Its peak usage is likely to be on weekends and each bunkhouse cluster could generate around 28 traffic movements per day or a total of 84 movements for stage 1 and 112 movements per day for stage 2.

There is likely to be additional traffic movements associated with the equestrian facilities, such being dependent upon the success of the property owner in attracting national and international equestrian events. Such major events are more likely to be the exception rather than the rule and for the purposes of average peak traffic generation, the traffic generation figures for the bunkhouse accommodation are likely to be a reasonable indicator. The total average maximum traffic generation for both stages for the bunkhouse accommodation is around 196 vehicle movements or the equivalent of approximately 29 dwellings.

Unless the equestrian facility has an off street parking requirement in excess of 250 cars the traffic aspects can be determined by Council without reference to the Regional Traffic Committee.

Given the road upgrading identified for Hermitage Road as part of the community title subdivision it is not considered that any further upgrading is reasonable. The likely average maximum traffic generation for the equestrian facility of 29 equivalent dwellings plus the subdivision of 30 dwellings, is equivalent to an increase in traffic of approximately 46% and is similar to the upgrading requirement of 42% of the length of the road.

Further road upgrading will require general widening, which will involve significant property acquisition. General widening is not required for the estimated traffic volume and further is likely to result in increased traffic speeds.

RECOMMENDATION:

- A. That draft local environmental plan 2/96 to permit a 32 (thirty two) lot community title subdivision, 30 (thirty) lots with building entitlements, on part of Lot 182 DP 701978 (Little Island), Hermitage Road, Kurrajong, be referred to the Department of Urban Affairs and Planning for final gazettal. Further that draft local environmental plan 2/96 be amended to prohibit the further subdivision of the "The Islands" being Lot 181 DP 701978 (Middle Island), Lot 182 DP 701978 (Little Island) and Lot 1 DP 184741 (Big Island).
- B. That draft local environmental plan 3/96 be amended to retain the existing Environmental Protection Scenic 7(d) zone generally over those parts of the "The Islands" labelled:-
 2. *Rural Residential Development*
 3. *Equestrian & Tourist Facilities*
 4. *Passive Recreation*

on the overall concept plan for "The Islands" prepared by McKinlay Morgan & Associates Pty Ltd and dated 31 March 1995.
- C. That draft local environmental plan 3/96 be amended to apply the Environment Protection 7(e) zone to those parts of the "The Islands" generally labelled as 1. *Scenic Reserve* on the overall concept plan for "The Islands" prepared by McKinlay Morgan & Associates Pty Ltd and dated 31 March 1995 incorporating minor changes recommended

by the National Parks and Wildlife Service to include all vegetation and not just trees in the removal prohibition and to require development consent for dwellings.

D. That a deferred commencement development approval be issued for the equestrian facility excluding the bunkhouse accommodation subject to compliance with the following deferred commencement conditions:-

- . a waste management plan being submitted which demonstrates the removal of manure from the stable complexes off site or alternatively its land application by a manure spreader at a rate which will not result in pollution of surrounding creeks.
- . submission of detailed plans for the equestrian facility showing the location of arenas, stabling (including elevations), manager's residence (including elevations), and the other infrastructure referred to in the application.
- . submission of evidence from the Department of Land and Water Conservation of approval for the licence to extract water for the proposed equestrian facility and irrigation system.

Upon compliance with the deferred commencement conditions that development consent be issued under delegated authority subject to appropriate conditions.

E. That the applicant be advised that the external road construction requirements which would be required as a condition of approval on a community title subdivision application for Little Island would be as detailed in the report being:-

(proceeding from Bells Line of Road)

- Forty six percent (46%) of any required land acquisition costs plus forty six percent (46%) of construction costs to achieve widening of Bells Line of Road at the Hermitage Road intersection to improve sight distance for right turning traffic and the provision of a right turn bay. Plans to be submitted and approved by the Roads and Traffic Authority. Plus the following:-
- Land acquisition costs plus construction to achieve localised widening of Hermitage Road at No 90 to increase the pavement width by a maximum of approximately 1.5m (one point five) tapering away either side of the bend. Plans to be submitted and approved by Council.
- Land acquisition costs plus construction to achieve localised widening at the bend opposite the Douglas Farm Road intersection to increase the pavement width by a maximum of approximately 1.0m (one point zero) tapering away either side of the bend. Plans to be submitted and approved by Council.
- Edge reconstruction adjacent to No.143 Hermitage Road for the frontage of Part Portion 168 DP 751649 (property opposite Douglas Farm Road intersection) being a distance of approximately 400 (four hundred) metres. Work to be done to the satisfaction of the Director Asset Services and Recreation.

- Relocate poles and remove trees close to the road adjacent to No. 144 Hermitage Road for a distance of approximately 400 (four hundred) metres (opposite the edge reconstruction identified above). Work to be done to the satisfaction of the Director Asset Services and Recreation.
- The reconstruction and realignment of the curve outside Lot 1002 DP 848888 (No. 244). Plans to be submitted and approved by Council.
- Construction of Hermitage Road, including a sealed pavement and any necessary drainage from Mountain View Close to the property boundary (note: the road would need to be constructed past this point as a condition of approval for the community title subdivision). The tree in the road reservation at the Mountain View Close intersection should be retained in a traffic island. Plans to be submitted and approved by Council.

Or, alternatively, at the discretion of Council

- One hundred percent (100%) of the required land acquisition costs plus one hundred percent (100%) of the construction costs to achieve widening of Bells Line of Road at the Hermitage Road intersection to improve sight distance for right turning traffic and the provision of a right turn bay. Plans to be submitted and approved by the Roads and Traffic Authority. Plus the following:-
 - Construction of Hermitage Road, including a sealed pavement and any necessary drainage from Mountain View Close to the property boundary (note: the road would need to be constructed past his point as a condition of approval for the community title subdivision). The tree in the road reservation at the Mountain View Close intersection would need to be retained in a traffic island. Plans to be submitted and approved by Council.
- F. That the applicant be requested to withdraw SA052/96 which seeks approval for clearing on Big Island and Middle Island and the subdivision of the whole property into 18 (eighteen) allotments of 40 (forty) hectares or more.

ATTACHMENTS:

- AT-1** Concept plan for “The Islands” prepared by McKinlay Morgan & Associates Pty Ltd and dated 31 March 1995
- AT-2** Concept plans for the proposed community title subdivision and equestrian facility (now amended).

FN:EN625NAX.V05

****** END OF ITEM 161 ******

ITEM: 162 PROPOSED TENNIS COURT LIGHTING - PART PORTION 123
PARISH KURRAJONG - "GOLDFINDERS", OLD BELLS LINE OF
ROAD, KURRAJONG (ADJACENT TO BRIDGE OVER LITTLE
WHEENEY CREEK)

FILE NUMBER: BA277/96/EVD

Applicant: Christopher Hallam
Applicants Reps: None advised
Owner: Mr C and Mrs S Hallam
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 6,576m²
Zone: Rural 1(b)
Advertising: Adjoining owners notified with one objection
Date Received: 18 March 1996

Key Issues:

- , Impact on the view of the adjoining owner
- , Noise

Action:

Deferred commencement approval subject to conditions

REPORT:

Proposal

The application is to erect tennis court lights on an existing tennis court.

The application proposed to provide 6 (six) lights at a height of 7 metres or alternatively 4 (four) lights at pole heights of about 9 metres. The tennis court has been in existence since 1993. No building permit was issued for the tennis court but Mr Hallam has a diary note of a meeting with Mr Berzins of Council on 24 March 1993 and advice from Mr Berzins to the effect that no building approval was required. There is also a record of a tree preservation order approval to remove miscellaneous underscrub, privet and black wattle for the provision of a tennis court and recreational space.

The applicant has submitted a series of lux diagrams for the tennis court and also those prepared by the manufacturer of the flood lights. The diagrams prepared by the manufacturer relate to a more powerful 400 watt high pressure sodium light erected at 10 metres. This indicates the maximum forward spread of illumination to be 20 metres. The closest pole facing the adjoining neighbours dwelling is approximately 65 metres, so there would appear to be no chance of direct light transmission.

The applicant has submitted supporting information, a summary of which is as follows:-

"GENERAL

The lighting design is not intended to meet competition standards - and nor are the dimensions of the court. The lighting design is intended to provide an adequate standard of lighting for recreational use, not for competition use.

HOURS OF OPERATION

It is difficult to be specific about the exact hours of operation of the lights proposed, but a general indication is possible. The turn on time would be at dusk, when natural light levels were insufficient for adequate play. Based on our experience at playing at other courts at night, the typical turn off time would be 10.30pm. Chris Hallam currently plays on Tuesday nights at the Council courts at North Richmond, where the court is booked until 10.30pm. This recreational play would be relocated to this Kurrajong court.

While the question has not been raised, the likely extent of the playing would be up to two nights a week, probably Tuesday and Friday night. While we do not wish to be restricted in the days or hours of use, this would represent the likely situation, playing up to 10.30pm on two nights a week.

NUMBER OF USERS OF COURT AT NIGHTTIME

There will be a maximum of four persons on the court at anyone time when the court is lit. Based on our experience on playing on Tuesday nights and the likely friends to use the court on another night of the week, there would typically be about six persons in total, possibly up to eight. The Tuesday night game has between four and six persons present on any one night. Other nights would be more variable, depending on the friends. There is no intention to use the court for formal evening competition.

We assume that the usual provisions of the Noise Control Act would apply, thus not requiring formal restrictions on the hours of operation or total numbers of persons present. If any hourly restriction was to be imposed, we request an 11.00pm cutoff. This would provide a reasonable control for the amenity of the one adjacent neighbour, while giving us some flexibility for the odd occasion when we wish to play late. In this regard the amenity impact must be considered in the context of the extent of use. The most likely maximum weekly usage would be up to two nights a week, up to about 10.30pm. However there might be one occasion about every three or six months when we wish to play later. Given the infrequency of this event, we request that any restriction be no earlier than 11.00pm. As well as the relative frequency of the event, the actual lights spill over should be considered. As the photographs indicate, the Buckett dwelling is heavily shaded by tree cover, reducing any light reflection off the court surface towards this dwelling".

Planning Assessment

As a result of the notification of adjoining property owners, two submissions were received. One submission raised no objection to the installation of the lighting subject to lights out by 11.30pm, no renting out of the court, provision of adequate toilet facilities and all vehicles to be parked wholly within the property.

A second detailed submission was received from another adjoining property owner including a report by a planning consultant, Falson and Associates, supporting the objection.

The report by Falson and Associates raises a number of issues which are responded to as follows:-

Falson and Associates - "I am of the belief that the provision of lighting to an existing tennis court is classed as "development" it is a matter which requires development consent of Council. That is, it requires submission of a development application and not just a building application which is apparently the situation. This being the case, it is not sufficient for Council to merely seek submission of a building application."

Answer - The land is zoned rural 1(b) and in this zone dwelling houses are permissible without development consent. For this reason it is considered that structures ancillary to a dwelling house such as a swimming pool, tennis court, detached garage or shed do not require development consent.

Falson and Associates - "Secondly, it would appear from our enquiries with Council, that no record of approval exists for the tennis court. You indicated that the court was erected in the last 2-3 years. There was no law in existence at that time, of which I am aware, that provided for tennis courts to be erected without development consent. Given the above, I do not believe it would be prudent for Council to consider the lighting of the court (let alone approve of such) without clarifying with the owners of the Goldfinders property, the reason for construction of the court without the necessary approvals having been obtained".

As indicated, Mr Hallam made the correct enquiries in 1993 when he was contemplating erecting the tennis court. Whilst Council has no record of his discussion with Mr Berzins, there is record of the Tree Preservation Order approval which referred to the erection of a tennis court.

Falson and Associates - "The court is sufficient distance from your house such that noise is not an unreasonable intrusion. It would appear that the actual hitting of the balls is almost inaudible inside your home; voices are more audible, although rarely disturbing.

Should the hours of use of the court be extended into the nighttime hours as a consequence of court illumination then noise impact would be greater. This is because the ambient noise levels are considerably lower after nightfall and coupled with an extremely low background noise level generally experienced in the locality, noise could present a very real problem to your quiet enjoyment of your home."

Answer - It is agreed that the perception of noise and its level of offensiveness depends greatly on the broader situation within which it occurs. Noise might intrude into a library, sleeping place, or casual solitude, and so be found offensive, could pass unnoticed by a sports crowd or in a market place.

There are no specific guidelines in the Environmental Noise Control Manual published by the EPA which provide a solution to these circumstances. Individuals, as members and participants in a community, have certain responsibilities in their relations with others including:-

- * To have a reasonable degree of tolerance for the noise made by others,
- * To be conscious of the interests and needs of others and to apply restraint in activities where noise might be offensive to others.

Tennis matches do not involve consistent noise and it is impossible or impracticable to apply a noise limit in relation to the background noise level. The Environmental Noise Control Manual provides the example of a tennis court surrounded by residential premises with noise being caused mainly by the raised noises of the players during play and when leaving the premises later in the night. In such an example, limiting the hours of operation is a useful means of controlling the noise.

Merely because an adjoining owner may hear the activity does not mean that it is offensive. For what it is worth, a nuisance to be actionable under common law must be "an inconvenience materially interfering with the ordinary comfort physically of human existence, not merely according to elegant or dainty modes and habits of living, but according to plain and sober, simple motions among the English people" (Bruce versus Crown; Walker versus Selfe).

Falson and Associates - "The court is visible from your house and yard area. This visibility would not seem particularly intrusive given that there is existing vegetation along the common creek boundary. Should such vegetation be removed the visual impact would be greater.....I understand that a significant part of the vegetative screen is privet and that it is your intention to remove this at some stage because of its obvious nuisance characteristics. I strongly suggest that Council should require the tennis court owner to maintain a suitable vegetative screen around the court."

Answer - The view of the court from the adjoining dwelling is largely screened by vegetation.

Falson and Associates - "Illumination of the court itself would cause a nighttime impact by highlighting a built form where such is not currently visible. This would be out of character with the amenity of Kurrajong Village, generally. Secondly, spillage of light onto your property would have an impact on your privacy and enjoyment of your land. Whilst spillage can, to a certain degree, be controlled, it would be prudent for the lights to be erected on the court side closest to your property and directed away from your property so there is no possible spillage."

Answer - The impact on amenity or outlook caused by the nighttime illumination in "highlighting a built form" is reasonably tenuous. Whilst it is agreed that an opportunity should be taken to screen out such illumination, the illumination of buildings and structures is a matter of course in the area.

The lux diagrams provided by the applicant indicate that the spillage of light should not reach the common property boundary centre line of the creek, nor the adjoining neighbours dwelling which is a further 20 metres distant.

However, Mr Hallam was requested to provide a lux diagram prepared by a qualified lighting engineer indicating the dispersion of light. Mr Hallam's position is that a specification from the manufacturer should suffice. In the data provided by Mr Hallam, there is no lux diagram specific to his proposal indicating the extent of illumination of the court.

The matter has been discussed with Thorn, the manufacturers of the lighting who have advised that the typical installation for tennis courts is four metal halide lights of 250 watt strength. Improved lighting is provided by an increased wattage. However none of the plans submitted demonstrate the lux at the boundary of the land for the nominated configuration. Accordingly it is only recommended that a deferred commencement approval be issued pending the submission of a lux diagram from either the manufacturer or a lighting engineer which demonstrates zero lux at the common boundary of the properties.

The adjoining owner has recently written to Council suggesting that the following conditions be imposed on any approval:-

- A. *That the use of the court be restricted to two nights per week (preferably weekends) no later than 9-9.30pm,*
- B. *That the use of the court be limited to private use - ie no hiring of the court by the general public,*
- C. *That a screen be provided to minimise adverse visual impact on our property. A screen such as black shade cloth fixed to the tennis court as shown in the accompanying diagram would provide temporary screening until a vegetative screen, (non deciduous) had grown into place.*
- D. *That lighting spillage be minimised by lights being erected on the creek side of the court. The illumination of the court would cause a nighttime impact by highlighting a built form which is out of character with the amenity of Kurrajong Village generally.*

In response to the above a 9pm-9.30pm finish will not allow sufficient time for Mr Hallam's intended use and a 10.30pm finish (lights out) is a reasonable condition. Similarly, as the lighting is proposed for private use it is reasonable that no hiring out of the court be stipulated as a condition.

The provision of screening as sought by Mr Buckett is not considered reasonable given the existing vegetative screen. Falson and Associates agree that the court is not particularly intrusive given this existing screening. Other factors to consider are the likely limited use of the tennis court lights, the fact that the proposed shade cloth will affect the outlook from the tennis court (at all times) and that additional planting along the creek on Mr Hallam's side will not provide any effective screening for many years.

Given all of the above, it is recommended that a deferred commencement development approval be issued with conditions on usage of the court.

RECOMMENDATION:

That a deferred commencement development approval be issued conditional upon the applicant satisfying the Director Environment and Development that there will be no illumination from the tennis court lighting beyond the common boundary between the applicant and objector.

Following satisfaction of this condition, the application be approved under delegated approval subject to the following conditions:-

1. Tennis court lights to be turned off at 10.30pm.
2. The use of the court is to be limited to private use ie no hiring of the court to the general public.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN625NAX.V11

****** END OF ITEM 162 ******

ITEM: 163 TOWN PLANNING - STRATEGIC WORKS PROGRAM**FILE NUMBER:** GT090/001/EVD

REPORT:**1. INTRODUCTION**

Council's current Local Environmental Plan 1989 is experiencing operational problems with a large number of rezonings and is in need of updating. As part of the management objectives for the Council it was proposed to carry out a major review of the Local Environmental Plan. As a result to review the LEP in a proper manner requires a major strategic planning program.

This report will outline what constitutes a well structured and coordinated planning system, what weaknesses currently exist within councils current planning framework, and what needs to be done to rectify the situation.

2. WHAT CONSTITUTES A GOOD PLANNING SYSTEM

A good planning system needs *direction and focus* in the form of an overriding Planning Strategy (Strategic Plan). The system needs to *based* on well founded investigative studies. These studies will be the basis for the direction of the planning system, and provide the rationale for its performance standards. Finally, the system needs statutory guidelines that are user friendly and reflect the general expectations of the broader community. Appendix 1 provides on illustration of how a planning system functions.

2.1 Planning Strategy

A planning strategy is a document which establishes a framework from which to influence the future development of the City area. It will detail the planning goals of the Hawkesbury, its objectives and strategies. It provides the framework for which future decisions will be made so as to give the Hawkesbury a clear strategic direction.

2.2 Planning Studies

The Planning Studies provide the background analysis of the relevant issues affecting the City area. The studies identify the existing problems, required action and options in order to develop major thrusts for the Planning Strategy. The following studies that would be involved include:-

1. Rural Land Study
2. Housing Strategy
3. Retail Study
4. Transport Study
5. Environmental Management Plan
6. Floodplain Management Plan
7. Economic Development Strategy

8. Population Study
9. Recreation and Community Services
10. Heritage Review Study

The analysis within these studies will provide the rationale behind the strategy. Some of these studies have already been completed.

2.3 Statutory Guidelines

The fact that Council is currently processing over thirty five amendments to its primary LEP is an indication that the document (HLEP 1989) is losing relevance. Councils statutory guidelines, that is its Local Environmental Plan, Development Control Plan (DCP's) and Contribution Plan, need to be responsive to the needs of this LGA. Once large numbers of amendments are needed, the document is no longer responsive, and clients are inconvenienced through extensive delays while amendments are being processed.

Councils primary LEP should be a flexible document that embodies the councils planning goals and directions. Where possible, specifics should not be included in this document, but left for a suite of DCP's that underpin and support the major LEP. The primary LEP should include goals, planning principles and considerations that Council will take into account when determining DA's.

It is intended to overhaul all existing DCP's as part of a strategic works program and prepare new DCP's to cover all of the main forms of development that occur in this City. For example, it would be intended that to come out of the Housing Strategy would be a new Housing DCP to replace the existing Dual Occupancy, Medium Density and Cluster Housing DCP's. Also a new subdivision DCP would be produced.

CONCLUSIONS

Councils planning system is in need of a major overhaul. This will require council giving a priority to its strategic works program. This will require a number of planning studies and a planning strategy before producing a new City wide LEP and DCP's, and undertaking a review of existing DCP's and the Contribution Plan.

RECOMMENDATION:

That Council resolve to support in principle a greater priority being given to strategic planning (within the existing budgetary constraints) and to receive a report on a priority list of studies that need to be undertaken along with resourcing and timing considerations.

ATTACHMENTS:

AT-1 Planning System Flow Chart.

FN:EN625NBX.V03

****** END OF ITEM 163 ******

ITEM: 164 TELECOMMUNICATIONS TOWER - 99 GROSE VALE ROAD, NORTH RICHMOND

FILE NUMBER: P722/435/EVD

REPORT:

Correspondence has been received from Hassell Pty Ltd regarding the construction of a 30m high telecommunications tower within the grounds of the Water Reservoir at 99 Grose Vale Road, North Richmond.

Their covering letter states as follows:-

"As you may be aware, the Australian Government's policy to introduce competition to the telecommunications market has resulted in the granting of licenses to three carriers. The third licence is held by Vodafone Pty Ltd which is in the process of establishing a national cellular network across Australia having started in 1993 and now continuing over the next few years.

The use of land and construction of facilities to establish the cellular network is exempt from control through State and Territory laws. As such an authorities formal approval is not required. Nevertheless Vodafone, as a licensed carrier, is obliged to establish its network in accord with a Telecommunications National Code prepared by the Federal Minister of State for Transport and Communications. The code provides that amongst other matters relevant authorities should be consulted and that an environmental assessment should be made of each proposal.

The purpose of this letter is to formally advise you of the above proposal and invite your comment if any. A copy of plans of the proposal, an environmental assessment and an extract of the Telecommunications Act which highlights the exemptions that apply to Vodafone are attached for your perusal. A proforma reply is also attached to enable you to respond quickly. However, should you have any comments, we need to receive a response from you within 30 business days from you receiving this letter".

Description of Proposal

The proposal involves the construction of a 30m high lattice tower which will be located approximately 40m south-west of the water reservoir nearest to Grose Vale Road.

The proposal does not state the colour of the tower, however from the colour photomontages included in the proposal it would appear that the tower will be grey in colour.

On top of the tower will be a triangular headframe to which several antennae will be attached. A number of microwave dishes will also be attached to the lattice tower below the tower headframe. The proposal does not state the exact number of antennae or dishes.

Near the base of the tower an equipment cabin (3m x 2.3m) is to be erected. The tower and equipment cabin is to be enclosed by a 2.7m high security fence.

Objections

Adjoining owners/occupiers were notified of the proposal and three (3) objections were received. The main issues/concerns raised are summarised below:-

- * emission of electro-magnetic radiation and the uncertainty as to whether or not these emissions present a health risk
- * devaluing of property values
- * concern that the site may be used to locate more telecommunication towers.

Planning Assessment

The main planning issues relating to this proposal are:-

- * appearance of the tower
- * public health and safety
- * use of alternative sites.

These issues are considered below.

APPEARANCE OF THE TOWER

The proposed tower, when viewed from Grose Vale Road, will be in a very exposed position. The adjacent water reservoir is approximately 10m high and the surrounding trees have a maximum height of approximately 20m. The proposed telecommunications tower will have a height of 30m with two rows of antennae on top. The total height of the tower and antennae is 37m. Therefore, the proposed structure will be almost twice the height of the surrounding trees. It is therefore considered that the height of the structure, when viewed from Grose Vale Road, will be excessive.

The view of the proposed tower from a distance is also of concern. From Keda Circuit the property boundary of the water reservoir appears as a well timbered ridgeline which compliments the scenic forest views further to the south-west. The water reservoirs are painted green and are below the line of the trees thus making them barely visible from a distance. The proposed tower however would rise considerably above the tree line and affect the scenic views enjoyed from Keda Circuit.

Similar views from south-west of the intersection of Bells Line of Road and Grose Vale Road and the residential area to the north of the water reservoir would also be affected.

Consequently, not only will the proposal have a detrimental impact on the immediate vicinity of the site, but it will also compromise the visual and scenic qualities of the broader area.

PUBLIC HEALTH AND SAFETY

The applicant states that "national and international research into the effects of electro-magnetic energy as emitted from mobile telephone base stations conclude that there is no risk to the general public".

However, one of the objectors forwarded to Council an information sheet titled "Safety of Mobile Phones and Towers - The Answers" published by the Commonwealth Department of Human Services and Health, November 1995 which states that there is "insufficient scientific knowledge of many aspects of health effects of radio waves", and that the "World Health Organisation recommends further study on this subject".

ALTERNATIVE SITES

Hassell Pty Ltd state in their proposal that they have considered alternative sites. The only alternative site identified was within the grounds of the St John of God Hospital, Belmont Park. This site was rejected because "it did not meet Vodaphone's radio coverage objectives and technical requirements". No explanation was given as to why the site failed to meet these criteria. This cursory investigation of alternative sites is inadequate and does not fulfil the requirements of the Telecommunications National Code.

CONCLUSION

It is considered that the proposed telecommunications tower will have an adverse effect on the visual amenity of the area and that the proponent has not thoroughly investigated alternative sites for the facility. It is therefore considered that Council should not support the proposal.

RECOMMENDATION:

1. That Hassell Pty Ltd be advised that Council opposes the construction of the telecommunications tower on the grounds that the tower will be visually obtrusive and that insufficient information has been provided regarding the unsuitability of alternative sites.
2. That Hassell Pty Ltd be notified of the recommendation of the General Purpose Committee prior to consideration at the Ordinary Meeting on 9 July 1996.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN625NBX.V04

****** END OF ITEM 164 ******

ITEM: 165 ST ALBANS MARKET - LOT 11 DP844973 WHARF STREET, ST ALBANS - AMENDMENT TO HLEP 1989

FILE NUMBER: P2321/85/EVD

REPORT:

A letter has been received from the organisers of the St Albans Markets and Music days requesting permission to conduct this event on the third Sunday of every month.

This community event is primarily conducted from the Arts and Craft Gallery on Wharf Street, St Albans. Whilst development consent has been issued for the arts and craft gallery, the activities occurring every third Sunday of the month do not have approval and require development consent.

It is considered that this activity such as a market held once a month should not require the normal development approval process. There is considered to be merit to exclude activities such as tourist and community events as "temporary land uses" from requiring development approval.

In order to allow this process to occur an amendment to HLEP 1989 is required to insert a definition of temporary use of non-residential land, as follows:-

"Temporary use of non-residential land

- (1) *This clause applies to all land to which this plan applies other than within zone no. 2(a), 2(a1) and 2(c).*
- (2) *Despite any provision of this plan, a person may, without the consent of Council, carry out development of land to which this clause applies for the purposes of a fete, a market, circus, auction, or for a community purpose, but does not include a recreation establishment, for a maximum of 14 days in any calendar year.*
- (3) *A person must not carry out development unless the person has given the Council a notice of the person's intention to carry out the development and at least 28 days have elapsed since the notice was given. Such a notice only operates in relation to development carried out within 12 months of the date on which the notice is given."*

Activities as listed, on non-residential land would not be permitted to conduct the activity more than 14 days in any calendar year and would be required to give Council 28 days of the event. This would allow certain stipulations such as Health Regulations to be made on any approval.

The proposed amendment to exclude temporary use on non-residential land from requiring development consent is considered to be a community benefit.

RECOMMENDATION:

1. That a draft Local Environmental Plan be prepared to amend HLEP 1989 by inserting a clause on temporary use of non-residential land.
2. St Albans markets be advised that Council raises no objections to the conducting of a Sunday market on the third Sunday of each month, subject to the requirements of the Director, Environment and Development.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN625NBX.V06

****** END OF ITEM 165 ******

ITEM: 166 SYDNEY WATER - WATER SUPPLY TO DEVELOPMENT WITHIN
HAWKESBURY LOCAL GOVERNMENT AREA**FILE NUMBER:** GW020/007/EVD**REPORT:**

Sydney Water, Greater Western Region, have advised this Council by letter dated 23 May, 1996 that water supply to development within the City is limited to initially approximately 1,000 equivalent residential lots for the next three (3) to four (4) years (copy of Sydney Water letter is available for perusal).

The review by Sydney Water of its water distribution to most of the Hawkesbury area including Richmond, Windsor, Kurrajong, North Richmond, Freemans Reach, Glossodia, Wilberforce, Pitt Town, Bligh Park, Windsor Downs and other adjacent rural areas outlined the following main issues:-

- * the bulk water supply system has some spare capacity which can cater for limited short term growth;
- * it is anticipated that full take up of this capacity will occur in approximately 3-4 years with augmentation required around the year 2,000;
- * it is estimated initially that approximately 1,000 equivalent residential lots could be served without any adverse effect on existing customers;
- * the allocation of this limited capacity is a matter for the planning authorities (Council and Department of Urban Affairs and Planning) to determine;
- * Sydney Water is to prepare a Development Services Plan by late 1996 for existing and future infrastructure required to serve future development. Council can have an input into the Development Services Plan for its area; and
- * it is envisaged that the following types of development will be included in the allocation of the 1,000 additional lots:-
 - existing vacant lots fronting watermains
 - subdivision within existing zonings
 - extensions of the system to rural properties and rural developments
 - redevelopment of existing properties which place extra demand on the system
 - large commercial/industrial and special uses development (converted to equivalent lots), and
 - rezonings of land to higher uses.

Implications

Sydney Water has requested that this Council establish the procedure for allocation of the water distribution and monitoring of such water connections to growth.

To establish such a system is difficult for Council, as it is unknown the available land holdings that will be subdivided within the existing zonings. However, such a priority should be based on existing zoned land prior to rezoning of land for development which will place extra demand for water on the system.

To investigate the available land holdings within existing zonings that could be subdivided requires examination of a residential land audit. A land audit would produce a figure of available allotments or residential connections. Council is also required to examine the current rezonings that are being processed for equivalent residential connections. Attachment 2 is a list of known developments including rezonings that are awaiting service allocation.

It is difficult to estimate the number of residential (or equivalent) connections from rezonings. However, two important items should be mentioned, which are:-

- (i) Bligh Park North - with approximately 700 residential lots has been rejected by DUAP; and
- (ii) Rezoning of the Old Speedway (corner Fairey Road and Argyle Street, Windsor) from 1(b) to 4(a) requires approximately 120 residential equivalent connections.

Future Development

Council has resolved through its planning workshop and committees to examine the residential growth rate for the City. A major decision in residential growth and available development opportunities is the provision of water as part of the infrastructure.

Sydney Water as part of their Development Services Plan are requesting Council to provide its strategy for residential growth so that the corporation may plan for any service amplification works.

The opportunity exists for Council to carryout a Residential Strategy as part of its planning framework to investigate residential growth. A residential strategy would examine:-

1. A strategic approach that Council intends to undertake in order to plan for local residential development.
2. Identify local residential housing opportunities through a land audit of development and re-development sites.
3. Improvement to existing residential development controls.
4. Develop a residential plan for growth opportunities for the Hawkesbury City area for the next 5 to 10 years.

Accordingly, the adoption of an investigation of a Residential Strategy for the Council would be beneficial in terms of convincing Sydney Water of water amplification works and for the continued growth of the City.

RECOMMENDATION:

1. Council adopt a priority of water allocation based on existing zoned areas prior to rezoning areas.
2. That initially Council agree to the provision of reticulated water to any development which has received subdivision or development approval.
3. A report be brought forward on the impact on the current rezonings on the future allocation of available water connections.
4. A report be brought forward on the investigation of a Residential Strategy for the Council.
5. Sydney Water and DUAP be advised that Council is establishing a procedure of water allocation and intends to conduct a residential strategy for future residential growth.

ATTACHMENTS:

AT-1 List of developments awaiting servicing.

FN:EN625NBX.V07

****** END OF ITEM 166 ******

ITEM: 167 BLIGH PARK NORTH - PROPOSED RESIDENTIAL DEVELOPMENT
- ADVICE FROM THE DEPARTMENT OF URBAN AFFAIRS AND
PLANNING

FILE NUMBER: LEP016/93 PT03/EVD

REPORT:

Council has now received the following letter from the Department of Urban Affairs and Planning confirming verbal advice already received. The letter states as follows:-

"I refer to Council's letter dated 19 December 1995 and subsequent letter dated 25 March 1996 and the draft local environmental plan submitted to the Secretary under section 68(40) of the Environmental Planning & Assessment Act 1979 (EPA Act). The Minister for Urban Affairs and Planning requested the Department to provide the following advice to Council under section 70(7) of the Act.

After consideration of the Director's report made under section 69 of the EPA Act the Minister has decided not to proceed with the draft local environmental plan. This is because of the flooding risks to the site and the lack of certainty regarding the feasibility of evacuation once the development is complete. The provisions within the draft LEP are not considered to be sufficient to alleviate flooding concerns and the proposed construction of an evacuation route does not provide certainty that a complete evacuation can occur within the limited time that is available to the SES. It is considered that allowing residential development of the area would increase the risk to personal safety to an unacceptable level..."

The determination by the Minister raises a number of issues including:-

1. The decision is inconsistent with the Department's consideration of the matter at the time of issue of the Section 65 certificate. At that time they were satisfied in relation to flooding and evacuation and conditioned the certificate to require the construction of a road between Thorley Street and Richmond Road which would not be cut in a 1 in 100 year flood event.
2. The decision demonstrates that the Department of Urban Affairs and Planning (and the Minister) have real concerns about the evacuation of the area in the event of a large flood. This is apparently contrary to the Government's decision not to proceed with the 23m flood mitigation extension to Warragamba Dam and statements that the downstream flood problems can be solved by flood mitigation planning.

Alternative uses for the land have been discussed with staff of the Parramatta office of the Department who have not discounted the possibility of uses such as rural residential subdivision. It is recommended that a meeting be convened with property owners in the area to discuss land use options including rural residential development.

RECOMMENDATION:

That a meeting be convened with property owners in the Bligh Park North area to discuss other land use options including rural residential development.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN625NBX.V08

****** END OF ITEM 167 ******

ITEM: 168 REZONING PART LOT 453 DP749371 THORLEY STREET, GEORGE STREET, COLONIAL DRIVE AND WETHERILL CRESCENT, BLIGH PARK, SOUTH WINDSOR

FILE NUMBER: LEP8/95/EVD

REPORT:

Council, at its Ordinary Meeting of 8 August 1995, resolved to prepare a draft local environmental plan to rezone the above site from Residential 2(a) to Open Space 6(a) Existing Recreation. The site is located between Colonial Drive and Thorley Street and is the natural bushland area between George Street and part of the Bligh Park residential area.

The Section 65 Certificate was issued on 31 August 1995 and the draft plan exhibited between 13 September 1995 and 13 October 1995 in accordance with the Act and Regulations. Two submissions have been received, both in support of the draft plan.

Pursuant to Section 62 of the Act, Sydney Water, Prospect Electricity, Roads and Traffic Authority, Department of Housing and Telecom Australia were consulted and the following replies received:-

Sydney Water

No objections.

Prospect Electricity

No objections.

Roads and Traffic Authority

No objections provided no access to George Street and existing road widening reservation is retained.

Department of Housing (Landcom)

No objections to proposal, lot 453 DP749371 has been transferred to Council.

RECOMMENDATION:

1. That no action be taken pursuant to Section 68 of the Environmental Planning and Assessment Act, 1979.
2. That Council use its delegation to furnish the Section 69 report to the Minister.

3. That the application be referred to the Department of Urban Affairs and Planning for gazettal.

ATTACHMENTS:

AT-1 Site Plan

FN:EN625NBX.V12

****** END OF ITEM 168 ******

ITEM: 169 AMENDMENT OF DEVELOPMENT CONSENT TO PERMIT THE
ERECTION OF AN ADDITIONAL 15 UNITS - APPROVED AGED
PERSONS HOUSING DEVELOPMENT FOR 71 UNITS - KING ROAD,
WILBERFORCE - GARY WHITE PROPERTY CENTRE

FILE NUMBER: DA236/93; DA175/95/EVD

Applicant: Gary White Property Centre
Applicants Reps: Nil
Owner: A McIntyre
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 State Environmental Planning Policy No.5 - Housing for Aged and Disabled
 Persons
Area: 26 hectares
Zone: Environmental Protection (Scenic) 7(d1)
Advertising: Adjoining property owners notified with one submission being received.
Date Received: 17 April 1996

Key Issues:

- , Existing consent
- , Effluent disposal
- , Amenity

Action:

Approval subject to the same conditions applicable to the development consent of 13 September 1994.

REPORT:

The proposed development has a history commencing with an application for 85 units considered by Council on 14 December 1993. At that meeting it was resolved that the matter be deferred to allow the applicant to submit a revised proposal for a reduced number of units located above the 1:100 year flood frequency level (15.9 metres).

An amended plan was then submitted which reduced the number of dwellings to 71 to overcome Council's concerns. The units were sited either wholly or partially above 15.9 metres AHD and, in addition, the applicant offered to construct the finished floor levels at 17.3 metres AHD should it be required.

Despite a contrary recommendation, the amended application for 71 units was issued with a deferred commencement approval by Council at its meeting on 13 September 1994.

It is that application involving the former Lots 12, 21, and 22 which the applicant now seeks to

amend by the inclusion of additional land being the former Lot 11 having an area of approximately 4,000 square metres.

Following the deferred commencement approval at Council's meeting on 13 September 1994, the applicant proceeded to satisfy the deferred commencement conditions which involved water cycle studies, a financial analysis of the ability of the development to sustain water and sewage services, and minor adjustments to the plan.

The deferred commencement approval for 71 units was again reported to the General Purpose Committee on 30 January 1996 as a consequence of changes in the approval conditions brought about by the corporatisation of Sydney Water on 1 January 1995. Sydney Water advised that it was no longer a public authority and, hence, had no concurrence of powers under State Environmental Planning Policy No.5. Sydney Water requested that the deferred commencement conditions be altered to transfer responsibility for assessing the studies to Council.

The necessary changes were adopted by Council at its meeting on 13 February 1996.

Following the submission of all of the required deferred commencement matters, the applicant was advised on 1 March 1996 that the deferred commencement matters had been satisfied.

A separate application for 144 dwellings and associate facilities (DA175/95) was submitted on 27 July 1995 and listed in the General Purpose Committee business paper on 31 October 1995. The application located dwellings on land lower than RL12.0 metres AHD with extensive filling proposed to achieve levels of 15.9 metres AHD. The application was recommended for refusal, however, it was not determined at Council's meeting on 14 November 1995 as it was deferred in accordance with the request from the applicant.

Planning Assessment

The submission requests clarification on several matters. These items, together with a response are as follows:

1. *"We note that the applicants are amending an approved plan from another DA, i.e. No.236/93. At the time, 22 neighbouring residents were notified of DA236/93, although we were omitted from the mailing list. We are now renotified of DA175/95 which is the development application of 144 units; withdrawn by the applicant, at a previous Council meeting."*

It is presumed that no notification was provided for the initial DA236/93 as the residents were not physically adjoining the site. Since their objections to the development were raised, they have been notified of this amended plan. As indicated in the report, the amendment is to DA236/93 not DA175/95 which has been deferred (and likely withdrawn).

2. *"When viewing plans on Thursday 9 May 1996 we noted that one plan was marked approved, the other marked amended. Neither plan included Lot 1 DP516593. Enquiries were made to Council at the time and we requested a return phone call to clarify the situation. Receiving no response we rung on Wednesday 15 May 1996 and*

were invited to view the plans again. In viewing them on Thursday 16 May 1996, Council staff were still unable to verify whether Lot 1 DP516593 is included in the amended plan or not."

The approved plan, which was labelled at the counter did not include Lot 1 DP516593 either in the legend or in the site plan. It was not referred to in the deferred commencement approval and, therefore, is not included in either the approved plan or the amended plan. To provide further assurance, a condition can be included on an amended approval to the effect that no development is to occur on Lot 1 DP516593 without the further approval of Council.

3. *"In regard to the placement of three 1 megalitre water storage tanks, we would like to know which plan is being used, i.e., is Lot 1 DP516593 included, and if so, will this affect the placement?"*

As indicated, there is no development planned or approved on Lot 1 DP516593. The approved plan and the amended plan with the additional 15 units indicates 1 megalitre water storage tanks being located on Lot 22 adjacent to Lot 1 DP516593.

4. *"... Is the applicant in actual fact resubmitted DA175/95, reducing the units from 144 to 85, yet including the additional Lot 11 DP706517 or are they able to amend the approved (deferred commencement) DA236/93 using the withdrawn DA175/95 land usage?"*

Whilst there have been two applications and a number of amendments, the applicant is seeking to amend the deferred commencement approval (DA236/93) which is the only approved application.

The amended plan incorporates a section of land with a level of between 18 metres AHD and 20 metres AHD. It is higher than the remainder of the already approved 71 unit development and has levels in excess of the new 1:100 year standard of 17.3 metres AHD.

Given the existing approval for 71 units and the configuration of that approval around the land now proposed to be incorporated into the development, the proposed amendment of consent to permit the additional 15 units should be approved. The amended approval should be conditioned upon a reassessment of the water cycle study to incorporate the additional 15 dwellings.

In response to the concerns raised in the submission, the possible sites for the irrigation of the treated effluent as suggested in the Water Cycle Study are attached to this report. In respect of effluent disposal, the conclusion of the report is that the treatment to tertiary standard of waste water from the proposed development is feasible, with onsite disposal by irrigation. The waste water treatment has been designed such that discharge of treated effluent to the Hawkesbury River will only occur during 10% AEP or greater flood events (1:10 years or greater).

RECOMMENDATION:

That the application to amend DA236/93 by the inclusion of an additional 15 units generally in accordance with the amended layout prepared by R & P Collis Drafting Services, Issue E, and dated 15 April 1996 be approved subject to:

- A. Compliance with the conditions of development consent in Council's letter of 21 September 1994.
- B. A revised water cycle study being submitted demonstrating the feasibility of disposal of effluent including the impact of the proposal on the water balance of the area and water quality of the Hawkesbury-Nepean River.
- C. That the applicant be advised that Lot 1 DP516593 is not included in either the development application or development approval and that any development of Lot 1 DP516593 will require the separate consent of Council.

ATTACHMENTS:

Copy of Spray Irrigation Plan

FN:EN625NBX.V13

****** END OF ITEM 169 ******