



general
purpose
committee

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section

environment

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ENVIRONMENT

Meeting Date: 26 August, 1997

Item: **16**

ITEM: 16 **Section 102 Amendment - Subdivision into Three Allotments - Lot 21
DP 759090 - Police Station, 534 Wilberforce Road, Wilberforce**

FILE NUMBER: SA41/96/EVD/ENH26NAX.V01

Applicant: Gary White Property Centre
Applicants Rep: Gary White
Owner: Patrick's Restaurant Pty Ltd
Stat. Provisions: HLEP 1989
Area: 6,171m²
Zone: Heritage Item (Police Station) Part 2(a) Residential Part 7(d)
 Environmental Protection
Advertising: Yes - 2 submissions (including petition)
Date Received: 5 June 1997

Key Issues: Public Road Access
 Heritage Impact on Police State and surrounds
 Submissions from adjoining owners
 Council's previous considerations

Action: Refusal

REPORT:

The applicant has lodged a request to amend the approved subdivision plan to provide access off David Street in lieu of Wilberforce Road as previously approved.

History

A subdivision which included two lots with access off David Street was recommended for approval to the General Purpose Committee on 29 October, 1996. The Committee, however resolved "That the application not be supported with appropriate reasons to be brought forward to the Ordinary Meeting. The reasons were provided including "The proposed subdivision has unsatisfactory access arrangements."

A further report was also presented to Council at its Ordinary Meeting 12 November, 1996 recommending approval of a substitute plan with all access off Wilberforce Road.

Having considered both reports Council resolved that "Development Consent be issued for the three (3) lot subdivision with access to Wilberforce Road subject to..." a number of conditions.

Assessment

It is understood that the major concern of Council on the previous application was the access off David Street via a crown road. Closure of the crown road was previously sought by an adjoining owner, Ms Devereux, but was not gazetted. Enquiries of CALM indicate that the file is no longer available and no reason for the non-gazettal is known.

The applicant requests the amendment on the basis that:

- (i) change of building level to 17.3m AHD.
- (ii) Councillors request to preserve the appearance of the Police Station and use the David Street entrance.

In this regard the building level has not been changed and remains at 15.9m AHD. The rear half of the site is at or below this level. Each approved lot does have a building right and would retain it even if the floor height standard was raised to 17.3m provided the requirements remain as is.

The applicant has not submitted any evidence that Councillors have requested access off David Street. Quite the contrary, Council previously was not prepared to support access off David Street and required it be from Wilberforce Road. There is approximately 13m between the boundary and the old Police Station which will be reduced to 9m if the current approval is retained. As previously reported this is considered to have minimal affect on the curtilage of the Heritage Item (396).

Submissions

Two submissions were received following advertising of the amendment, one is support and a petition signed by eleven people representing four properties in David Street.

The letter of support was from the owner of the property to the south of the subject land. He considered that access of David Street was preferable to that already approved "which allowed the entrance from a very busy main road." In this regard any traffic generated by the subdivision must still gain access to the main road albeit via David Street. The only difference being the creation of one additional access point. It is considered that with suitable construction works that the access to Wilberforce Road will be satisfactory.

The eleven objections were concerned about additional traffic nuisance, safety and noise in David Street which is a quiet cul-de-sac and inconvenience to traffic at its intersection with Wilberforce Road. They also requested that the crown road adjacent to No. 12 be permanently closed. The petition also included a copy of a previous submission by Shaddick Baker and Paull on behalf of the owner of No. 12. The relevant section of which is concern at the location of the access (via the crown road) being within 2m of their client's house and objection to the traffic noise. The owner of the property has also made comment that he always understood that the crown road was to be closed and would not be used for access. He, in fact, uses the road as part of his yard area.

While the additional two (2) lots would increase traffic on David Street it is not considered that it would be sufficient to create any significant problems. However, if the crown road is to be used for

access it will have to be constructed and taken over and maintained by council.

The road will be available for general public use and although its main use will be by the occupants of the two new lots it could be used by others and it is considered undesirable to have a road pavement only about 2m from a dwelling.

Summary

- (i) The proposed amendment is permissible with consent but based on the above is not supported.
- (ii) The petitioners should be informed that application for closure of the crown road needs to be made to CALM and not to Council.

RECOMMENDATION:

The section 102 application not be supported for the following reasons:

- (i) the proposed subdivision has unsatisfactory access arrangements with formalisation of the crown road not in the public interest.
- (ii) the currently approved plan is not considered to have any significant effect on the curtilage of the heritage building or traffic safety in the area.

ATTACHMENTS:

AT-1 Approved Subdivision Plan.

AT-2 Proposed Amended Plan.

oooO END OF ITEM 16 Oooo

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Meeting Date: 26 August, 1997

Item: 17

ITEM: 17 **Conversion of Existing Dwelling to New Pharmacy, Adjacent to Kurmond Post Office, Lot 3 DP571921 Corner Bells Line of Road and Longleat Road, Kurmond**

FILE NUMBER: DA100/97/EVD/ENH26NAX.V04

Applicant: P L & E A Robinson Building Services Pty Ltd
Applicants Rep: Not known
Owner: R J Favre
Stat. Provisions: HLEP 1989
Area: 1109m²
Zone: Rural 1(b)
Advertising: Adjoining owners - three objections received
Date Received: 5 May 1997

Key Issues: Use of existing rights of Post Office
 Provisions of previous planning instruments and HLEP 1989
 Parking
 Objectives of the Rural 1(b) zone

Action: Refusal

REPORT:

Subject Site

The site is located on the corner of Bells Line of Road and Longleat Road, Kurmond and contains an existing post office and residence. The application states that the post office was built as a shop and post bag in 1922 and states the following as the history of the site:

1. *Built by Mr Muller in approximately 1922 - Shop and Post Bag.*
2. *Subsequent owners maintained the Shop and Post Bag - Robertson, Franks and Bunce.*
3. *1934 Mr Armstrong used the premises as a Men's Wear Shop and Post Bag.*
4. *1935 Mr Kearns developed a full Post Office.*
5. *Subsequent owners maintained and increased the Post Office - Thompson, Bangal and now Favre.*

The Council approved an extension to the post office, 6 July, 1992 (DA111/92) and the post office now contains 98.6m².

Proposed Development

The proposed development involves the conversion of the existing dwelling to a pharmacy with a consulting room. The building will have display areas, dispensary, store, consulting room and also the existing bathroom for amenity facilities. A front area is to be paved and a new path provided to connect with the post office path.

The intention is that the existing post office is to remain in a separate building.

Parking is provided by three existing kerb side parking spaces in Bells Line of Road and a three car garage under the existing post office.

It is intended the existing pharmacy in the nearby shopping centre will close and move to this new location. The applicant states in regard to the existing premises:

- A *The existing premises is very small and quite inadequate to provide the facilities in the form of a computer, chairs and sufficient privacy to be able to render health care on a professional basis.*
- B *The photographs show clearly the cramped and restrictive conditions which is totally unsuitable for the role that chemists are now required to fulfil.*
- C *The pharmacist current sees approximately forty five people per day for approximately ten minutes each. Of those people seen approximately 10 or 22% required detailed consultation of up to twenty minutes. The existing premises is not conducive or suitable to continue this level of consulting.*
- D *Expansion in consulting is impossible due to the lack of room*

In support of the proposed, the applicant has submitted the following:

The Need for an Expanded Health Care Facility

- A *There are more than 4,500 community pharmacies in all parts of Australia providing grass roots health care to the community. Community pharmacists are the most accessible primary health care professional in Australia. They play a vital role in minimising community ill-health and in promoting healthy living and better health. Pharmacists are responsible not only for providing effective and safe medicines to patients, but also they have the additional responsibility ensuring their appropriate and safe use.*
- B *In Australia, state legislation requires that pharmacies must be owned and operated by pharmacists, who are **university-trained** and **professionally qualified** and directly accountable for every piece of advice and service provided in their pharmacies. A pharmacist must always be present and abide by the rules of the Pharmacy Boards in the various states and territories; registration as a pharmacist is approval to dispense medication under the Pharmaceutical Benefits Scheme is required.*

- C Pharmacists are highly regarded in the community as trusted **health professionals**. They provide the country's most easily accessible and cost-effective professional health care directly to the community. Pharmacists are truly accountable for the advice and service provided by the pharmacies.*
- D In Australia there is about one pharmacy for each 3,500 people. On average, each man, woman and child visits a pharmacy fourteen times every year. That's over 200 million occasions each year on which pharmacists could provide professional advice and service. Annual turnover for 1995/96 was close to \$6 billion.*
- E New and improved medicines reduce expenditure in other parts of the health system by reducing hospitalisation, and reducing the need for surgical intervention. New medicines improve quality of life. For example, new and improved medicines to treat ulcers improve quality of life through better control of symptoms and reduced hospitalisation.*
- F Pharmacy offers a unique resource in primary health care, pharmaceutical care, promotion of the quality use of medications, and health promotion. Pharmacies already exist in a soundly-based network of shopfronts in highly accessible locations; they are computerised and operate over extended hours seven days a week in urban, rural and remote areas. No new building need be built, no bureaucracies set up.*

Professional Services

On a professional service fee basis pharmacy is uniquely able to provide enhanced services such as:

- A more intensive professional counselling for consumers to encourage better use of medication;*
- B monitoring and review of medication usage in consultation with other health professionals;*
- C co-ordination of vaccine and screening programs; and*
- D provision of advice in areas such as diabetes, asthma, continence, wound care and sports medicine.*

These would save trips to the doctor, reduce health service costs, minimise hospital costs, and contribute substantially to improving the quality of health care while at the same time reducing the burden on the taxpayer.

Ramification of Closure

- A If the application is not granted to relocate the premises to the proposed location the chemist health care facility will close.*

- B This would result in a loss to the community with the people having to travel to adjoining town following a visit to the local doctor who is located in a dwelling adjoining the shopping area.*
- C Another chemist would not be granted approval in Kurmond.*
- D The following is an extract from the National Health Act 1953. This determination sets out the criterion for the granting of a Pharmacy Approval. This demonstrates that another pharmacist would not be approved. (It is worded in the negative context i.e. Population for the catchment area is to be greater than 3,000 people.)*

"In this Determination:

"approved pharmacist" has the same meaning as in subsection 84(1) of the Act;

"definite community need", in relation to the catchment area serviced or proposed to be serviced by a pharmacy, means that none of the following conditions applies to the area:

- (a) that the catchment area has a population of less than 3,000 for most of the year;*
- (b) that the proportion of disadvantaged persons (aged persons and persons who are unemployed or receive pensions) is less than 10% can be reasonably serviced by other means;*
- (c) that the catchment area does not have the equivalent of a full-time medical practitioners;*
- (d) that the catchment area is being adequately serviced by other approved pharmacists;*
- (e) that the total number of claimable PMS prescriptions and RPBS prescriptions claimed by approved pharmacists in respect of the catchment are in the last 12 months in less than 3,000;*
- (f) that isolation from, or a poor, public transport system to adequate shopping does not hinder the bulk of the population;*
- (g) that the population is mobile and contains a high proportion of commuting workers;*
- (h) that the catchment area has no general shopping facilities."*

Community Response

The application was accompanied by a petition signed by 312 signatures and the petition was headed:

"We the undersigners support the relocation of "Kurmond Chemist" to Lot 3 Longleat Road, Kurmond (next to Post Office)"

The letter of support from an adjoining neighbour in Longleat Road also accompanied the application.

The receipt of the application was advised to adjoining owners and three objections received. A summary of their concerns follows:

- C Petition presented under statement "Save Your Pharmacy" as those asked to sign were told that if approval was not granted the pharmacy would close. Nobody wants the pharmacy in Kurmond to close.
- C Zoning of 1(b) not correct to allow pharmacy.
- C Already expansion of commercial activities along Bells Line of Road under guise of continued use.
- C Signatures on petition may not have the full facts.
- C Tenants have been offered adjoining shop to expand the pharmacy in existing location.
- C Object to expansion of commercial as existing commercial area is not fully utilised.
- C The statement in the application that if the chemist closes another chemist would not locate in Kurmond does not seem logical; does a chemist control a demographic territory?
- C A chemist/pharmacy does not come under the same definition as a professionally qualified practitioner who provides a service, a chemist sells and therefore is a shop.
- C Contrary to Ribbon Development along a main road.
- C Car parking a problem for the proposal.
- C Purpose cannot be justified on any grounds and will adversely the economy of the existing shopping centre.
- C Business in proposed location would generate on street parking on both sides of Bells Line of Road.
- C Contrary to the objectives of the 1(b) zone

- C Proposal located on a designated main road.
- C Building does not have existing rights usage.
- C Operation will detract from the amenity of nearby residents.
- C All retail activity should be confined to zoned area.
- C Expansion of existing development on site.
- C Proposal does not conform to definition of professional and commercial chambers as use is not part of a dwelling house but entirely uses the dwelling house.
- C Professional qualified practitioner definition does not include a pharmacist.
- C Previous request from former owner for Commercial was refused by Council.

Statutory Situation**Planning Instruments**

A history of the planning controls for the site are as follows in relation to a post office being a public building:

- (a) Prior to 13 March, 1964 - Local Government Act and Ordinances only.
- (b) IDO No. 1 Colo - 13 March, 1964 - public building allowable in rural zone.
- (c) IDO No. 2 Colo - 16 December, 1971 - public building allowable in rural zone.
- (d) IDO No. 3 Colo - 2 May, 1975 - public building prohibited in rural zone.
- (e) HLEP 1984 - 6 April, 1984 - public building allowable in rural zone.
- (f) HLEP 1989 - 22 December, 1989 - public building allowable in rural zone.

The site was used as at 13 March, 1964, the beginning of planning in the area, as a post office and it was a conforming use in the rural area. The provisions of the Act and Regulation in regard to non-conforming existing uses cannot therefore be used for an expansion of the post office use.

With the exhibition of Draft Local Environmental Plan 1987, the Council considered an objection to the rural zoning to allow a commercial zone. The following is an extract from the report to Council, and the recommendation was adopted:

*P112 Noeline Bangel, Kurmond Post Office, Kurmond
File - 3045-1(c)
Site - Lot 3 DP571921 Longleat Road, Kurmond*

The objection requests that the land be zoned commercial. It is stated that the property has been operating as a Post Office for many years and that over the last six years the business has doubled. It is anticipated that a larger work area will be required in the future to cover the increase in work and staff.

Comment. *It is proposed that the existing shopping centre in Kurmond be recognised as such and be given a retail zoning. In addition it is proposed that a small area between the existing shops and the service station be incorporated in the retail zoning for consolidation purposes. The subject land is separated from the existing shops by Longleat Road. It is not appropriated that it be given a retail or commercial zoning as this would fragment the shopping centre and provide a precedent for further retail development West of Longleat Road.*

Under the existing use provisions of the Environmental Planning and Assessment Act, the Post Office can make application for extensions if these are required at some stage in the future.

Recommendation. *That the objection be disallowed.*

HLEP 1989 was subsequently gazetted and the site is zoned Rural 1(b). The objectives of that zone are:

- (a) to primarily provide for agricultural uses and animal establishments;
- (b) to ensure that development does not create unreasonable demands, in the present or in the future, for provision or extension of public amenities infrastructure;
- (c) to prevent the establishment of traffic generating development along main and arterial roads; and
- (d) to ensure that development maintains the rural character of the locality and to minimise disturbance to the landscape through clearing, earthworks and access roads.

The applicant makes the following submission in the application in regard to zoning/planning issues:

Zoning Questions

- A *The current zone of the land is Rural 1(b).*
- B *"Professional and Commercial Chambers" operated by a Professional Qualified Practitioner are a permitted use within the zoning, with consent.*
- C *The following "Professionally qualified practitioners" operate in the same manner as a pharmacist by providing health care to the community by interviewing, recommending,*

dispensing and receiving payment for services.

1. *Acupuncturist*
2. *Chiropractor*
3. *Homeopath*
4. *Naturopath*
5. *Optician*
6. *Optometrist*
7. *Osteopath*
8. *Veterinary Surgeon*

- D Council is clearly permitted to approve the application as it conforms to the zoning and to the definition of: "professionally qualified practitioner" means a person in a profession or occupation specific in Schedule 2 or a person engaged in a profession or occupation that is in the opinion of the Council, similar to one so listed.*
- E The fit out of the interior of the premises is proposed to be in sympathy with the period of architecture of the existing structure.*
- F Car parking is to be provided at the rate of one space per 40sqm for Professional Chambers. This is achieved as six spaces are provided.*
- G The premises is located immediately adjoining the commercial area in Kurmond.*
- H Rear access is provided to the property from the side road with no vehicle access of the main road.*

The definition of "professional and commercial chambers" and "professionally qualified practitioner" in HLEP 1989 are as follows:

"professional and commercial chambers" means a room or number of rooms or chambers being part of a dwelling-house or other building which is or are used by one or more professionally qualified practitioners;

"professionally qualified practitioner" means a person engaged in a profession or occupation specific in Schedule 2 or a person engaged in a profession or occupation that is, in the opinion of Council similar to one so listed;

Schedule 2 states the following professional qualified practitioners:

Accountant, Acupuncturist, Archaeologist, Architect, Auctioneer, Biologist, Chiropractor, Clinical Psychologist, Dentist, Economist, Geologist, Homeopath, Hypnotherapist, Insurance Broker, Legal Practitioner (solicitor or barrister), Medical Practitioner (general practitioner or specialist), Naturopath, Optician, Optometrist, Orthodontist, Osteopath, Physiotherapist, Podiatrist (chiropodist), Quantity Surveyor, Speech Therapist, Surveyor, Town Planner, Valuer, Veterinary Surgeon.

Use of one room of the existing dwelling by a professionally qualified practitioner would be permitted with Council's consent provided other issues like parking and access were satisfied however a chemist/pharmacist is not a professionally qualified practitioner as defined. These listed practitioners largely provide a service while a pharmacy is a display and sale use, a shop, which is prohibited in the Rural 1(b) zone.

Parking Policy

Under Council's Policy the following off street parking is required for the application:

Post Office	2.45 spaces
Pharmacy (shop)	4.5 spaces
Professional chamber	<u>3 spaces</u>
Total	10 spaces

The application provides three existing kerb side spaces on the road (existing post office) and a three car garage under the post office with access off Longleat Road.

The parking provided is therefore insufficient to the requirements of Council's Parking Policy.

Planning Assessment

The proposed conversion of the existing dwelling to a pharmacy cannot rely on an extension of a non-conforming use as the post office, being a public building, is an allowable use in the rural zone.

The proposed pharmacy is not a professional and commercial chambers and a pharmacist is not a professionally qualified practitioner as defined in HLEP 1989. The practitioners in the list in Schedule 2 generally provide a service whereas a pharmacy displays and sells items and therefore is a shop. A shop is prohibited in the Rural 1(b) zone under HLEP 1989.

Insufficient off street parking has been provided for the existing and proposed uses on the site to Council's Parking Policy.

Council, when considering an objection to DHLEP 1987 to extend the commercial zoning to the site, rejected the proposal as this would fragment the shopping centre and provide a precedent for further retail development west of Longleat Road.

RECOMMENDATION:

1. It is recommended that the application be refused for the following reasons:
 - i. The proposal to convert the existing dwelling to a pharmacy, being a shop, is prohibited in the Rural 1(b) zoning of the site under the provisions of the Hawkesbury Local Environmental Plan 1989.
 - ii. Insufficient off street parking has been provided for the existing post office and the

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proposed pharmacy and professional chambers to Council's Parking Policy.

- iii. The location of the proposed pharmacy on a main road with insufficient parking, could lead to on-street parking, causing a hazard for other road users.
 - iv. Approval of the application could be a precedent for similar applications along Bells Line of Road, contrary to planning principles for development along main roads.
 - v. Approval of the application could adversely affect the economic viability of the existing under utilised zoned Kurmond commercial area.
 - vi. Approval would not be in the public interest.
 - vii. The existing post office does not benefit from existing use rights and there is no provision under the Environmental Protection Agency Act to change to a non-conforming use from a conforming use.
2. The applicant be advised that Council would consider a redevelopment of the existing chemist shop, or an expansion of the existing chemist shop into an adjoining shop or a relocation of the chemist shop onto another site in the commercially zoned Kurmond shopping centre subject to the submission of a suitable development application.

ATTACHMENTS:

AT-1 Site Plan

oooO END OF ITEM 17 Oooo

ENVIRONMENT

Meeting Date: 26 August, 1997

Item: **18**

ITEM: 18 **Camping Group and Amenities Building Proposal - Lot 32 DP753828
No. 718 Webbs Creek Road, Wisemans Ferry**

FILE NUMBER: DA256/96, P2307/180/EVD/ENH26NAX.V09

Applicant: Ms J Segal & Mr A Watts
Applicants Rep: Not Known
Owner: Ms J Segal & Mr A Watts
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 SREP 20, Wetland Item No. 74 - site is within an area designated as
 having regional significance in REP 20 Scenic Quality Study
 SEPP 21 Caravan Parks
Area: 16.190ha
Zone: Environmental Protection Scenic 7(d) - Recreational Establishment/
 Camping (permissible with consent)
Advertising: 8 November 1996 - 25 November 1996
Date Received: 30 October 1996 - On-site Wastewater Management Report for Camping
 Ground received 9 May 1997

Key Issues: SREP 20 Wetland No. 74
 Effluent and Wastewater Disposal
 High Flooding and Bushfire Risk
 Traffic
 Public Interest

Action: Recommend Deferred Commencement Consent

REPORT:

Background

This matter was presented to the General Purpose Committee of 24 June, 1997. At its Ordinary Meeting of 8 July, 1997, Council resolved to defer the item to allow the applicants time for legal consultation.

Proposal

The applicants seek consent for a recreational establishment for visitor camping. The application has been amended to cater for less than 20 people. (A development application for more than 20 persons equivalent capacity would require the lodgement of an Environmental Impact Statement for a Sewerage System) The applicants wish to hold meditation retreats and workshops on personal development and ecological awareness. The workshops are intended to have a practical component by regenerating the bush on the property.

The amenities block is proposed to have 4 toilets and 4 showers, located upslope from the main

camping area. A parking area for 15 cars is proposed.

History of the Site

The property file shows a history of functions held at the site during some weekends since 1994, with up to 300 people attending. A development application was requested to be submitted to legalise the functions. More recently, smaller functions have been held on the Anzac Day long weekend in April, and the Queen's Birthday long weekend in June this year. At the latter function, a Council officer reported that approximately 20 people were in attendance, and no noise or offensive behaviour occurred in any way and portable toilets were on site.

Site Details

The site has an irregular shape and lies below Webbs Creek Road at the same level as the Creek and as such, is significantly flood affected. The western section of the lot is part of Wetland Item 74 under SREP 20 and should be protected from any development.

Access into the camping area is via the existing dirt track which passes by the site for a proposed dwelling (currently under construction, BA 928/96) and the Wetland Item 74.

The area that has been used for camping previously is an open grassed area, edged with shrubs and small trees at the creek edge. The flood risk to campers is very high and emergency exit would be restricted, particularly if the camping ground had high occupancy.

Hawkesbury Nepean Catchment Management Trust

Draft SREP 20 states that, after commencement of the plan, Council cannot approve development in a mapped wetland without the concurrence of the Hawkesbury Nepean Catchment Management Trust. The proposed development of the site is adjacent, not within the mapped wetland, however, as it is within the same property, it is considered that adverse impact may occur to the wetland. The application, including the On-site Wastewater Management Report for Camping Ground, prepared by Environmental Management Pty Ltd, was referred to the Trust in accordance with Clause 21(b) of DREP 20. The Trust has serious doubts that the effluent disposal system can be maintained sufficiently to prevent environmental impact to Webbs Creek.

Effluent and Waste Water Disposal

A council cannot/must not grant an approval to operate a primitive camping ground unless it is satisfied that it will be designed, constructed, maintained and operated in accordance with Division 9 Part 3 of the Caravan Park and Camping Grounds Regulation 1995. Mandatory requirements exist for water, sewerage and garbage disposal. Section 19(1) of the Clean Waters Act 1970 requires a Section 17K approval from the EPA under the Pollution Control Act 1970.

As a consequence of the above requirements, details were requested from the applicant demonstrating that the site is capable of disposing of effluent without any impact on the adjoining creek and wetland. The On-site Wastewater management Report prepared by Environmental Management Pty Ltd supports the development, recommending use of a Rota-Loo (composting

toilet) system incorporating a sullage tank.

The site has been identified on the “Acid Sulphate Soil Risk Map - St. Albans”, prepared by the Soil Conservation Service, as having a variation of acidic sulphate soils between high and low probability, (being more than 3m below ground surface). Excavation will only occur on the tallis slope of the site. The soil profile for areas to be excavated show low clay content and, therefore, there is a low probability that acid sulphate soils would be present.

Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995

The Regulation applies to all camping grounds in NSW and sets out to provide affordable accommodation in caravan parks and camping grounds by establishing standards for the design of camping grounds and standards to promote the health, safety and amenity of the occupiers. (Clause 3).

As stated earlier in this report, a council “must not” (this is not discretionary) grant approval to operate a camping ground unless the council is satisfied that it will be designed, constructed, maintained and operated in accordance with relevant requirements of Divisions 1-8 of Part 3 or in the case of a primitive camping grounds, with Division 9 of Part 3 (Clause 7).

The requirements applied to a “Primitive Camping Ground” are far less onerous, however, the proposed development must meet the requirements of Division 9, Clause 65(1)(a)-(f) to be considered as a “Primitive Camping Ground”. Clause 65(1)(a) requires an occupancy rate of not more than two tents per hectare. Clause 65(1)(f) requires a register to be kept if a fee is charged. The details required to be listed in the register are listed under Clause 55.

The development indicates an area of approximately 28 880 m² (2.8 ha). Three hectares requires not more than six tents. Based on an occupancy rate of four persons per tent, this equates to 24 persons, however, the proposed development has been amended to cater for no more than 20 people. Restricting numbers to no more than 20 people will ensure compliance with the Regulation.

If compliance with the “Primitive Camping Ground” requirements cannot be met, the development must be assessed on, and comply with, Divisions 1-8 of Part 3 of the Regulation. Full compliance with the Regulations will result in a fully developed camping ground which is not suitable to the site and locality. However, Council does not have discretionary powers in this matter and must not issue an Approval to Operate a Camping Ground unless Council is satisfied that all relevant requirements can be met.

Submissions

Sixteen written submissions have been received, 6 objecting and 10 supporting the proposal.

The main issues raised supporting the proposal are:-

- * provision of a place to escape frenetic lifestyles;
- * noise of trail bikes, generators and gun fire heard from other properties;

- * a highly respected group of environmentally conscious people at The Grove;
- * opportunity for enjoyment for small groups in a country atmosphere, unspoiled tranquil surroundings;
- * onsite waste management report considered more than adequate to satisfy Council requirements;
- * low impact development maintaining rural and bushland settings;
- * have not experienced any extra traffic or noise to warrant complaint; and
- * alcohol and drug free environment, promoting positive life skills for adults and children.

The main issues raised objecting to the proposal are:-

- * detract from scenic value of sensitive and natural location;
- * wetland values would be seriously compromised;
- * doubts regarding the maintenance of water quality standards;
- * supply of potable or utility water;
- * neighbourhood amenity - particularly in regard to noise (quiet location within narrow valley, amphitheatre effects); offensive behaviour of patrons, traffic generation;
- * problems with previous activities held at the site and doubts as to compliance with conditions of consent;
- * garbage disposal;
- * development within riparian vegetation zone as identified by HNCMT;
- * narrow and unsealed nature of Webbs Creek Road with increased traffic generation;
- * application for <20 people does not reflect intended number;
- * application misleading - does not accurately describe activity or effects of activity; and
- * given history of site, too difficult to monitor any conditions.

Comments

The nature and locality of the subject property are such that all environmental issues: effluent disposal, garbage disposal, noise emission, bushfire and flooding risks are of prime concern, however, can be conditioned accordingly.

Neighbourhood amenity was raised as the main objection to the proposal by surrounding residents and property owners. Unauthorised events held at the property in the past have caused some discontent in the local community.

Conclusion

The applicants have lodged the subject development application in order to authorise events held at the property. There is significant environmental concern in relation to this proposal and public submissions and comments from the HNCMT reflect these concerns. Submissions of support have also been lodged with Council. A deferred commencement consent is recommended to be granted as it is considered that the matters of concern can be strictly monitored to prevent environmental impact and legal action can be taken if conditions are not met.

RECOMMENDATION:

That the application for a Recreational Establishment - Camping Ground and associated Amenities Block for not more than 20 (twenty) people, on Lot 32, DP 753828, 718 Webbs Creek Road, Wisemans Ferry be granted Deferred Commencement under Section 91AA of the EPA Act 1979, subject to the following conditions:-

Deferred Commencement

1. Under the provisions of the Clean Waters Act, 1970, a Section 17K Approval of the Environment Protection authority shall be obtained for the wastewater system.

The applicants have a period of 6 (six) months from the date of deferred commencement consent to produce evidence to Council sufficient to enable the above condition to be satisfied. Only when the evidence is produced to ensure the above matter has been satisfied shall an operational consent be granted.

Operational Consent

1. The development is to be carried out in accordance with the approved stamped plans, prepared by A Watts, dated 8/8/96, submitted with Development Application No 256/96 dated 30 October, 1996 and the On-Site Wastewater Management Report for Camping Ground, prepared by Environmental Management Pty Ltd, dated May, 1997.
2. Quarterly reports are to be prepared by a qualified persons and submitted to Council, demonstrating that the effluent disposal system is sufficiently maintained to Council's satisfaction, and providing details of events (numbers of patrons and dates) held on the site.
3. Compost from the toilet closets is to be disposed of in a manner that does not lead to nutrient and pathogens entering groundwater or being discharged to surface waters.
4. An additional storage tank is to be provided to accommodate greywater during extended wet periods and during winter months.
5. All works are to be completed within 3 (three) months of the date of this operational consent.
6. The submission of an "Application for Approval to operate a Caravan and/or Camping Ground" for consideration. Any Approval to Operate a Camping Ground from Council requires full compliance at all times with the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995 and any conditions attached to the camping ground Approval, if issued.
7. The approval number for the "Rota-Loo" system and any conditions required by the NSW Public Health Department are to be submitted at the time of submitting the Application to Install Septic Tank, Local Government Act, 1993.
8. To protect the property from vehicle damage, particularly in wet weather, the parking of cars

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is to be restricted to that area shown on the site plan.

9. To protect the riparian vegetation and for safety of the patrons, tent sites are to be located at least 5 (five) metres from the edge of the creek.
10. Submission of a building application, plans and specifications complying with the Building Code of Australia.
11. No excavation or site works shall be commenced prior to the issue of the building permit.
12. No advertising structures to be erected, displayed or affixed on any building or land without prior approval. Any unauthorised advertising structure will be removed at the expense of the advertiser.
13. All waste materials to be stored and disposed of at regular intervals to the satisfaction of the Director Environment and Development.
14. All refuse materials currently located on the property are to be removed and disposed of to the satisfaction of the Director Environment and Development.
15. Exterior surfaces of the proposed structure being painted or treated with a dark toned non-reflective material in such a manner so as to cause the structure to blend with the landscape of the site and its surroundings. Such painting or treatment to be completed to the satisfaction of the Director Environment and Development prior to occupation or use of the building.
16. The development and operations of the camping area shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood in respect of noise, vibration, smell, dust, waste water, waste products or otherwise.
17. The subject development, including landscaping, is to be maintained in a clean and tidy manner to the satisfaction of the Director Environment & Development at all times and any direction given in this regard is to be complied with forthwith.
18. Construction of a 3.5m (three point five) wide compacted crushed rock pavement and any necessary drainage along the access. The maximum grade is to be 1 in 6. Details to be submitted and approved prior to works commencing.
19. Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of nutrients, litter, vegetative debris or other water borne pollutants. Details shall be submitted and approved prior to any works commencing.
20. Patrons are not permitted to keep dogs or cats on the site.
21. No camping sites on the property may be used for long-term residence.

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ATTACHMENTS:

AT-1 Locality Plan.

AT-2 Site Plan.

AT-3 Elevations of Amenities Building.

oooO END OF ITEM 18 Oooo

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ITEM: 19 **Proposed 117 Lot Community Title Subdivision - Lot 2 DP749638 and Lot 8 DP13446 - Nepean Park, 474 Springwood Road, Yarramundi - Applicant: McKinlay Morgan and Associates**

FILE NUMBER: SA156/96/EVD/ENH26NAX.V06

Applicant: McKinlay Morgan and Associates Pty Ltd
Applicants Rep: B McKinlay
Owner: Lederer and Fisher Investments Pty Ltd
Stat. Provisions: HLEP 1989 and Amendment No. 1
Area: 205 Ha
Zone: Rural 1(b) and Clause 33A
Advertising: Adjoining owner notified - numerous submissions
Date Received: 24 December, 1996, Additional Information 4 July, 1997

Key Issues: Water Cycle Management
 Traffic
 Water Supply

Action: Recommend Deferred Commencement Approval

REPORT:

Introduction

An application has been received to subdivide the above land into 117 rural residential lots in three stages by means of Community title subdivisions.

The lots vary between 5000m² and 1 Ha with the majority of the lots being between 5000 and 6000m². A single access is proposed off Springwood Road.

The applicant has submitted a number of reports and documents subsequent to the lodgement of the application. These include:

- (i) Environmental Plan and Water Management Plan;
- (ii) Statement of Environmental Effects;
- (iii) Landscape Master Plan Report;
- (iv) Concept Plan of Intersection Works and Statement of Design Assumptions;
- (v) A one page summary of development consents;
- (vi) Reliability of Proposed Water Supply;
- (vii) Soil Contamination - Preliminary Study;
- (viii) Comparison of Options for Wastewater Management and Water Cycle Study.
- (xi) Flora and Fauna Assessment.

The community title subdivision provides for the management of the open spaces areas containing the bushland and main dams at no cost to Council. The Management Statement will also control the on-going operation and maintenance of the effluent disposal systems.

Heads of Consideration

Development of the land is facilitated by Amendment No. 1 of HLEP 1989 contained within Clause 33A.

Clause 33A(2) sets out ten issues which Council shall take into consideration which are addressed in as follows:

(a) "the reduction of bushfire hazards;"

The site is classified as a high bushfire hazard. The site contains heavy bushland to the west and to a lesser extent the north. The area being used for subdivision lots comprises cleared grasslands and some young regrowth areas. The site has some history of bushfire and it is understood was heavily burnt in the Christmas 1994 fires.

The applicant proposed to provide a perimeter fire trail around the development area and development of the lots will result in reduction of combustible material on the lots as grassland etc. will generally be mown. The development also will provide for substantial water storage in house tanks, dams and an emergency storage reservoir.

It is considered that the development will result in a reduction of the bushfire hazard by locating development clear of high risk areas, reducing the fuel loads and providing for better fire lighting facilities.

(b) "the topography of the land;"

The actual area used by the lots, the lot layout and the road and drainage patterns have been developed to make good use of the topography of the site.

(c) "the areas of land suitable for the erection of dwelling-houses and associated structures with minimum risk of damage by bushfires;"

This has been covered by (a) above.

(d) "the susceptibility of the land to soil erosion and the measures to be taken to prevent such erosion;"

There is nothing within the topography or characteristics of the site that suggests that the development cannot be adequately managed in respect of soil erosion both during construction and in the post development stage. The low density rural/residential development will result in the minimisation of site disturbance. Roadworks will be required to be carried out using best management practices in erosion and sediment control aided by the existing control dams retention of significant revegetation and landscaping is proposed.

- (e) "the amount of existing trees and other vegetation which would be removed as a result of the subdivision and any subsequent development of the allotment created by the subdivision;"

The proposed rural residential lots have been located within existing cleared areas of the site most of which is now covered by grasslands. Some removal of a young regrowth forest will be required on the western edge of the development area and the applicant has agreed to adjust some lots along the northern boundary of the site to avoid a treed gully which will be retained within a community lot. No significant vegetation will be required to be removed to allow development of the site.

- (f) "the effect on the Hawkesbury - Nepean River Valley of the subdivision and any subsequent development of any allotment created by the subdivision;"

The most significant affect on the River Valley is likely to be on water quality both as a consequence of effluent disposal and urban development and runoff.

The applicant has carried out detailed investigation into effluent treatment and disposal including separate disposal on each site and a centralised treatment system. The applicant has opted to provide for separate disposal on each of the lots utilising aerated treatment systems, wet weather storage and soil moisture meters and defined improved irrigation areas.

The overall site runoff will be controlled by natural retardation and absorption of water and nutrients on the site and the use of existing and proposed dams to control sediment and nutrient removal. The large dam just upstream of Springwood Road will be retained in its existing state and is not proposed to be actively utilised in the system. It will however provide a final finishing area and safety backup. A schematic diagram of the Proposed Nutrient and Wastewater Management and On-Site re-use of water is included as AT-2 to this report.

Preliminary investigation and comment by the Environmental Protection Agency (EPA) indicate that the Authority is happy with the proposal but stress that maintenance arrangements for the effluent treatment systems will be critical. It is proposed that maintenance will be arranged by the Community Association which will be responsible for ensuring that all systems are properly maintained and operating correctly. It is suggested by conditions that a report to the EPA and Council to overview the results of the effluent disposal system.

The overall result is that the quality of run-off from the site is expected to be better than that from the previous horticultural use but possibly slightly worse than the currently existing use of grazing.

- (g) "Whether the subdivision will result in significant alteration to the natural land form in any subsequent development by way of construction of access driveways, excavation, filling and the like;"

The majority of the site works will be low key and suit the existing land form. There will however be significant works required at the entrance to the site below the large dam at Springwood Road and significant cut and fill to create a relatively level playing field in the reserve. With care and adequate landscaping and restoration it is considered that the work will not have a significant adverse effect.

It is not considered that the site provides constraints which would require significant alteration to the natural land form to allow subsequent development of the lots.

- (h) "the effect of the subdivision on the visual quality of the area;"

the construction of roads and erection of 117 dwellings and associated structures will have some affect on the appearance of the site. However, given the undulating nature of the site not all of the development will be viable at any one time. The development will be well below the escarpment skyline behind. Normal consideration of building material and colours at the BA stage should result in a changed but not objectional visual quality of the area particularly as the sites are quite large which will lead to scattered housing over the site.

- (i) "the ratio of depth to frontage of each allotment to be created by the subdivision;"

The lots are generally regular in shape with frontage to depth rates of 2 or 3 to 1 and in the worse case 4 or 5 to 1. These ratios are considered acceptable.

- (j) "the provision to the land of a water supply, facilities for sewage disposal and drainage and electricity services;"

The applicant has provided a detailed report on the reliability of the water supply which is proposed by site storage, effluent re-use and a central storage tank facility for back-up. This is considered to provide a sufficiently reliable water supply of adequate quality.

Sewage and waste disposal has already been addressed earlier in this report.

Integral Energy have indicated that electricity supply can be made available to the subdivision. They also indicate that options are being discussed with the developer and that some existing power lines and easement may be relocated.

Clause 33A(d) provide The Council shall not grant consent to the subdivision of the land unless:

- (a) "the area of each separate allotment to be created by the subdivision is not less than 2,700 square metres and not greater than 1 hectare; and
- (b) the total number of allotments which are created for rural-residential purposes by the subdivision does not exceed 122."

The proposed lots, with the exception of the community lots comply with the area requirements above and the total number of allotments for rural-residential purposes is 117 i.e. less than 122.

Notwithstanding the larger community lots it is considered that the intent of the clause has been met.

Clause 33A(4) requires that Council shall not consent to the further subdivision of an allotment created in accordance with this clause.

Even though the 122 lots have not been reached it is proposed to insert a condition requiring a restriction on use of land prohibiting the further subdivision of the lots. This will preserve the integrity of the subdivision concept and warn intending purchasers.

Clause 33A(5) provides that Council may only consent to one dwelling house on the lots. A restriction on use of land is to be imposed although this may be over-ridden by SEPP's.

Clause 33A(6) and (7) are not applicable to subdivision.

Clause 33A(8) is critical and provides that the Council shall not grant consent to the carrying out of development on the land to which this clause applies unless and until:

- (a) arrangements satisfactory to the Water Board have been made with that Board by the applicant (and, if the applicant is not the owner of the land, by the owner also) for the provision of water services to the land; and
- (b) if facilities for sewage disposal are not to be provided to the land by means of the Water Board's sewerage system - arrangements satisfactory to the State Pollution Control Commission have been made with that Commission by the applicant (and, if the applicant is not the owner of the land, by the owner also) for the on-site disposal of sewage.

Regarding (a) above Sydney Water have indicated with respect to this subdivision application that they have no plans to upgrade services in the Yarramundi area. Should the developer wish to connect to Sydney Water's water supply the nearest connection point is remote and connection would be very expensive and at full cost to the applicant.

The applicant intends to provide water via two methods, by roof water and a private water supply reservoir at Yarramundi. The details of this private water supply have indicated sufficient capacity for the population.

Since the gazettal of this amendment to HLEP the role of Sydney Water as the controlling body on water supply has altered significantly since incorporated into the Sydney Water Corporatisation Act. Sydney Water is a supplier of water on a water demand basis.

The intent of this clause of the plan is for Council to be satisfied that satisfactory arrangements have been made for water services. It would seem unrealistic to insist that water supply be made from the other side of the Hawkesbury River when arrangements have been made for water supply.

It is appropriate that should Sydney Water not supply water and the proposed water supply service is adequate that this is sufficient for satisfactory arrangements.

Regarding (b) above sewage disposal is not to be provided by means of the Water Board's (now Sydney Water) sewerage system so arrangements satisfactory to the State Pollution Control Commission (now EPA) must be made for the on-site disposal of effluent.

As stated previously the applicant proposes a detailed and sophisticated on-site disposal system which is currently being reviewed by the EPA and preliminary advice is that their requirements are being met. The consent, however, is proposed to be a deferred commencement consent preconditioned upon EPA approval.

Referrals

The application and copies of relevant reports were originally forwarded to:

- (i) Integral Energy;
- (ii) Sydney Water;
- (iii) Environmental Protection Authority;
- (iv) Hawkesbury Nepean Catchment Management Trust;
- (v) Adjoining Owners;
- (vi) Local Traffic Committee;
- (vii) Various Council staff, including Fire Control and Parks;
- (viii) National Parks and Wildlife Service was forwarded a location plan, at its request.

Replies

- (i) Integral Energy - suggested some modification to the road pattern and referral to Transgrid.
- (ii) Sydney Water - expressing concern at the on-site disposal of effluent and possible effects on the water quality and hence treatment requirements at the North Richmond Water Treatment Plant. Also concerned at possible pressure for future extension of Water Supply to service the development.
- (iii) Environmental Protection Authority - expressing concern at:
 - (a) effluent disposal - suggesting investigation of a single package system in lieu of 117 single systems;
 - (b) stormwater management during construction and long term;
 - (c) noise - both during construction and long term effect on background noise levels;
 - (d) complaints by future residents re rural odours;
 - (e) possible site contamination due to previous uses.

The EPA considered additional information was required.

- (iv) Hawkesbury-Nepean Catchment Management Trust (HNCMT) - general concerns re environmental controls.
- (v) Adjoining Owners - a considerable amount of resident objections have occurred with at least one public meeting held. Twelve letters of objection, one petition containing 39 signatures and one solicitor's letter threatening possible damages claim by its client have been received.

Two letters of support have also been received.

A brief summary of objections follows:

- (a) Water contamination;
- (b) Damage to flora and fauna;
- (c) Damage to grasslands;
- (d) Noise pollution;
- (e) Visual impact;
- (f) Limited water supply;
- (g) Affect of domestic animals including dog attack on stock;
- (h) Reduction in agricultural output;
- (i) Bushfire damage;
- (j) Street lights ruining "star gazing";
- (k) Traffic safety and volumes;
- (l) Lack of flood free access;
- (m) Lack of public transport;
- (n) Increase in crime due to increase in population;
- (o) Fear of commercial development in the area;
- (p) Future subdivision pressure by others in the area;
- (q) Suggestion for second access off McMahons Road

Support was submitted for the proposal to provide significant open space and community facilities to benefit the whole area.

- (vi) Local Traffic Committee - general support with slight relocation of access point.

The applicant was required to, and has submitted additional reports to address concerns raised, particularly by the public authorities.

Sydney Water, EPA, HNCMT and all persons who made a submission originally were notified of the additional information and where applicable forwarded copies of the relevant reports.

Only one written reply from a previous objector has been received. No doubt others have relied on their previous submissions.

The EPA, HNCMT made telephone contact and provided preliminary comments and will be following up with written comments.

The EPA has carried out only a preliminary assessment of the additional information but consider

the additional information addresses their previous concerns. It was however stressed that full control of the maintenance of the effluent treatment systems were critical. In this regard the management statement is to provide that the community association is to be responsible. The EPA was happy with decentralised i.e. individual sewage systems for each lot stated to be cheaper and probably as good as a single centralised system. They did raise the issue as to whether the existing grazing use of the property or the previous horticultural use should be taken as the baseline for comparison commenting that no policies were in place. They were prepared to accept the worst case that is the earlier horticultural use for their purposes.

The HNCMT stated their policy was, where the run-off is currently satisfactory then no decrease in quality permitted or where current run-off unsatisfactory that quality should be improved on development. The trust was concerned that the base line for nutrient and sediment from the site was based on an earlier use (i.e. Horticulture) and not the current grazing use.

The following table indicates the predicted Nutrient transport for various uses. It is noted that Option 1 is for individual on-site aerated systems while Option 2 is for a single treatment works.

Predicted Nutrient Transport

Land Use	Indicative Average Annual Export		
	Phosphorus (kg/km ² /y)	Nitrogen (kg/km ² /y)	Sediment (units/ha/y)
100 ha irrigated horticulture	79	1,500	410
Grazing	7	190	230
Proposed Development - Option 1	15	200	350
Proposed Development - Option 2	19	220	350

It can be seen that while the two development options result increase transport they are of the same magnitude as grazing, however, they are far less than the earlier horticulture use. On this basis it is considered reasonable that the earlier use be allowed for comparison purposes it being noted that could revert to this use if the owner wished.

The Trust was also concerned that the report was inconsistent as to whether the EPA or Council was to be the final arbiter as to whether maintenance of the effluent disposal systems were being carried out correctly. This will need to be determined following receipt of EPA agreement to the system.

The trust was also concerned that NSW Government guidelines on water quality management due out in about October may put heavy responsibility on end uses of the development. It is considered the application must be determined on existing requirements and not possible to try and second guess future requirements.

Reference is now made to previous concerns summaries earlier in this report.

- (i) Integral Energy - Are negotiating with the applicant regarding details of the supply system and possible relocation of some existing lines to suit the proposed road pattern. They are

able to supply power.

They also suggested referral to Transgrid, however, as the proposed rural/residential lots are located clear of the easement this is considered unnecessary at this stage.

- (ii) Sydney Water - were concerned at effects on water quality in the river and hence the need to upgrade treatment at the North Richmond Plant and also possible future pressure for extension of Water Supply to service the development.

It is considered that the Water Cycle Management Report adequately addresses the concerns of water quality off the site and hence the river.

Regarding further water supply the applicant has submitted a report covering the reliability of the proposed water supply based on roof water storage and the use of an existing dam on the property with a supply tank towards the rear of the site for tanker use. The report concludes that the joint probability of failure of both supplies is one in 50 years i.e. 2% chance in any year of failure. This is considered an acceptable risk when it is realised that to overcome the problem water could be trucked in as is already done in other areas relying on tank water but on a much more regular basis.

It is therefore considered that a pressure to provide a reticulated water supply is therefore unlikely and that Sydney Water would have adequate grounds for rejection if it did occur.

Adjoining owners raised a number of issues which are addressed by the following:

(a) Water Contamination

Already covered by this report.

(b) Damage to Flora and Fauna

Other than grasslands which will likely be at least partially mown little will change. In fact the landscaping of the site will provide additional and diversified flora and hence fauna habitat.

(c) Damage to Grassland

It is agreed that some reduction in grasslands and hence feed for grazing birds will result however, some will be retained and other grasslands are available in the area. This is not considered sufficient to justify refusal of the application.

(d) Noise Pollution

There will be some increase in traffic and animal noise but not considered that will be significant on adjoining properties which it is noted generates similar noise themselves.

(e) Visual Impact

Already addressed in this report.

(f) Limited Water Supply

Already addressed in this report.

(g) Affect of domestic animals including dog attack on stock

Domestic animals, already exist in the area and while no doubt there will be an increase in numbers it remains incumbent on owners to control their animals.

(h) Reduction in Agricultural Output

While there is currently some grazing carried out on the property no other agricultural use was seen. While there will be a reduction in potential usage there will be little reduction in current usage. Further the action of rezoning the land has already pre-empted this situation.

(i) Rural Fire Damage

Already addressed in this report.

(j) Street Lighting ruining "star gazing"

There is no guarantee that street lighting will be provided in the development, however, even if it is and it does affect "star gazing" at least in the immediate vicinity this is not considered sufficient justification to refuse the application.

(k) Traffic Safety and Volumes

The matter has been supported by the Local Traffic Committee and it is considered that the current road network can support the additional traffic. The proposed intersection is considered to provide adequate access.

(l) Lack of Flood Free Access

Yarramundi Bridge and parts of Springwood Road do flood, however, access especially up the mountain will only be lost for short periods and is considered acceptable.

(m) Lack of Public Transport

This is a problem with most rural communities and something that the residents of rural areas accept. If demand is sufficient limited public transport e.g. school buses may be put in place which will benefit the whole community.

(n) Increase in Crime due to Increase in Population

There is no evidence that this will occur but even if it does this is not considered sufficient reason to refuse the application.

(o) Fear of Commercial Development in the Area

No commercial development is proposed or any provision made for it in the application. Any such application would be considered on its merits if one were received. Arguably some commercial development would provide a desirable service in the area.

(p) Future Subdivision Pressure by others in the Area

This application is based on a rezoning carried out in 1990. Any further similar subdivision would require further rezoning which would need to be considered on its merits. In the present climate it seems unlikely that such a rezoning would be successful.

(q) Suggestion for Second Access of McMahons Road

The single access is considered adequate. In the case of an emergency alternative access via fire trails could be obtained.

Windsor Downs could be considered as a precedent where three times the number of lots have a single access to a much busier road.

The single access could also help to mitigate against the fear of increase crime mentioned above as thieves like alternative accesses.

Local Traffic Committee

The Local Traffic Committee (LTC) recommended as follows and these will be included in the subdivision requirements:

"No objection to the proposal subject to:

The single access point to the proposed development being relocated thirty (30) metres further south on Springwood Road than its indicated position on Plan No.

89354 dated 4 February 1997 to enhance sight distance of traffic approaching for the south.

Provision of acceleration lane on Springwood Road upon turning north from the proposed estate.

Extend right-turn holding bay for southbound traffic."

Fire Control

Fire Control made the following comments which will be included in the following requirements.

The following proposal is suggested for the above subdivision:

- C The bushfire access trail running from Mahons Creek Road and skirting the western perimeter to the south-west boundary should be of gravel construction to allow for all weather access and a vegetation free barrier between the bush and the development. This trail is to be of sufficient width to allow for passing bays.
- C The remainder of the bush fire access trail network may be grassed and of sufficient width to allow for passing bays and the end of the trail have provision for tankers to be turned around. The trail should be wide enough for tankers to easily negotiate bends and be able to carry a fully laden fire tanker.
- C The management committee be instructed to dedicated maintain this trail so as to prevent scrub growth which may pose a fire hazard to the development.
- C The entire trail network should be constructed and maintained to the satisfaction of Council Fire Control Office.

Section 94

For new development Council is able under Section 94 of the EPA Act to seek contributions or works to be carried out for the increase in population resulting from the subdivision.

Under Council's adopted Development Contribution Plan amenities, facilities and works are provided for the following:

- C Community facilities;
- C Park Improvements; and
- C Recreational Facilities.

Works for these facilities are both for local and district facilities and are proportioned as part of the Section 94 contributions.

The applicant has proposed a large multi-use active recreation facility and community building

central to the subdivision. The area would be a local community focal point and would accommodate a playing field for cricket, football and soccer.

Based on the lack of recreation and community buildings in Yarramundi the applicant proposed the playing field as public open space area. The suggestion is that funds using Section 94 contributions will be determined in consultation with Council.

The provision of the open space playing area and proposed community building as a meeting place will be a benefit to the residents and the general community of Yarramundi.

It is not proposed that the open space playing field be dedicated as public land for a number of reasons including on-going maintenance costs to Council. However, it is proposed that under the community title subdivision and management statement that ownership remain in the association of the owners while allowing public use of the playing field and community building.

In accordance with Council's Development Contribution Plan Council may accept construction of public amenities and services as material public benefit from the subdivision consent. As such it is considered reasonable that the contribution for local facilities would be provided by works in kind that would be carried out by the subdivider.

Based on the 117 allotments and the occupancy rate of population of 3.5 persons the total local contribution would be \$257,113. It is considered that this amount would more than be offset by the work required and cost of providing the playing field, community building and maintenance of the same.

While Section 94 contributions would be sought towards district facilities and works that are provided for the community and this contribution amounts to \$168,616.

Contamination

The consultant has tested the dam water and sediments and concludes there is not contamination of the site due to the past agricultural uses.

Conclusion

The application to subdivide is permissible with consent. Subject to final clarification from the EPA it is considered that all the environmental considerations set out under clause 33 have been met as have the heads of consideration under Section 90. On this basis a deferred commencement consent can be issued for the subdivision.

RECOMMENDATION:

A That a deferred commencement consent be issued as follows:

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- 1 Submission of written evidence that arrangements satisfactory to the Environmental Protection Authority have been made by the owner of the land for the on-site disposal of sewage.

B Upon compliance with 1 subdivision consent be issued subject to the following:

Stage 1 Creating 50 rural/residential lots, access road from Springwood Road community lots and a large residue lot.

1. The subdivision shall be in general accordance with the submitted plan dated 17 December, 1996, Plan No. 89354:66:2 and supporting documentation except where amended by Conditions of this consent.
2. Lots 44 to 47 inclusive, and any other lot necessary to allow the adjustment, being amended to remove the area contained within the timbered area in the north and to provide for the fire access clear of the timbered area. This area to be added to the community lot adjoining.
3. The submission of a Compliance Certificate under Section 73 of the Water Board (Corporatisation) Act 1994 prior to the release of the linen plan.
4. Submission of a Certificate from Integral Energy that satisfactory arrangements have been made for the provision of electricity to each of the resultant lots of the subdivision.
5. Submission of a Certificate from Telstra that satisfactory arrangements have been made for the provision of cables for telephones through the subdivision.
6. Payment of a cash contribution of \$181,397 for recreational buildings, park improvements and community facilities as a consequence of the subdivision of land. This sum will remain fixed for a period of 3 (three) months after which it will be recalculated at the rate applicable at the time of payment. A refund of \$109,552 of this amount will be made upon construction of the oval community building in Stage 2 and it being made available for use to the general public.
7. The dedication and full construction of the new roads including pathways and the drainage thereof. Construction standards and form to be determined in consultation with Council's Subdivision and Development Engineer.
8. The creation of reciprocal rights of way over the access handles to Lots 4 and 5 and construction of a 4.5m wide compacted crushed rock pavement and any necessary drainage along the access handles and across the footway to Lots 4 and 5. The maximum grade is to be 1 in 6.
9. The creation of easements to drain water over the site of drainage discharge from roads 4m wide and 10m long free of cost to Council.

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10. Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of nutrients, litter, vegetative debris or other water borne pollutants. Details shall be submitted and approved prior to any works commencing.
11. Street name signs to be provided at the junction of the new road/s.
12. The new road/s to be named (to be advised).
13. The new road/s be classified as rural road/s.
14. Construction of road and drainage works are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director Environmental Development and the Roads and Traffic Authority for any works in Springwood Road including payment of any fees, contributions or securities required by the Roads and Traffic Authority.
15. A design checking and inspection fee calculated at \$50 per hour or \$10 per metre of road whichever is the lesser must be paid prior to release of the linen plan. this amount is valid until 30 June, 1998.
16. The single access point to the proposed development being relocated 30 (thirty) metres further south on Springwood Road than its indicated position on Plan No. 89354 dated 4 February, 1997 to enhance sight distance of traffic approaching from the south together with the provision of an acceleration lane on Springwood Road upon turning north from the proposed estate and the extension of the right-turn holding bay for southbound traffic.
17. The demolition of the existing buildings and structure on the site where they encroach on proposed lot boundaries in accordance with work cover requirements.
18. The creation of suitable restrictions on use of land covering effluent disposal and water collection and storage generally in accordance with the reports prepared by Toby Fiander and Associates submitted in support of this application. The actual wording and form to be arrived at in consultation with Council's Subdivision and Development Engineer.
19. The carrying out of site works required to provide for Wastewater Management and Water Cycle controls generally in accordance with reports prepared by Toby Fiander and Associates submitted in support of this application. Full details to be submitted and approved prior to commencement of construction.
20. Landscaping of the section of the site generally in accordance with the Landscape Master Plan and Report prepared by EDAW. Details to be submitted and approved prior to commencement of construction.
21. The bushfire access trail running from Mahons Creek Road and skirting the western perimeter to the south-west boundary shall be of gravel construction to allow for all weather access and a vegetation free barrier between the bush and the development. This trail is to

be of sufficient width to allow for passing bays.

22. The remainder of the bush fire access trail network shall be brassed and of sufficient width to allow for passing bays and the end of the trail to have provision for tankers to be turned around. The trail shall be wide enough for tankers to easily negotiate bends and be able to carry a fully laden fire tanker.
23. The entire trail network shall be constructed to the satisfaction of Council's Fire Control Officer.
24. A Management Statement complying with Schedule 111 of the Community Land Development Act, shall be lodged and approved by Council prior to issue of the final plan of subdivision. This statement shall include provisions covering:
 - (i) The maintenance monitoring and management of the effluent disposal systems by the community association and reporting of the results to Council or the Environmental Protection Authority.
 - (ii) No dwellings to be erected on the community property.
 - (iii) Maintenance of the fire trails so as to prevent scrub regrowth which may pose a fire hazard to the development and to provide for access for bushfire vehicles at all times to the satisfaction of Council's Fire Control Office.
 - (iv) The maintenance of any nutrient and sediment control works in the community property.
 - (v) The provision of an emergency palatable water supply to each lot in the subdivision.
25. The submission of the plan of subdivision, together with 4 (four) exact copies thereof, suitable for lodgement with the Registrar General.
26. Payment of a linen release fee of \$2,180. This amount is valid until 30 June 1998.
27. Each allotment created shall have an area of not less than 2,700m² and not more than 1.0 ha.
28. The fulfilment of any requirements of Transgrid.
29. The creation of a restriction on the use of land prohibiting the further subdivision of the rural residential lots created by this subdivision.
30. The creation of a restriction on use of land prohibiting the erection of more than one dwelling house on any of the rural residential lots created by this subdivision.

Stage 2 Creating 36 Rural/Residential Lots, Community Lots and a Large Residue Lot

1. The subdivision shall be in general accordance with the submitted plan dated 17 December,

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1996, Plan No. 89354:66:2 and supporting documentation except where amended by Conditions of this consent.

2. Lots 53 and 54 being amended to remove the area contained within the timbered area in the north and to provide for the fire access clear of the timbered area. this area to be added to the community lot adjoining.
3. The submission of a Compliance Certificate under Section 73 of the Water Board (Corporatisation) Act 1994 prior to the release of the linen plan.
4. Submission of a Certificate from Integral Energy that satisfactory arrangements have been made for the provision of electricity to each of the resultant lots of the subdivision.
5. Submission of a Certificate from Telstra that satisfactory arrangements have been made for the provision of cables for telephones through the subdivision.
6. Payment of a cash contribution of \$52,784 for recreational buildings, park improvements and community facilities as a consequence of the subdivision of land. This sum will remain fixed for a period of 3 (three) months after which it will be recalculated at the rate applicable at the time of payment.
7. The dedication and full construction of the new roads including pathways and the drainage thereof. Construction standards and form to be determined in consultation with Council's Subdivision and Development Engineer.
8. The creation of easements to drain water over the site of drainage discharge from roads 4m wide and 10m long free of cost to Council.
9. Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of nutrients, litter, vegetative debris or other water borne pollutants. Details shall be submitted and approved prior to any works commencing.
10. Street name signs to be provided at the junction of the new road/s.
11. The new road/s to be named (to be advised).
12. The new road/s be classified as rural road/s.
13. Construction of road and drainage works are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director Environmental Development.
14. A design checking and inspection fee calculated at \$50 per hour or \$10 per metre of road whichever is the lesser must be paid prior to release of the linen plan. this amount is valid until 30 June, 1998.

15. The creation of suitable restrictions on use of land covering effluent disposal and water collection and storage generally in accordance with the reports prepared by Toby Fiander and Associates submitted in support of this application. The actual wording and form to be arrived at in consultation with Council's Subdivision and Development Engineer.
16. The carrying out of site works required to provide for Wastewater Management and Water Cycle controls generally in accordance with reports prepared in accordance with reports prepared by Toby Fiander and Associates submitted in support of this application. Full details to be submitted and approved prior to commencement of construction.
17. Landscaping of the section of the site generally in accordance with the Landscape Master Plan and Report prepared by EDAW. Details to be submitted and approved prior to commencement of construction.
18. The bush fire access trail network shall be braced and of sufficient width to allow for passing bays and the end of the trail to have provision for tankers to be turned around. The trail shall be wide enough for tankers to easily negotiate bends and be able to carry a fully laden fire tanker.
19. The entire trail network shall be constructed to the satisfaction of Council's Fire Control Officer.
20. A Management Statement complying with Schedule 111 of the Community Land Development Act, shall be lodged and approved by Council prior to issue of the final plan of subdivision. This statement shall include previous covering:
 - (i) The maintenance monitoring and management of the effluent disposal systems by the community association and reporting of the results to Council or the Environmental Protection Agency.
 - (ii) No dwellings to be erected on the community property.
 - (iii) Maintenance of the fire trails is as to prevent scrub regrowth which may pose a fire hazard to the development and to provide for access for bushfire vehicles at all times to the satisfaction of Council's Fire Control Office.
 - (iv) The maintenance of any nutrient and sediment control works in the community property.
 - (v) The provision of an emergency palatable water supply to each lot in the subdivision.
 - (vi) The availability of the oval, community facilities and adjoining lands to the general public at all times. The maintenance of these facilities is to be maintained by the neighbourhood association.

21. The construction of the oval and community building within the community lot in locations and to standards and designs determined in conjunction with the Subdivision and Development Engineer. Full details to be submitted and approved prior to commencement of construction.
22. The submission of the plan of subdivision, together with 4 (four) exact copies thereof, suitable for lodgement with the Registrar General.
23. Payment of a linen release fee of \$1,580. This amount is valid until 30 June 1998.
24. Each allotment created shall have an area of not less than 2,700m² and not more than 1.0 ha.
25. The creation of a restriction on the use of land prohibiting the further subdivision of the rural residential lots created by this subdivision.
26. The creation of a restriction on use of land prohibiting the erection of more than one dwelling house on any of the rural residential lots created by this subdivision.

Stage 3 Creating 31 Rural/Residential Lots and Community Lots

1. The subdivision shall be in general accordance with the submitted plan dated 17 December, 1996, Plan No. 89354:66:2 and supporting documentation except where amended by Conditions of this consent.
2. The submission of a Compliance Certificate under Section 73 of the Water Board (Corporatisation) Act 1994 prior to the release of the linen plan.
3. Submission of a Certificate from Integral Energy that satisfactory arrangements have been made for the provision of electricity to each of the resultant lots of the subdivision.
4. Submission of a Certificate from Telstra that satisfactory arrangements have been made for the provision of cables for telephones through the subdivision.
5. Payment of a cash contribution of \$43,987 for recreational buildings, park improvements and community facilities as a consequence of the subdivision of land. This sum will remain fixed for a period of 3 (three) months after which it will be recalculated at the rate applicable at the time of payment.
6. The dedication and full construction of the new roads including pathways and the drainage thereof. Construction standards and form to be determined in consultation with Council's Subdivision and Development Engineer.
7. The creation of easements to drain water over the site of drainage discharge from roads 4m wide and 10m long free of cost to Council.
8. Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of nutrients, litter, vegetative debris or other water borne

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pollutants. Details shall be submitted and approved prior to any works commencing.

9. Street name signs to be provided at the junction of the new road/s.
10. The new road/s to be named (to be advised).
11. The new road/s be classified as rural road/s.
12. Construction of road and drainage works are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director Environmental Development.
13. A design checking and inspection fee calculated at \$50 per hour or \$10 per metre of road whichever is the lesser must be paid prior to release of the linen plan. this amount is valid until 30 June, 1998.
14. The creation of suitable restrictions on use of land covering effluent disposal and water collection and storage generally in accordance with the reports prepared by Toby Fiander and Associates submitted in support of this application. The actual wording and form to be arrived at in consultation with Council's Subdivision and Development Engineer.
15. The carrying out of site works required to provide for Wastewater Management and Water Cycle controls generally in accordance with reports prepared in accordance with reports prepared by Toby Fiander and Associates submitted in support of this application. Full details to be submitted and approved prior to commencement of construction.
16. Landscaping of the section of the site generally in accordance with the Landscape Master Plan and Report prepared by EDAW. Details to be submitted and approved prior to commencement of construction.
17. The bush fire access trail network shall be brassed and of sufficient width to allow for passing bays and the end of the trail have provision for tankers to be turned around. The trail shall be wide enough for tankers to be turned around. The trail shall be wide enough for tankers to easily negotiate bends and be able to carry a fully laden fire tanker.
18. The entire trail network shall be constructed to the satisfaction of Council's Fire Control Officer.
19. A Management Statement complying with Schedule 111 of the Community Land Development Act, shall be lodged and approved by Council prior to issue of the final plan of subdivision. This statement shall include previous covering:
 - (i) The maintenance monitoring and management of the effluent disposal systems by the community association and reporting of the results to Council or the Environmental Protection Agency.

- (ii) No dwellings to be erected on the community property.
 - (iii) Maintenance of the fire trails is as to prevent scrub regrowth which may pose a fire hazard to the development and to provide for access for bushfire vehicles at all times to the satisfaction of Council's Fire Control Office.
 - (iv) The maintenance of any nutrient and sediment control works in the community property.
 - (v) The provision of an emergency palatable water supply to each lot in the subdivision.
20. The construction of the oval and community building within the community lot in locations and to standards and designs determined in conjunction with the Subdivision and Development Engineer. Full details to be submitted and approved prior to commencement of construction.
21. The submission of the plan of subdivision, together with 4 (four) exact copies thereof, suitable for lodgement with the Registrar General.
22. Payment of a linen release fee of \$1,380. This amount is valid until 30 June 1998.
23. Each allotment created shall have an area of not less than 2,700m² and not more than 1.0 ha.
24. The construction of the private access way with a 5.0m wide sealed pavement and all necessary drainage. Details to be submitted and approved prior to construction.
25. The creation of a restriction on the use of land prohibiting the further subdivision of the rural residential lots created by this subdivision.
26. The creation of a restriction on use of land prohibiting the erection of more than one dwelling house on any of the rural residential lots created by this subdivision.

ATTACHMENTS:

- AT-1** Plan of proposed subdivision
- AT-2** Schedule Diagram of Proposed Nutrient and Wastewater Management and On-site Re-use of Water
- AT-3** Extract of HLEP 1989 - Clause 33A

oooO END OF ITEM 19 Oooo

ITEM: 20 Draft Local Environmental Plan 23/95 (Amendment) - Development Consent for Intensive Agriculture**FILE NUMBER:** LEP23/95/EVD/ENH26NBX.V03**REPORT:**

Council at its Ordinary meeting of 7 November 1995 considered the "Our City Our Future" Strategy and resolved to support a draft local environmental plan to require development consent for intensive agriculture to enable proper environmental assessment to be undertaken and for consents to be appropriately conditioned.

Exhibition of the draft local environmental plan

The Department of Urban Affairs and Planning issued the Section 65 Certificate to allow public exhibition of the plan on 16 May 1997. The draft plan was placed on public exhibition from Wednesday 11 June 1997 up to Friday 11 July 1997. One submission was received from the Australian Mushroom Growers Association and is discussed below:

Australian Mushroom Growers (AMG)

The AMG supports the concept of requiring development consent for intensive agriculture however believes that the plan is limited and the intent is not clear in the following areas:

- C Definition of sustainable agricultural practices - AMG suggests that is important to define this concept.
- C Definition of intensive agriculture - AMG believes the intent is unclear and deficient.
- C Assessment of applications - AMG suggests that it is not clear from the draft plan what is intended regarding assessment for applications.

Comment

With respect to the definition of sustainable agricultural practices, this is a general aim of the plan and not a definition as such. The Hawkesbury Sustainable Agricultural Development Strategy and the proposed Development Control Plan (DCP) for intensive agriculture will define sustainable in a comprehensive manner.

The draft local environmental plan (as attached) provides for matters to be taken into consideration when assessing development applications such as the Threatened Species Conservation Act 1995, water quality and amenity. The details of assessing development applications required under the plan and the details required in any applications will be the subject of the DCP. It is anticipated that the DCP will be placed on public exhibition towards the end of 1997, closer to the gazettal of the draft local environmental plan.

The AMG also considers that there has been a lack of community consultation in the process of developing the plan. In response to this comment, the draft plan originates from the Our City Our Future Strategy where extensive community consultation was carried out.

It is considered unnecessary to outline all the changes suggested to the plan as the amendment to Sydney Regional Environmental Plan No. 20 Hawkesbury Nepean River (SREP 20) is discussed below and generally incorporates the comments made by AMG in relation to the definition. It should be noted that when the amendments to SREP 20 are gazetted Council will be required to implement the requirements in relation to intensive agriculture and the draft local environmental plan compliments the intentions of the SREP 20.

Sydney Regional Environmental Plan No. 20 Hawkesbury Nepean River (SREP 20)

SREP 20 has been undergoing a review since 1994 and has been placed on public exhibition twice during this period. The proposed amendments are referred to as Amendment 2 - 1997 and incorporate definitions for intensive agriculture as well as a consent requirement for particular types of uses.

In considering Council's draft local environmental plan for intensive agriculture the Department of Urban Affairs and Planning (DUAP) required that the definition be consistent with the proposed amendments to SREP 20. The draft plan was therefore drafted in accordance with these comments and placed on public exhibition. Since the exhibition of the plan, the definition in SREP 20 has been amended and is now considered to be more flexible. It is recommend that Council amend the draft plan to require consent for intensive agriculture to incorporate the definition contained in SREP 20. The definition includes a separate definition for intensive horticulture and intensive animal industries.

Section 62 Consultation

The draft plan was referred to the following public authorities under the provisions of the Environmental Planning and Assessment Act 1979:

Sydney Water
Department of Land and Water Conservation
NSW Agriculture
Hawkesbury Nepean Catchment Management Trust
Environment Protection Authority

Sydney Water

Sydney Water comments relate mainly to fact that the provisions of water and sewerage facilities for higher water usage cannot be guaranteed and that development will require a section 73 certificate and may require amplification costs. These comments relate specifically to rural lands which benefit from connections to town water. The majority of properties covered by the draft plan are not connected to town water and therefore these comments are irrelevant.

Department of Land and Water Conservation

The Department supports the plan in that it has the potential to enable some control over possible nutrient sources, which will impact on the water quality within the catchment. The Department also suggests that a definition of intensive agriculture be included in the draft plan. The definition was completed prior to DUAP issuing the Section 65 Certificate.

NSW Agriculture

Discussions have been held with NSW Agriculture who have no objection to the plan provided that the definitions of intensive agriculture are consistent with SREP 20.

Environment Protection Authority(EPA)

The EPA supports the plan as it will allow consideration of environmental factors for all proposed intensive agricultural uses. The EPA also recommended that Council adopt objectives for the achievement of more ecologically sustainable development forms of land use planning.

Hawkesbury Nepean Catchment Management Trust

The Trust strongly supports the draft plan and suggests that the appropriate definition for intensive agriculture be consistent with that of the draft amendment to Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean River (SREP 20). The draft plan was placed on public exhibition with the definition being consistent with SREP 20 as suggested by the Trust.

Conclusion

It is considered that the draft local environmental plan should be amended to incorporate the definitions of intensive horticulture and intensive animal industries contained in SREP 20 and forwarded to the Department of Urban Affairs and Planning requesting gazettal of the plan.

RECOMMENDATION:

That:-

1. The draft local environmental plan be amended to incorporate the definition of intensive horticulture and intensive animal industries, as defined in Sydney Regional Environmental Plan No 20 - Hawkesbury Nepean River (Amendment 2- 1997).
2. The draft plan requiring development consent for intensive agriculture be forwarded to the Department of Urban Affairs and Planning requesting final gazettal.

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ATTACHMENTS:

AT-1 Amendment 67.

oooO END OF ITEM 20 Oooo

ITEM: 21 **Rezoning Proposal - Establishment of a "Boutique" Wine Estate - Lot 2 DP736516 & Lot 12 DP834771 Gadds Lane, Kurmond - Applicant: Falson & Associates**

FILE NUMBER: P701/15/EVD/ENH26NBX.V10

REPORT:

Proposal

Correspondence has been received seeking Council's support to the concept of an agricultural/tourist complex incorporating 10 (ten) allotments under "community title" legislation as shown on Annexure 1 (proposed lot layout). Access will be provided by a private access way located at the end of Gadds Lane.

It is proposed to establish 8 (eight) small vineyards with the aim of providing a community management tourist complex (Boutique Vineyards) that will specifically cater for "high quality low volume wines" managed by the land owners. Each lot would be separately owned having the potential to construct eight (8) dwellings on the 'proviso' that substantial plantings would need to have been carried out. This is proposed to be controlled through restrictions on the 'community management plan' should the proposal be supported by Council.

The applicant seeks a clause amendment to the LEP so as to permit the titles to be created for vineyard lots.

Background

Discussions have taken place with the applicant, owners of the land and staff seeking support based on the merit of incorporating the economic and tourist development with a subdivision. It was advised that whilst the tourist related complex has merit, the proposal should comply with the current subdivision provisions of Councils planning scheme.

Site Characteristics

The subject land contains 2(two) allotments:

- * Lot 2 DP 736516 - 24.23ha - owner (Mr & Mrs W Anderson)
- * Lot 12 DP 834771 - 10.65ha - owner (Mr & Mrs A Radnovic)

Irregular in shape, the land falls away from the road frontage to Howes Creek being the north-western boundary. A large dam is located on the Anderson property at the southern side boundary with smaller dams scattered throughout the rest of the subject site. Dense vegetation is located along Howes Creek with scattered trees throughout. The site has been used for agricultural/grazing purposes with an existing vineyard business located on lot 12. Dwellings and agricultural sheds are located on both properties.

Statutory Situation

The subject land is currently zoned Rural 1(b) under the provisions of Hawkesbury Local Environmental Plan, 1989. The zoning of the land requires a minimum lot size of 10 hectares in any subdivision. In this respect, only 3 (three) lots can be created.

The use of 'rural workers' dwellings' (Clause 17 of HLEP) are only permitted where allotments are created within the zone. In this case, only 1 (one) additional dwelling can be created.

The use such as 'viticulture' may be defined as 'agriculture' and is currently permissible without consent. Tourist facilities, restaurants and educational establishments are separately defined and are permissible with Council consent. The principal objective of the zone is to primarily provide for agricultural uses; prevent traffic generating developments; and to maintain the rural character of the area.

Assessment

The suitability of on-site waste disposal has not been addressed within the submission. Whilst sufficient land area may exist for such systems, no assessment with respect to the overall impact on infiltration to Howes Creek, soil or grape production yields have been undertaken. An independent environmental assessment should be undertaken in the event of further support.

In addition, the proposed lots 6, 7 and 8 are severely restrained in the area available for vineyards due to existing vegetation along Howes Creek.

No economic assessment has been submitted for the eight (8) vineyard lots and their justification. Whilst the "boutique wine estate", as an agricultural/tourist complex, has merit, the proposed 10 (ten) lot subdivision does not accord with the principles of "Our City Our Future" strategy and is prohibited under the provisions of Hawkesbury Local Environmental Plan, 1989. Support for such rezonings without consistent planning principles generates a market expectation of zoning change.

Conclusion

The proposal was discussed with Mr Anderson and Mr Falson again on 19 August 1997, and it was put to them that the structure of the proposal in terms of tenure and farm management was unlikely to favour a sustainable agricultural enterprise. For example the owners of the 8 small vineyards could well be fully employed in other pursuits and have not the time, capital or expertise to operate the vineyard. Whilst grape plantings may be established as a consequence of any approval, there is little point in this unless there is an on-going productive agricultural enterprise.

Detailed investigation of the agricultural aspects of the proposal have not been undertaken and although it is understood that the owners would be happy to carry out those investigations, the overall impression of the proposal is that more consideration has been given to the subdivision than the creation of a sustainable agriculture enterprise. For example there is no overall management arrangement for the vineyards and it could well be that the individual owners are essentially left to their own devices in managing their vineyards. It was also proposed that there be a metering

arrangement for the allocation of water from the existing large dam.

It is not considered likely (although not impossible) that a sustainable agricultural enterprise is going to emerge from such a potentially fragmented tenure where the participants may have little knowledge about farming nor the time or capital to devote to the enterprise.

Alternative Proposal

In discussions with Messrs Anderson and Falson on 19 August 1997 an alternative proposition was put whereby the vineyard be developed on a single neighbourhood lot in a community title and that "house" lots of 1 hectare or less be integrated into the vineyard. The individual owners would have a financial interest and obligation in respect of the neighbourhood "vineyard" lot. With such an arrangement it is more likely that the vineyard would be managed in professional way with an enhanced prospect of establishing a sustainable agricultural/tourist enterprise. This arrangement would at least remove the potential for duplication of farming equipment, the difficulties which would occur in the allocation of the existing water supply, and provide some economies of scale for the individual owners to seek outside expertise in the running of the vineyard and marketing etc.

At the conclusion of the meeting, Mr Anderson advised that he would discuss this alternative proposal with Mr Radnovic and that they would address the General Purpose Committee as to their preferred course of action.

RECOMMENDATION:

That the rezoning proposal as submitted not be supported for the reasons outlined in the report.

ATTACHMENTS:

AT-1 Plan of Subdivision.

oooO END OF ITEM 21 Oooo

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ITEM: 22 **Request to Amend Restriction as to Use - Lot 5 DP803225 Price Lane, Agnes Banks**

FILE NUMBER: BA772/96, P1637/244/EVD/ENH26NBX.V05

REPORT:

At the time of creating the subject lot a restriction on use of land setting out a permissible building area was required. This was as a consequence of the flood liability of the land and was located on the high point of the lot. The subdivision was registered in 1990.

In 1996 a building application was received and, following notification to an adjoining owner, approved. The approved building was located outside the approved building area. The building was commenced in late 1996 and currently has the raised floor slab poured. No objections were received when the adjoining owner was advised or subsequent to the building commencing. The building is able to comply with Clause 25 of HLEP with particular emphasis on the floor height standard and height above natural ground level. The building area has simply been moved forward about 50 metres on the lot.

The amendment to the restriction is simply to substitute an amended location plan to that shown on the deposited plan to conform with the location of the partially completed building.

No objection is raised to the new location.

RECOMMENDATION:

That:

1. Council agree to the request to vary the restriction on the use of the land by relocating the building zoning as shown on the plan annexed to the Request.
2. Council seal be affixed to any documents necessary to vary the restriction.
3. All costs associated with registration of the restriction are to be borne by the applicant.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 22 Oooo

ITEM: 23 **Rezoning to Permit a Three Lot Subdivision - Lot 22 DP626483
Greenway Crescent, Windsor**

FILE NUMBER: P740/275, DA32/80, SA90/97/EVD/ENH26NBX.V07

REPORT:

A subdivision application has been received for a three lot subdivision of land to create two lots of a residential size (1, 754 square metres and 2, 249 square metres) plus a residue with an area of approximately 9.7ha.

The land is owned by Mr T Allan with the higher part of the land being used as a depot for his turf farm business and the lower section for the cultivation of turf.

Historical Background

The proposed two residential sized lots are located between residential properties on Claremont Crescent and Greenway Crescent and back onto the St Matthews Cemetery. All of the land has been zoned as either Rural or Environmental Protection through successive planning schemes, that is the Windsor Planning Scheme, Hawkesbury Local Environmental Plan 1984 and Hawkesbury Local Environmental Plan 1989.

A general application for "minor landfilling" was made to the former Windsor Council on 2 October 1980.

Following the submission of further documentation, the application was finally considered by Council on 10 March 1981, and it was resolved that it be not approved as there was sufficient area of land existing on the site above the minimum height of flooding at a frequency of 1 in 20 years, including an area available above the 1 in 100 year frequency of 16m (at the time), for the agricultural uses sought.

Subsequently, Hawkesbury City Council resolved at a Special Meeting on 27 August 1981 to agree to a proposed agricultural building being erected near the north east corner of the lot with associated cut and fill for the shed site and a manoeuvring area.

There does not seem to be any approval for general filling of the lands and this is supported by a letter from the Shire Clerk at the time, Mr Rawson, to the office of the Ombudsman, which states in part as follows:-

"In essence the application for the filling of the land for the proposed alternate use for residential development has, correctly, been refused. The subsequent approval of Council should be construed in relation to the building approval (for which development consent is not mandatory) and the filling placed in respect of the original approved building site."

Assessment of Proposal

The proposed Lots 1 and 2 which lie between existing residential lots in Greenway Crescent and Claremont Crescent have building sites of around 500 square metres which have not been subject to filling and which are in excess of 17m AHD.

The proposed residue Lot 3 which contains the existing office complex and covered areas has a small area above 16m AHD, however, the majority of the high part of the land is slightly below 16.0m being around 15.5m.

Whilst the proposed Lots 1 and 2 do have building sites in excess of 17.0m AHD, the proposed Lot 3 would contain a building site marginally below 16m at around 15.5m. Council does not have a policy in relation to the level of land for rezoning but Hawkesbury Local Environmental Plan 1989 does require in respect of rural subdivisions that, other than for the purpose of agriculture, each lot has sufficient area of land that is above the floor height standard as at 6 April 1984 sufficient for the erection of a dwelling house. The proposed Lot 3 has an unfilled area which is approximately 0-0.5m below this standard.

Given the minor extent of the variation, it is considered that a rezoning of the land to allow the proposed three lot subdivision should be supported.

The proposed rezoning has not been placed on public exhibition and should the position on the flood issue be supported, it is proposed that it be placed upon public exhibition.

RECOMMENDATION:

That:-

1. The Council not raise objection to the proposed 3 (three) lot subdivision on flooding grounds.
2. A rezoning of the land to permit the proposed 3 (three) lot subdivision be referred to adjoining owners for comment and be further reported to Council at the close of exhibition.

ATTACHMENTS:

AT-1 Extract of subdivision plan.

oooO END OF ITEM 23 Oooo

ITEM: 24 Draft Regional Waste Plan for the Western Sydney Region**FILE NUMBER:** GW010/022 PT04/EVD/ENH26NBX.V08**REPORT:**

At Council's meeting of 12 August 1997 it was resolved that this matter be deferred to this General Purpose Committee for final determination.

The following is the report which was referred to the meeting on 12 August 1997:-

The Western Sydney Waste Board has forwarded the Draft Regional Waste Plan for the Western Sydney Region which is on public exhibition until 2 September 1997.

The document outlines a vision for how waste can be managed in Western Sydney over the next ten years. The Draft Plan states that it fulfills the requirements of the Minister for the Environment, the Hon. Pam Allen MP, by outlining how the amount of waste to landfill can be reduced by 60%.

According to the Draft Plan:

"It fulfills these requirements and much more. It outlines how Western Sydney can play a leading role in sustainable waste management by implementing innovative and bold solutions. It details the steps needed to create a society that values its resources and that does not create 'waste' as we know it. It offers solutions that are both ecologically and economically sound for the people of Western Sydney."

A key feature of the Draft Regional Waste Plan which will likely distinguish it from other plans is a proposal to change the role and classification of landfill in the region. Landfills are no longer to be used for "disposing" or "getting rid" of waste. Instead they will be used purposefully to store "like" materials for future reuse. It is proposed that pre-stabilisation facilities will treat and stabilise residual mixed (putrescible) wastes before being landfilled, thus negating the need for daily cover and compaction.

The suggested bench mark pre-treatment technology, the Dano drum, would pulverise, homogenise and aerobically "compost" all mixed and putrescible wastes over a 24-48 hour period to produce two streams of material ready for landfill. The first is fine, partially "composted" organics and the second, a coarse inert oversized material stream. Both products can be landfilled or, alternatively, the coarse fraction could be pelletised, thus providing alternative fuel preparation for cement kilns, power stations or other large fuel user, or generation facility.

The listed benefits of the Dano drum technology is an acceleration of biological breakdown, and immediate volume reduction of between 30% - 50% without compaction, a saving of 25% - 30% of air space as well as cost in avoiding the use of landfill cover as well as possible further extraction of materials for later recycling or, alternatively, fuel for power generation.

A gate fee for the pre-stabilisation/transfer facility is still to be determined but the plan suggests a

“once off 15 - 25% increase”, with annual CPI increases effective thereafter.

It is proposed that four pre-stabilisation (Dano) facilities serve the region, each facility catering for approximately 300,000 - 350,000 population. Each facility would process approximately 125,000 tonnes per year of domestic and commercial and industrial waste.

Three Year Strategic Plan

The estimated cost of delivering the plan over three years is \$30 million, a cost which would be met through the Waste Management and Minimisation Fund and through the involvement of the private sector.

The Draft Regional Waste Plan proposes the following programs to be undertaken in the three year strategic plan.

Infrastructure and Systems Development

- . Develop and establish approval and operational performance standards for stabilised landfills and storage/monofill facilities
- . Develop and establish contracts and operational and performance standards for third party operators of infrastructure facilities
- . Establish new stabilised landfill and storage/monofill facility
- . Establish four pre-stabilisation/transfer centres that can receive and treat mixed waste from the domestic and commercial sectors
- . Establish nine drop-off and processing centres throughout the region at which the community can discard all types of unwanted materials
- . Provide a wide range of specialist secondary resource sorting and re-processing operations to serve the region, including facilities for:
 - sorting/transfer of building and demolition waste
 - recovery of materials from council recycling collection services and commercial/industrial waste transporters
 - composting green waste
 - energy recovery from pre-stabilised materials
 - specialist recovery of wood waste, metals, plastics, oil, tyres, electronic scrap, paper/cardboard, textiles etc
- . Provide a system to trade commodities recovered from waste streams that will ensure consistency, quality, quantity, and reliability of supply for industry
- . Resource member Councils to place and enforce new conditions on all development and building applications that will facilitate improved management and minimisation of building, demolition and operation of waste streams
- . Establish and maintain a Waste Exchange Information Service to link generators of waste materials with potential re-users
- . Develop appropriate pricing policies and structures that will encourage accountability for waste generation by offering economic incentives

Education, Promotion and Training

- . Develop regional education programs for a range of sectors on issues such as life cycle management, waste minimisation activities and cleaner production
- . Co-ordinate a consistent approach to regional waste education and promotion by member Councils
- . Provide avenues for community participation through initiatives such as the establishment of a 1800 line for residents to report illegal dumping of wastes, a Western Sydney Waste Board internet site and the training of local community facilitators to assist the Board in ongoing testing of educational and promotional programs
- . Develop and market waste minimisation consulting services and training programs for delivery to industry and the community
- . Promote the Board's objectives and activities to stakeholders through ongoing media liaison and promotion

Research and Development

- . Develop and administer a Cleaner Production Centre to encourage research, development and promotion of waste-resource management in the region
- . Identify and develop collaborative activities, links and programs with private, government and non-government organisations involved in waste and resource management in the region

Services

- . Develop a regional Excellence in Waste Resource Management Scheme to enlist sector participation in the reduction of waste and the use of secondary resources. Best practice guidelines will be developed for all waste generating sectors as basis for accreditation under the scheme
- . Develop a Continuous Improvement Matrix to measure improvement in all key sectors of resource use and management
- . Develop and provide Waste-Resource Auditing Services for industry and manufacturing sectors to assist them in the integration of waste minimisation programs
- . Co-ordinate the adoption and management of a consistent waste transport licensing system within the Western Sydney Region and other regions
- . Coordinate the use of secondary resources through regional procurement/purchasing policies and through helping industry/manufacturing to utilise secondary resources
- . Develop structures and systems for member councils to share information to coordinate effective and efficient collection systems and transport technologies

Advocacy

- . Advocate adoption of stabilised landfill and storage/monofill facilities standards as minimum best practice landfill methods
- . Develop an integrated and regional approach to Industry Waste Reduction Agreements

Monitoring and Review

- . Adopt uniform waste classifications
- . Develop and maintain a monitoring program to monitor the flows of materials and resources

within the region

. Design and promote protocols that can be used as performance indicators for all program areas of the Regional Waste Plan, including education, infrastructure, service delivery and advocacy

Implications for the City of Hawkesbury

The proposed four pre-stabilisation (Dano) facilities to serve the region will mean that each facility will cater for approximately 300,000 - 350,000 people. It would also seem desirable that each of these four pre-stabilisation facilities be sited in conjunction with a putrescible landfill to avoid additional transportation costs for the “composted” wastes.

As Council has already made a substantial financial commitment to its putrescible landfill on the Driftway, it would seem that Council has two choices being:

- 1 Embrace the Draft Regional Waste Plan and propose the Driftway site for a pre-stabilisation facility and seek to process waste from other Western Sydney Councils with the approval of the University of Western Sydney on a commercial basis; or
- 2 Seek exemption from the requirement for pre-stabilisation of waste because of the additional transport costs required to deliver the waste to a pre-stabilisation facility; the existence of a putrescible landfill at South Windsor; Council’s initiatives in implementing a best practice collection system; the relatively disperse nature of population in the City of Hawkesbury; and the relatively low population compared to many other Councils in Western Sydney.

Whilst the first option may be a commercial proposition, it would require a substantial investment which would need to be funded by Council and/or the private sector with, as yet, an unproven rate of return. The level of risk is likely to diminish if and when pre-stabilisation facilities are established to serve the region.

At this stage, given that Council has a putrescible landfill in close proximity to its population centres with a capacity for at least twenty years disposal with best practice collection methods, the preferred option at this stage must be to seek exemption from the requirement for pre-stabilisation of putrescible waste.

The following comments are made in relation to the other objectives of the Draft Regional Waste Plan.

Use of Conditions on Development and Building Applications to minimise waste, in particular, demolition waste.

There is no objection to the use of conditions on development and building approvals to facilitate improved management minimisation of waste, in particular building waste, however there needs to be nominated standards for waste minimisation. Otherwise, the requirements for Waste Management Plans will only be of some limited educational value.

Proposed waste transport licensing system

The proposed licensing system for waste transport is of questionable value, particularly if it cannot be implemented across all the Waste Board regions. It is not considered that a comprehensive licensing system will be cost effective.

Additional Information

Since the meeting on 12 August the Manager Environment & Waste and Director Environment & Development have had some discussions with Waste Board staff about the matter. A meeting is also being held on 25 August 1997 where some further details may be provided on pre-stabilisation facilities operating overseas. At the time of writing the report the only information on pre-stabilisation facilities and costs available to staff is that contained within the Draft Regional Waste Plan.

The difficulty for Council is that unlike other local government areas within the Waste Board, it has made a substantial investment in a putrescible landfill which is likely to have sufficient capacity to service the Hawkesbury community for 20 years plus. The purchase of properties along the Driftway and Reynolds Road for \$2.7 million should make secure that investment.

However Council has not budgeted for a possible 15% to 25% increase in waste charges as a consequence of a pre-stabilisation requirement from the Waste Board. From previous investigations into the operating costs of the landfill, such an additional cost burden would suggest that the depot should be closed because it will lack the necessary economies of scale. In this scenario Council should also not proceed with the purchase of the Driftway properties.

Consideration was given to the use of the South Windsor Waste Depot as a site for a pre-stabilisation facility but at this stage there is really insufficient information to make a determination. However, the site is very limited in area and with the exception of a relatively small area to be landfilled, does not contain any land which has not been subject to landfill where a pre-stabilisation plant could be established. If a pre-stabilisation plant were to be established, on the basis of information in the draft Waste Plan, it would need to service at least one or two adjoining Council areas in addition to Hawkesbury with the likely result being that the landfill would have a substantially shortened life. There would also need to be negotiations with the University of Western Sydney regarding the lease.

In summary, whilst the pre-stabilisation of waste may be the future direction of waste management, at this stage it would not seem to be in this Council's interests to provide an unqualified endorsement of the approach. This position may change if and when pre-stabilisation facilities are established in the Sydney region and the costs and operational requirements are documented.

RECOMMENDATION:

That the Western Sydney Waste Board be advised that Council's response to the Draft Regional

Waste Plan is as follows:

1. (a) Council seeks exemption from the requirement for pre-stabilisation of waste for the residents of the City of Hawkesbury for the following reasons:
 - . Council operates an existing putrescible landfill in close proximity to its major population centres and does not consider that the additional cost in transporting the waste to a pre-stabilisation facility is warranted.
 - . Council's lease arrangements with the University of Western Sydney for the operation of the landfill preclude the acceptance of waste from other areas without the approval of the University.
 - . Council is progressing to implement best practice collection methods which will ensure that the Waste Depot has a life of at least 20 (twenty) years for residents of the area.
 - . Council has recently invested \$2 million (two million dollars) in upgrading the Waste Depot to comply with Environment Protection Authority Guidelines and, in addition, is purchasing properties within a 250 metre (two hundred and fifty metre) buffer. With these financial commitments it is not possible to fund further costs in pre-stabilisation.
- (b) That Council will review its position on pre-stabilisation of its waste following the provision of more information on operational costs and requirements and desirably a demonstration facility.
2. That Council queries the feasibility of a waste transport licensing system, particularly its cost effectiveness.
3. There is no objection to the use of conditions on development and building approvals to facilitate waste minimisation, but this will be of limited value without some agreed standards on what can be required.
4. That otherwise Council supports the Draft Regional Waste Plan

ATTACHMENTS:

There are no supporting documents for this report.

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