

GENERAL PURPOSE COMMITTEE

SECTION 1 ENVIRONMENT

GENERAL PURPOSE COMMITTEE - ENVIRONMENT**Table of Contents****Meeting Date:** 28 May 1996

Page 2

ITEM	SUBJECT	PAGE
-	SECTION 1 - ENVIRONMENT.	
146:	SUBDIVISION BY BOUNDARY ADJUSTMENT PROPOSAL - LOT 1 DP731677 AND LAND IN OLD SYSTEM CONVEYANCE NO 220 BOOK 146 - 115 REDBANK ROAD, NORTH RICHMOND SA39/95 PT01/EVD	4
147:	URBAN BUSHLAND - BIODIVERSITY SURVEY GP010/001 PT02/GMA	8
148:	EAST KURRAJONG BUSH FIRE STATION EXTENSIONS GC305/088 PT01/GMA	9
149:	DRAFT LOCAL ENVIRONMENTAL PLAN 20/95 - ADDITIONAL HERITAGE - HAWKESBURY HOSPITAL LEP20/95/EVD	10
150:	PROPOSED AMENDMENT TO CLAUSE 22 - HAWKESBURY LOCAL ENVIRONMENTAL PLAN 1989 GT160/002/EVD	11
151:	THREATENED SPECIES CONSERVATION ACT, 1995 GE020/035 PT02/EVD	13
152:	CAMPAIGN AGAINST OVERHEAD CABLES - LOCAL GOVERNMENT ASSOCIATION GT001/001 PT2/EVD	18
153:	REZONING APPLICATION - PROPOSED LOT 1 IN THE SUBDIVISION OF LOT 1 DP789666 NO. 154 BOUNDARY ROAD, OAKVILLE - APPLICANT: AUSTRALIAN WATER TECHNOLOGIES (SYDNEY WATER) LEP8/96/EVD	20
154:	URBAN DEVELOPMENT PROGRAM - SYDNEY RESIDENTIAL LAND - HAWKESBURY CITY COUNCIL GT225/001/EVD	21
155:	BED AND BREAKFAST ACCOMMODATION - REMOVAL OF THE REQUIREMENT FOR DEVELOPMENT CONSENT FOR B&Bs IN EXISTING DWELLINGS - ADOPTION OF A POLICY TO FACILITATE B&Bs IN THE HAWKESBURY AREA. LEP012/96/EVD	22

GENERAL PURPOSE COMMITTEE - ENVIRONMENT

Table of Contents

Meeting Date: 28 May 1996

Page 3

ITEM	SUBJECT	PAGE
156:	RICHMOND PASTORAL COMPANY - PROPOSED RESIDENTIAL SUBDIVISION, LOT 12 DP 716742, BELLS LINE OF ROAD, NORTH RICHMOND. (LAND GENERALLY BOUNDED BY BELLS LINE OF ROAD, RURAL PRESS AND REDBANK CREEK) LEP007/90;P243/415PT02/EVD	24
157:	MORATORIUM ON LICENSES TO EXTRACT WATER - IMPACT ON AGRICULTURE - MEETING WITH THE DEPARTMENT OF LAND AND WATER CONSERVATION AND HAWKESBURY NEPEAN CATCHMENT MANAGEMENT TRUST GEO20/012PT02/EVD	30

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

ITEM: 146 SUBDIVISION BY BOUNDARY ADJUSTMENT PROPOSAL - LOT 1
DP731677 AND LAND IN OLD SYSTEM CONVEYANCE NO 220
BOOK 146 - 115 REDBANK ROAD, NORTH RICHMOND

FILE NUMBER: SA139/95 PT01/EVD

Applicant: John Albert Fuller
Applicants Reps: JA Fuller
Owner: JA Fuller and State Rail
Stat. Provisions: HLEP 1989 and SEPP1
Area: Approximately 3.93ha
Zone: Rural 1(b)
Advertising: Not advertised
Date Received: 30 October 1995 - consideration deferred at applicants request

Key Issues:

- , Minimum lot size
- , Boundary adjustment clause

Action:

Refusal

REPORT:

The application is to create two lots of approximately 4,000m² and 3.5ha by a boundary adjustment. The existing lots have areas of 3.9ha and approximately 252.8sq metres.

The minimum area for each lot in a subdivision within the zone under Clause 11(2)(b) of HLEP1989 is 10ha.

Clause 13 of HLEP 1989 permits subdivision by adjustment or relocation of common boundaries under certain circumstance. However clause 13(2) provides that it does not apply to allotments smaller than 450sq metres or created by the closure of part or all of a road.

Clause 15(2) of HLEP 1989 provides that the number of dwelling houses permitted on land subdivided under Clause 13 (ie a boundary adjustment) shall not exceed the total number permissible prior to that adjustment.

A SEPP1 objection has been lodged.

The application is deficient in a number of technical matters which were not pursued due to the intention to refuse. However if Council is of a mind to approve the application these will need to be rectified as follows:-

- (i) The submitted application form does not include the small lot intended to be purchased from State Rail.
- (ii) The proposed lots on the submitted plan do not include the State Rail land.
- (iii) The application has not been referred to adjoining owners.

History

1. The applicant has been attempting to subdivide his land for many years without support.
2. The applicant states that Mr Falson, Mr Coulter and Mr Corry have advised him that SRA land was of sufficient size to enable him to relocate the boundary. While he has discussed the matter on various occasions with Council staff there is no evidence that the area of the lot was ever discussed. In fact the first time the area appears to have been known was when State Rail stated the area to be about 252.8 sq metres in its consent to subdivide lodged with the application. At a recent site inspection the applicant advised Mr Corry that the area of the lot had not been surveyed and that State Rail had apparently calculated the area.

The applicants conversation with Mr Corry covered how to lodge the application not if it was permissible with the applicant advising that Mr Coulter had stated the adjustment was alright. The full facts only became clear to Council staff when the application was lodged and found not to comply with Clause 13(2). Following clarification of the matter Mr Fuller was advised verbally that it could not be approved and negotiations have proceeded since.

Assessment

As stated previously the proposed lots do not comply with the minimum 10ha requirements under the zoning and the smaller lot proposed to be adjusted is less than 450m² and hence excluded from the boundary adjustment clause.

The minimum lot area can be varied under SEPP1. However any objection under SEPP1 must be able to be justified on planning grounds.

A SEPP1 objection has recently been lodged and a copy is on the file. It is briefly summarised below:-

- (i) The subdivision complies with Clause 13(1) ie no additional lots or additional undersized lots are created.
- (ii) It does not comply with Clause 13(2) in that Clause 13(1) does not apply to lots less than 450 square metres but it should be supported as large variations have been approved before. In this case the variation is 44%.
- (iii) The subject property is of no use to any other lot due to location and the creek.
- (iv) If not combined it will be a landlocked block.

- (v) If not adjusted could have a house erected on it with access via a right of way.
- (vi) Houses have been erected on lots less than the 253m² of this lot and Local Government Act allows minimum of 232m².
- (vii) The topography is suitable for erection of a dwelling.
- (viii) Significant number of small lots in the area including 12 which resulted from recent subdivisions hence obviously good land in area.

Comments on the SEPP1 objection follow using the same paragraph numbers:-

- (i) The statement is correct however clause 13(2) overrides it.
- (ii) Council has recently resolved not to support large SEPP1 variations to the minimum area standard, although a relatively small number of large variations have been approved previously.
- (iii) Not correct, the land also adjoins lot 1 DP845078 which could equally argue its case. Other adjacent lots are separated by the creek and apparently don't directly adjoin the lot.
- (iv)-(vii) These are basically all the same issue.

A site inspection was held with the applicant to assess the viability of the 252.8sq lot for the erection of a dwelling. The lot is a small triangular shaped lot at the rear of the property adjoining Redbank Creek. The lot has not been defined by survey however the shape of the land/creek location is not consistent with the 1 in 4000 plan. The creek appears to have moved and may actually be encroaching into the lot further reducing its available area however without survey it is not possible to be sure. Notwithstanding this given the size and shape of the lot and its location along a creek bank it is unlikely that a dwelling could have been erected on the lot. It is also unknown if the lot is subject to local creek flooding.

- (viii) There are a number of lots less than the zone minimum in the area however this could equally be argued for virtually anywhere in the City. The twelve lots created by recent subdivisions were as a result of boundary adjustments in accordance with the requirements of the LEP.

Of concern is the precedent set if the adjustment is approved. A computer search was carried out to identify all rural lots with areas of less than 450m². Only 8 were identified in private ownership, 2 of which are leased by Council for Bush Fire Sheds.

A number of other small lots are owned by Council. However there are more undersized lots in the City not identified on the property system. For instance the lot in question is not on the system and others have also been found when investigating subdivisions. It is however likely that only a relatively small number of such lots exist. Any precedent would therefore be relatively small but significant.

The applicant states he has agreed to purchase the land for \$9,000.00 plus legal fees and that State Rail will hold him to the contract and that he intends to claim compensation if the application is not approved.

As stated previously the application is recommended for refusal however if Council wishes to support it a number of technical matters will need to be rectified and concurrence of DUAP obtained.

RECOMMENDATION:

- A. The SEPP1 objection not be approved.
- B. The application to subdivide be refused for the following reasons:
 - 1. The proposal does not conform to clause 11(2)(b) of the Hawkesbury Local Environmental Plan 1989 in respect of the required 10ha per lot.
 - 2. The proposal does not comply with clause 13(2) of Hawkesbury Local Environmental Plan 1989 in that the smaller lot is less than 450 sq metres.
 - 3. Approval of the subdivision would set an undesirable precedent and is not in the public interest.

ATTACHMENTS:

AT-1 Submitted plan

AT-2 Locality plan

FN:EN528NAX.V06

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

ITEM: 147 URBAN BUSHLAND - BIODIVERSITY SURVEY**FILE NUMBER:** GP010/001 PT02/GMA

REPORT:

The National Parks and Wildlife Service has advised that it has recently commenced a biodiversity survey of bushland areas in Western Sydney. The aim of the survey is to address the lack of information currently available on the biodiversity of the area.

Biodiversity, they advise, refers to the biological diversity of an area and is used to describe the total variety of life which exists in any particular region. This includes all species of plants, animals and micro-organisms, their individual genes and the inter-relationships they form. Therefore, the higher the biodiversity of an area, the greater its conservation significance.

Areas of high biodiversity are normally associated with areas of natural bushland which, apart from their wildlife conservation value, also serve as a significant resource for the community in providing recreational, educational and tourism opportunities. These areas also play a vital role in protecting the water and soil resources of the region.

The recognition and importance of biodiversity and the significance of remnant bushland areas is becoming an international conservation priority.

The service has sought to advise the Council further in the matter and will be present towards the end of the Meeting to provide a short address and answer any questions.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN528NBX.G02

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

ITEM: 148 EAST KURRAJONG BUSH FIRE STATION EXTENSIONS**FILE NUMBER:** GC305/088 PT01/GMA

REPORT:

East Kurrajong Bush Fire Brigade has submitted building plans for extensions to the present Bush Fire Station, which they intend to fund themselves.

The Brigade intends to demolish the existing original two bay section of the Station and replace it with a new three bay extension that will comply with Council's building requirements.

Approval is sought from Council to sell the old materials after demolition in order to assist the Brigade in financing the construction.

RECOMMENDATION:

That approval be given to East Kurrajong Bush Fire Brigade to demolish the existing two bay section of the station and sell the old building materials so as to assist in the financing of a new three bay extension.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN528NBX.G08

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

ITEM: 149 DRAFT LOCAL ENVIRONMENTAL PLAN 20/95 - ADDITIONAL
HERITAGE - HAWKESBURY HOSPITAL

FILE NUMBER: LEP20/95/EVD

REPORT:

Council at its Ordinary Meeting of 14 November 1995 resolved to support a draft local environmental plan to include additional heritage items on Schedule 1 of Hawkesbury Local Environmental Plan 1989. The plan aims to include the following items in respect of the Hawkesbury Hospital site:-

No 95 Macquarie Street, Windsor Lot 104 DP759096 Hawkesbury Hospital - 1820's Main Block, 1910 Brick Fence and the Ashlar Morgue Building.

No 300 George Street, Windsor, Conv. Book 3211, No 318 Part Portion 21 - 1840's well structure.

Pursuant to Section 62 of the Environmental Planning and Assessment Act 1979, the draft plan was referred to the Heritage Branch of the Department of Urban Affairs and Planning and the Wentworth Area Health Service. There was no objection to the draft plan.

No response was received from the Wentworth Area Health Service.

The Section 65 Certificate was issued by Council's delegate on 1 April 1996 and the plan was exhibited from Wednesday 3 April 1996 to Friday 3 May 1996. No submissions were received.

RECOMMENDATION:

That a submission be prepared requesting the Minister to gazette the plan, and Council exercise its delegation with respect to the Section 68 and 69 of the Environmental Planning and Assessment Act, 1979.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN528NBX.V03

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

ITEM: 150 PROPOSED AMENDMENT TO CLAUSE 22 - HAWKESBURY LOCAL ENVIRONMENTAL PLAN 1989

FILE NUMBER: GT160/002/EVD

REPORT:

Over the last couple of months, a number of enquiries have been made relating to development on industrial land adjacent to Bells Line of Road at North Richmond. Whilst all of these proposals have been considered to be compatible with existing activity in the area and have merit in their own right, they are, unfortunately, prohibited under the existing provisions of Clause 22(2) of Hawkesbury Local Environmental Plan 1989 (HLEP 1989).

Clause 22 of HLEP 1989 restricts development which has frontage to main and arterial roads. Subclause (1) of Clause 22 relates to building setbacks. It allows a merits based approach in that Council determines an appropriate setback from main roads on a case by case basis. The subclause then lists a number of considerations that Council is to take into account when making its decision. This approach facilitates what is known as "merits based planning" and is a more flexible approach to planning, and is consequently favoured.

Subclause (2) of Clause 22 prohibits certain developments which have direct access to main roads, such as Bells Line of Road. The Clause reads as follows:

22.(2). Notwithstanding clause 9, the Council shall not grant consent to the carrying out of development for any of the following purposes on land which is within Zone No. 1(a), 1(b), 1(c), 1(c1), 4(a), 4(b), 7(d) or 7(d1) and which has direct vehicular access to a main or arterial road:

bulky goods sales rooms or showrooms, car repair stations, commercial premises, general stores, hotels, junk yards, caravan parks, motor showrooms, produce stores, refreshment rooms, retail plant nurseries, roadside stalls, service stations, shops, transport terminals and warehouses.

This subclause is termed a "prescriptive" one as it states specifically what is prohibited in these areas. Whilst the subclause provides absolute certainty, it does not allow Council to consider individual proposals on their merits. In this regard, the development enquiries which Council has received at North Richmond would satisfy the underlying intentions of this subclause; that is not to allow activities which facilitate ribbon development and cause impacts on traffic in terms of safety and service. However, Council can not approve these proposals because the prescriptive way in which the clause is written does not facilitate a merits based assessment.

As a consequence, it is proposed that Clause 22 be replaced with a more flexible and responsive version. The proposed amendment is detailed in Appendix 1. Given the clause relates to development adjoining main roads, the RTA will have to be consulted in accordance with S.62 of the EPA Act 1979.

RECOMMENDATION:

That Council resolve to prepare a DLEP to replace Clause 22(2) in the manner set out in Appendix 1.

ATTACHMENTS:

AT-1 Copy of Amendment.

FN:EN528NBX.V04

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

ITEM: 151 THREATENED SPECIES CONSERVATION ACT, 1995

FILE NUMBER: GE020/035 PT02/EVD

REPORT:

1. Introduction

This report the new Threatened Species Conservation Act 1995 (TSC 1995), its implications for development activity in the Hawkesbury, and how it will be implemented. There are numerous problems that have been identified which relate to the practicality of the instrument especially as it relates to small scale rural activities. The report concludes with a recommendation that Council lobby Local Members and the Minister for the Environment regarding the practicality of the TSC Act 1995 and that Council investigate the appointment of an Environmental Officer to assist applicants and Council in the implementation of the TSC Act 1995, and other environmental legislation.

2. Summary of Threatened Species Conservation Act

The Threatened Species Conservation Act 1995 (TSC 1995) was passed by Parliament on 18 December 1995 and commenced on 1 January 1996. The Act effectively replaces the legislative scheme introduced by the Endangered Fauna (Interim Protection) Act 1991 (EF(IP) Act).

The TSC Act makes substantial amendments to the Environmental Planning and Assessment Act (EPA Act).

The following is a summary of the new Act with those sections highlighted which will impact on development assessment.

- * The legislation applies to all plants and animals native to NSW, with the exception of humans, fish (as defined in the Fisheries Management Act 1994) and marine vegetation.
- * "Threatened species" includes "endangered species" and "vulnerable species" and "species presumed extinct".
- * The Act allows for the listing and protection of "endangered populations" of any plant or animal and of "endangered ecological communities".
- * Listing of species, etc, in all categories is by the Scientific Committee (appointed by the Minister for the Environment). The Committee can consider nominations for listing. Emergency provisional listing is also possible.
- * **There is an "eight-part test" (EPA Act s5A) which sets out factors to be taken into account by Council in deciding if there is likely to be a significant effect on a threatened species, population and community or their habitat from the proposed development.**

- * The "critical habitat" of an endangered species, population or ecological community may be identified by the Director-General of National Parks and Wildlife and declared by the Minister for the Environment, in both cases subject to various considerations, notifications and consultations.
- * **A Species Impact Statement (SIS) is required if a development or activity is likely to significantly affect threatened species, populations or ecological communities, or their habitats.**
- * **In most cases, the concurrence of the Director-General of National Parks and Wildlife is required for developments and activities which are on land which is critical habitat, or where there is likely to be a significant effect on a threatened species, population or ecological community of their habitat.**
- * Critical habitat must be identified in "principle" local environmental plans and regional environmental plans as soon as practicable after its declaration.
- * A new section in the EPA Act (s34A) requires consultation with the Director-General of National Parks and Wildlife before the preparation of the draft LEPs which will or may affect critical habitat or a threatened species, population, ecological community or their habitat.
- * The TSC Act requires the production of recovery plans for all threatened species and for threat abatement plans for key threatening processes (which must be listed). A Biological Diversity Strategy must be produced by NPWS by September 1996.
- * A licence from the Director-General of National Parks and Wildlife is required to authorise an action likely to "harm" (animals) or "pick" (plants) a threatened species, population or ecological community, damage their habitat or damage critical habitat, **but only where development consent or approval of an activity under the EPA Act is not required.** "Routine farming activities" are exempt from the need for a licence.

3. Implications of Change to Environmental Planning and Assessment Act

3.1 Development Implications

The process Council and applicants will have to follow when determining development applications that have the potential in anyway to impact on native flora and fauna is set out in appendix 1. The new section 5A of the EPA Act sets out the factors to be considered in deciding whether there is likely to be a significant effect on threatened species, etc, and hence if a Species Impact Statement is required. The test is also referred to in section 90 of the Act.

The factors set out under section 5A are referred to as 'the eight point test'. Given that Council does not employ a qualified ecologist, any development application that requires the removal of any trees, involves underscrubbing or will occur over water logged land will require, as a minimum, a Flora and Fauna Survey that includes a report that addresses the 'eight point test'; to be submitted prior to determining a development application.

If this report concludes that the development is likely to have a significant impact on the habitat of a threatened species, a Species Impact Statement (SIS) will be required. Amendments to sections 77 and 112 of the EPA Act require preparation of a Species Impact Statement (SIS) if the proposed development or activity is "on land that is, or is part of critical habitat or is likely to significantly affect threatened species, populations or communities, or their habitats".

The contents that must be addressed in a Species Impact Statement is defined in section 110 of the TSC Act.

There is also a requirement to seek and comply with the requirements of the Director-General of National Parks and Wildlife for the form and content of an SIS. The Director-General, having regard to the circumstances of a case, also has a power to limit and modify the matter to be included in an SIS or to dispense with the need for an SIS if satisfied the impacts will be trivial or negligible.

New sections 77A-77C of the EPA Act introduce a system of concurrence and consultation for development applications.

If development consent is required for development in critical habitat or for development that is likely to significantly affect a threatened species, population or ecological community or its habitat and the consent authority is not a Minister (or the granting consent is not determined by a Minister) the concurrence of the Director-General of National Parks and Wildlife is required. The Act specifies heads of consideration for the Director-General of National Parks and Wildlife when considering the granting for concurrence.

There are two basic implications which will result from the amendments to the EPA Act. These implications would also seem to be contrary to other principles which the government is espousing in relation to DA processing and time delays, and unwarranted approval costs which the industry is experiencing.

The first implication relates to the additional cost. It is understood that the minimum cost to have an ecologist carry out a simple site survey and provide an accompanying report is about \$1,000.00 (one thousand dollars). Such costs can prove to be quite exorbitant for many applicants especially those who are seeking approval for small scale rural operations.

The second implication relates to the time that will be added to the approval process. The Act appears to give no limit on the time for the NPWS to provide a response during the consultation phase.

3.2 Rezoning

Amendments to S.34A(2) of the EPA Act now require Council to consult with the NPWS if the LEP or environmental study affects an area of critical habitat or threatened species, populations or ecological communities, or their habitats. Amendment to S.34(3) sets out the information that must be provided to the service, and subsection (5) gives the service 40 days to respond.

4. Employment of an Ecologist

The employment of a qualified ecologist or perhaps more likely, a contractor on a regular basis could provide Council and prospective applicants with assistance in addressing the problems raised by the TSC Act and associated amendments to the EPA Act. This is especially true for the Hawkesbury which contains significant natural areas and has more than twice the amount of threatened species than any other Council in the Sydney Metropolitan region.

The ecologist could also work on other strategic projects such as an Environmental Management Plan that maps all Threatened Species, ecological communities etc throughout the city area and provide strategies for their management. This would reduce costs and time delays on the development industry by providing more certainty in the processes involved.

The position would also be able to prepare the annual 'State of the Environment Report' and provide input on other projects such as the Natural Areas Management Plan and the Plans of Management for community land.

5. Conclusion

The TSC Act, 1995 and the associated amendments to the EPA Act, 1979 will have significant implications for Council in its assessment of development applications. Furthermore, the amendments will also add extra expense and time to applicants lodging development applications. Council is obliged to consider an eight point test to determine if a development is going to have a significant impact on any threatened species. In order to determine this, applicants will have to provide Council with a flora and fauna report including site survey work addressing the eight point test.

It is considered that while the principles of the Act of conserving biodiversity, and in particular our native flora and fauna, should be applauded, the application of the Act could place unwarranted burdens on small scale rural activities. It would have been much more effective and efficient if threatened species habitat had been identified and a more holistic strategy prepared for their conservation. It is therefore recommended that Council write to Local Members and the Minister for the Environment and the Minister for Urban Affairs and Planning expressing its concerns about the burden this new legislation will place on Council and small scale development in rural areas.

RECOMMENDATION:

1. That Council write to Local Members and the Minister for the Environment and Urban Affairs and Planning expressing concern about:
 - (a) Lack of consultation in the drafting of the legislation.
 - (b) Lack of strategic focus and an over reliance on the development control process.
2. That the issue of Council employing an ecologist be investigated.

ATTACHMENTS:

AT-1 Flowchart

FN:EN528NBX.V07

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

ITEM: 152 CAMPAIGN AGAINST OVERHEAD CABLES - LOCAL GOVERNMENT ASSOCIATION**FILE NUMBER:** GT001/001 PT2/EVD**REPORT:**

Council has received correspondence from the Local Government Association of NSW regarding the Campaign Against Overhead Cables and the findings of the Supreme Court Case in the matter of North Sydney, Manly, Woollahra and Concord Councils versus Optus.

In summary, the Court found that Optus failed to comply with the Telecommunications National Code in the following respects:-

- a. Optus has not prepared a Corporate Environmental Plan in accordance with the Telecommunications National Code.
- b. Optus has failed to properly consider the environmental impact of their works or how that impact might be rectified.
- c. The information provided to councils as part of the notification process was inadequate, overly vague and generalised and did not comply with the National Code requirements.
- d. Optus has failed to notify the Federal Department of Environment, Sport and Territories of localities where there was likely to be a significant effect.

To assist councils, the Association has provided 3 (three) 'model' letters which councils may use to request that Optus implement the Court's ruling. The letters have been drafted to cover the instances where the roll-out is underway, where the roll-out yet to commence and where the roll-out is substantially complete.

The Association has also requested that councils support a further class action against Optus if Optus is unwilling to voluntarily implement the orders of the Court. The Association has advised Council that the current Fighting Fund will cover the costs and that costs will be awarded against Optus, however, it is possible the matter could cost approximately \$3,000 per council involved. The Association states that there is no risk of Council becoming liable for damages by virtue of seeking the implementation of orders already issued by the Supreme Court.

Optus and Telstra have been contacted by Council and both have stated that they have no immediate plans to cable the Hawkesbury Local Government area. Both organisations indicated that they were concentrating their roll-out in the densely populated metropolitan areas of Sydney and not in outlying Council areas such as Hawkesbury. Telstra said that if they were to cable the Hawkesbury it would be via the existing underground infrastructure and Optus advised that if they were to start a cable roll-out it would be in the densely populated areas of Windsor and Richmond and not in the outlying areas with lower population densities.

It would, therefore, appear that a start date for both organisations for cabling in the Hawkesbury would be some time after their initial roll-out in the metropolitan areas of Sydney and probably after 1997.

RECOMMENDATION:

1. That this report be received and noted.
2. That Council write to both Telstra and Optus requesting them to advise Council when they do have plans for cabling the Hawkesbury Local Government area and that the consultation process be in strict accordance with the requirements of the Telecommunications National Code.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN528NBX.V09

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

ITEM: 153

REZONING APPLICATION - PROPOSED LOT 1 IN THE
SUBDIVISION OF LOT 1 DP789666 NO. 154 BOUNDARY ROAD,
OAKVILLE - APPLICANT: AUSTRALIAN WATER TECHNOLOGIES
(SYDNEY WATER)

FILE NUMBER: LEP8/96/EVD

REPORT:

An application has been received to rezone part of the existing property from Special Uses 5(a) to Rural 1(c). The application is accompanied by a subdivision application creating lots 1 and 2 having areas of 1.1ha and 2.3ha respectively. Located on the existing property are the existing water reservoir, dwelling and associated rural sheds. Proposed lot 2 will contain the water reservoir.

Currently the land is zoned Special Uses 5(a). The applicant has stated that the water reservoir is of importance and will continue to be used for Sydney Water purposes. However, given the size of the property (3.4 ha) the residual of the land is surplus to Sydney Water needs and is no longer required.

It is considered that there will be no change in the existing local amenity and that the current low impact will continue. As a consequence no objection is raised to the proposal as the site is surrounded by lots zoned Rural 1(c). It is considered that pending registration of Subdivision Application (SA) No. 50/96, proposed Lot 1 is appropriate to be rezoned to Rural 1(c).

RECOMMENDATION:

That:-

1. Council prepare a draft local environmental plan to rezone proposed Lot 1 in the subdivision of Lot 1 DP789666 from Special Uses 5(a) under Hawkesbury Local Environmental Plan 1989, to Rural 1(c).
2. An environmental study not be required in view of the relatively minor nature of the proposal.
3. Council exercise its delegation under Section 65 and 69 of the Act in respect of the proposal.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN528NBX.V10

**** END OF ITEM 153 ****

ITEM: 154 URBAN DEVELOPMENT PROGRAM - SYDNEY RESIDENTIAL
LAND - HAWKESBURY CITY COUNCIL

FILE NUMBER: GT225/001/EVD

REPORT:

The Urban Development Program (UDP) is managed by NSW Department of Urban Affairs and Planning and coordinates the planning and servicing of new residential land in identified urban release areas of Sydney.

The UDP provides a five year development forecast for the availability and demand of residential land and has recently produced its 95/96 - 99/2000 Local Government Supplement.

Hawkesbury City Council has been identified as having a potential of 700 (seven hundred) residential lots over the next 5 (five) years, through the release of stage 2 of Bligh Park.

As part of Sydney urban area the possible lot production and price split per lot for Hawkesbury City Council position is shown on attachment 1. The comparison of potential lots to be serviced in relation to other local Government areas is shown on attachment 2.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

AT-1 UDP - release area lot production/price per submarket as LGA's.

AT-2 UDP - potential lots in land expected to be serviced and zoned for development within the next five years.

FN:EN528NBX.V13

****** END OF ITEM 154 ******

ITEM: 155**BED AND BREAKFAST ACCOMMODATION - REMOVAL OF THE REQUIREMENT FOR DEVELOPMENT CONSENT FOR B&Bs IN EXISTING DWELLINGS - ADOPTION OF A POLICY TO FACILITATE B&Bs IN THE HAWKESBURY AREA.****FILE NUMBER:** LEP012/96/EVD**REPORT:**

A number of enquiries have been received concerning Bed and Breakfast accommodation in the City. Currently, under Hawkesbury Local Environmental Plan 1989, such applications are defined as a tourist facility meaning a building or place that is used to provide refreshment, accommodation, recreation or amusement facilities for the travelling or holidaying public, and includes craft shops and the like.

Tourist facilities are permissible with development consent in residential, rural and business zones.

The requirement for development consent for Bed and Breakfast accommodation which utilises an existing dwelling has been raised by the Economic Development Board and Tourism Hawkesbury. It has been put, reasonably, that given that there is no change in the potential occupation of an existing dwelling, the requirement for development consent is an unnecessary regulation.

The issue was discussed at a meeting convened by Tourism Hawkesbury for existing and potential B&B operators on 14 May 1996. At that meeting there was considerable discussion about the delays which ensued to B&B operators through lodging applications, the notification of adjoining owners, and the imposition of conditions which required capital expenditure, e.g., construction of driveways and carparks.

It is apparent that there is tremendous potential for the development of a B&B tourist industry in the Sydney region and particularly localities such as the Hawkesbury. B&B accommodation has the potential to serve a wide variety of "tourist" stays from short-term international and domestic travellers to longer-term business and student accommodation. In order to support and foster the industry it is important that Council has a specific policy in place to deal with B&Bs and that any unnecessary regulations be reviewed and removed.

From discussions at the Tourism Hawkesbury workshop, it is apparent that neither the State Government, most local authorities or the insurance industry have developed policies specific to B&Bs. Generally, town planning, building and health regulations applicable to facilities such as backpacker hostels, motels and guest houses are applied irrespective of the fact that in the majority of instances B&B accommodation is provided in existing dwellings at a much smaller scale. The experiences of B&B operators in negotiating the maze of regulatory requirements and negotiating with the insurance industry indicate the need for the development of policy specific to B&B accommodation.

Tourism Hawkesbury has received an excellent publication on "Getting Into Bed and Breakfast in Australia" - An essential how-to guide for potential, new and current hosts. That publication contains a policy developed by Newcastle City Council for B&Bs which provides the basis of a very good policy which is capable of general application. The policy covers development approvals, plan requirements, owner responsibility, carparking, health standards, fire safety equipment, signage, annual certification, etc.

A copy of the policy is attached to the report.

It is suggested that a policy on B&Bs for the Hawkesbury area should be generally in accordance with the Newcastle policy with the exception that development consent not be required for proposals which utilise existing dwellings.

An annual inspection and assessment in terms of health standards and fire safety is desirable, such matters being separate to the requirement for development consent.

It is proposed that a policy be prepared on Bed and Breakfast accommodation and that a draft local environmental plan be prepared to remove the requirement for development consent in existing dwellings.

RECOMMENDATION:

1. A draft local environmental plan be prepared to remove the requirement for development consent for Bed and Breakfast accommodation in existing dwellings.
2. Council adopt a policy for Bed and Breakfast accommodation similar to that operating at Newcastle but varied in accordance with (1) above.

ATTACHMENTS:

Copy of Newcastle City Council's Bed and Breakfast policy.

FN:EN528NBX.V14

****** END OF ITEM 155 ******

ITEM: 156

RICHMOND PASTORAL COMPANY - PROPOSED RESIDENTIAL SUBDIVISION, LOT 12 DP 716742, BELLS LINE OF ROAD, NORTH RICHMOND. (LAND GENERALLY BOUNDED BY BELLS LINE OF ROAD, RURAL PRESS AND REDBANK CREEK)

FILE NUMBER: LEP007/90;P243/415PT02/EVD

REPORT:

Council has received a rezoning proposal from the current owners of this land to permit its development for residential purposes. An indicative proposed subdivision layout has been submitted indicating 202 residential lots with areas between 1000m² and 5000m². The large majority of lots have areas of approximately 1000m².

The land has an area of approximately 34 hectares.

Falson and Associates have submitted supporting information to the proposal which is summarised below.

"Site

The land is know as lot 12 DP 716742 Bells Line of Road, North Richmond. The land has a relatively small frontage to Bells Line of Road opposite the intersection of Crooked Lane. The land has long frontage to Redbank Creek and is generally between the creek and the Rural Press development.

The land is currently used for limited grazing and is largely cleared for this purpose. There are, however, a number of scattered vegetation pockets particularly along the creek...

Development Proposal

The proposed development is for a residential subdivision of 202 lots. These lots will comprise of a variety of lot sizes, however, will be predominantly of an approximately 1000m² size. The proposal will be consistent with the lot sizes in the existing North Richmond township and therefore will form a logical and complimentary extension to the township. Lots will be fully serviced by way of reticulated water and sewerage and there will be a number of environmental features designed into the estate, particularly in the form of areas used jointly for public reserves and stormwater detention areas.

Design Philosophy

The philosophy of the development comprising of mainly "traditional" residential lots has, to a large extent, been a result of directions both from Council and the Department of Urban Affairs and Planning. Council through its Strategic Planning Document, "Our City - Our Future" has indicated that population expansion should be either through residential infill development or discrete residential extensions of existing towns and villages, rather than further adhoc subdivision of rural land into larger holdings. This philosophy has also been promoted by the Department of Urban Affairs and Planning for some years.

The land in area could contain a more dense development than is proposed. This has not been promoted due to limits of service availability and in particular the height of the land relative to the North Richmond water reservoir which sets absolute limits in terms of water supply availability.

Energy Efficiency

There is no impedance to the site and its locational topography to suggest that energy efficiency and design cannot be carried out...

Mixture of Lot Sizes/Type

The estate will propose a traditional mix of lot sizes and types of lots. This will enable an appropriate consumer required mix which will also attract both home owners, builders and developers who are more likely to provide the medium density components that may be required within the estate.

Water Supply/Effluent Disposal/Stormwater Management

John Sears from Sears Rose Pty Limited has had a number of discussions with Sydney Water concerning this project. He indicates that the current indications from Sydney Water are as follows:

Water Supply

Subject to the availability of bulk water at North Richmond Water Treatment Works, unrestricted domestic supply can be made available to a development yield on site of up to 200 allotments.

Works required include construction of a water pumping station and rising main together with local reticulation.

A small, high level area in the north west corner of the site will be above the limit of supply.

Sydney Water have recently reviewed the availability of bulk water at North Richmond and have indicated that some capacity is available for allocation in consultation with Council.

Sewerage

Sewerage services can be made available to the site by provision of pumping facilities rising mains, carriers and local reticulation. Sewerage treatment capacity can be made available at the North Richmond Treatment Plant.

Drainage

... Facilities will be provided to control quantity and quality of runoff from the site.

Zoning

The locality, including the subject property, has for many years been identified by successive State Governments as being suitable for urban development. This indication has been included in the 1968 Sydney Region Outline Plan and carried on in subsequent planning strategies, including the more recent Metropolitan Strategy in 1988, the Sydney Region Land Audit in 1991 and Sydney's Future in 1993.

Locally, Hawkesbury City Council has identified the land also as having urban potential. Council's residential land use strategy compiled in 1981 was the first document that identified the land as being suitable for development. Since this time there has been a number of Council resolutions of support of development of some form or other of the land. These development proposals have not proceeded mainly due to the, at that time, unavailability of reticulated services. The servicing issue is no longer a constraint as identified by Sears Rose in conjunction with Sydney Water.

Should the subdivision proceed an alteration to the current Hawkesbury Local Environmental Plan 1989 provisions will be necessary. Such an alteration could be either by way of a "stand alone" LEP or an amendment to the existing plan. We believe that it would be appropriate to alter the zone of the land to mimic the residential zone in the existing North Richmond township, however, with a restriction on the maximum number of lots that can be created.

Human Services

There is a state high school and a primary school in close proximity to the development site and, no doubt, children would walk to these schools from the development ...

There are a number of community facilities at North Richmond and the subdivision development will have access to these facilities. Because of Council's Section 94 Contribution Plan there will be an added input of funds for embellishment of these facilities...

Traffic

The proposed subdivision is to have access from Bells Line of Road directly opposite Crooked Lane. It is proposed that there would be a set of traffic lights installed at this location. This will have a two fold effect in addition to obviously controlling traffic from the estate and accessing Bells Lien of Road.

Firstly, the traffic lights will cause traffic on Bells Line of Road travelling in an easterly direction to slow down, particularly on the approach to the bridge over Redbank Creek where currently excessive speed causes concern to both vehicular and pedestrian safety.

Secondly, the traffic lights will provide a safe and convenient access to the northern side of Bells Line of Road from the estate and also from the existing North Richmond township for students requiring access to Colo High School. Pedestrian and bicycle access from the existing North Richmond township will be provided through the proposed estate across Redbank Creek by two proposed public access ways...

Market Analysis

Within the City of Hawkesbury there is no residential release currently being marketed. The Bligh Park North extension is awaiting Minister's gazettal to enable it to proceed, although may have difficulty with issues relating to flooding. Even if the LEP is gazetted it will be some time before the land is brought onto the market because of the multiplicity of land owners.

Local real estate agents will indicate a consensus of strong demand for both residential and rural/residential allotments within the city of Hawkesbury. The demand will be heightened by the slow down in supply and particularly given that the current philosophy is for minimal rural subdivision, opportunities for urban development that conforms with "Our City - Our Future" guidelines should be encouraged.

Conclusion

There is a significant shortage of serviced residential land or land reasonably capable of being serviced within the city of Hawkesbury area. Council have recently adopted a 1% growth rate philosophy and it would appear likely that even this small percentage increase in population will not be achieved without some limited development activity such as is proposed. In this respect the proposal accords with the "Our City - Our Future" recommendations. These recommendations suggest that subdivisions such as proposed should form extensions of towns and villages so as to reinforce the urban character of these areas, rather than to have stand alone subdivision..."

Planning Assessment

As indicated in the commentary by Falson and Associates, beside some relatively small remaining infill parcels, Council has no secured supply of land for further residential growth. In June 1994 the Australian Bureau of Statistics estimated the City's population to be 56,200 and 56,900 in June 1995. This represents an increase of 700 persons with the population growth rate of 1.2%. It is inevitable that without some continuing modest increases to the City's stock of residential land that existing residents wishing to upgrade their housing will be increasingly forced to look outside the area.

The land is well situated in relation to existing community facilities and infrastructure such as water and sewerage.

Importantly, from an urban design perspective, the land is not generally overlooked from main roads and will maintain the integrity of the existing town boundary.

The major difficulty with urban development west of the Hawkesbury River is the limitation on the capacity of the existing main roads, particularly at intersections. Whilst the proposed 200 lots will not have a significant impact on traffic congestion, continuing incremental subdivision on the western side of the river will compound the problem.

A further issue which should be considered is an appropriate flood level planning standard. For larger residential land releases which are currently not on the urban development program, Council should consider adopting the probable maximum flood as the relevant planning standard. At North Richmond, this level would be in the vicinity of 28-30 metres. Alternatively, the level could be fixed at the highest recorded flood level being the 1867 level which has an estimated recurrence frequency of approximately 1:200 years or 0.5% in any one year. Even selecting a PMF level of 30 metres, approximately two thirds of the site remains capable of development.

Recent research by the Sydney University based Planning Research Centre demonstrates that western Sydney will continue to grow irrespective of the Government's urban consolidation policies. This is mainly due to the demographics of the area comprising a large proportion of younger people and children. Therefore, irrespective of any policies adopted by the City of Hawkesbury, the available evidence suggests that any growth shortfalls in one western Sydney local government area will be met by another western Sydney local government area.

So as to provide the City of Hawkesbury with a modest continuing supply of housing to meet the needs of its population, it is recommended that Council support a draft local environmental plan to rezone the land for residential subdivision.

Should Council support such a resolution, the applicant has indicated the willingness to undertake the necessary environmental studies.

RECOMMENDATION:

1. That Council support a draft local environmental plan to rezone the land for residential purposes subject to the preparation of appropriate environmental studies at the applicant's expense.
2. The applicant be advised that all residential home sites will need to be located above the probable maximum flood.
3. Should a Section 65 Certificate be provided by the Department of Urban Affairs and Planning, a Development Control Plan be prepared at the applicant's expense to determine detailed planning issues such as the location of open space and Section 94 contributions.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN528NBX.V15

****** END OF ITEM 156 ******

ITEM: 157**MORATORIUM ON LICENSES TO EXTRACT WATER - IMPACT ON AGRICULTURE - MEETING WITH THE DEPARTMENT OF LAND AND WATER CONSERVATION AND HAWKESBURY NEPEAN CATCHMENT MANAGEMENT TRUST****FILE NUMBER:** GEO20/012PT02/EVD**REPORT:**

On 10 May 1996 a meeting was held with representatives of the Department of Land and Water Conservation, the Hawkesbury/Nepean Catchment Management Trust and representatives of various farming organisations.

In relation to the issue of the moratorium applying to dams used for agricultural purposes, there was no resolution of the issue.

It seems that little or no consideration had been given to the problem of transferring extraction licences which apply to dams as a transfer system could only operate with existing dams being filled to enable a licence transfer.

In relation to the transfer of water licences which utilise the river, it was suggested by a representative of the Department that the outline of a transfer scheme would be available within the next two weeks.

Whilst the Trust's representative was very supportive of the moratorium in its current form, it is understood that the Department of Land and Water Conservation will further consider the implications of the moratorium for the extraction of water from dams and will report on the issue to the Minister.

Following the resolution of Council at the meeting of 7 May 1996, correspondence has been sent to the Minister of Land and Water Conservation requesting that there be a review of the moratorium.

RECOMMENDATION:

That the information concerning the meeting on the moratorium on licences to extract water be received.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN528NCX.V11

****** END OF ITEM 157 ******