



general
purpose
committee

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section

environment

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Item: **71**

ITEM: 71 **Erection of a Dwelling House - Lot 27 DP211780 No. 141 Coromandel Road, Ebenezer**

FILE NUMBER: DA155/97/EVD/ENK25LAX.V21

Applicant: Mr G & Mrs E Williams
Applicants Rep:
Owner: as above
Stat. Provisions: HLEP 1989 & SEPP No. 1
Area: 1170 sqm
Zone: Environmental Protection 7(d1)
Advertising: Three (3) adjoining owners for fourteen (14) days. No submissions
Date Received: 27 June 1997

Key Issues: Flooding
 Non compliance with Clause 25 of HLEP 1989
 Amendment No. 33

Action: Approval

REPORT:

Council at its meeting on 12 August, 1997 resolved that this application be refused for the following reasons:

1. *The application does not conform to Clause 25(2) of Hawkesbury Local Environmental Plan 1989 in so much as the land lies more than 3 metres below the floor height standard for the area.*
2. *The application does not conform to Clause 25(4) in so much as the floor of the habitable rooms are more than 3 metres above the existing ground level.*
3. *The residential development of flood prone land is not in the public's interest.*
4. *Approval of the application could set a precedent for similar applications on rural flood liable lands in the Hawkesbury area.*
5. *The erection of a dwelling on the land and its precedent places undue pressure on the State Emergency Service during times of flood.*

The applicant has provided a response to the reasons of refusal and has requested that the decision be reviewed.

A copy of a letter addressing the reasons for refusal is attached to this report together with a copy of a letter from the State Emergency Service (SES), Local Headquarters in response to reason No. 5.

The local headquarters of the SES advises that the Hawkesbury SES has no objections to the construction of a dwelling on the land.

In view of the response from the SES and the request for a review of the other reasons for refusal, the application as reported to the General Purpose Committee meeting on 29 July, 1997 is referred for review.

Proposed Development

This application proposes to construct a three storey dwelling at 141 Coromandel Road on land that is flood affected. The plan submitted with the application shows the bottom storey as a storage area and drive through garage. The second storey consists of a garage and further storage with the third story being the habitable area containing the kitchen, bedrooms and living areas. The proposed floor level is 14.8m Australian Height Datum (AHD).

The submitted site plan identifies the location of the proposed dwelling and shows the natural height of the land ranging from 9m AHD to approximately 10.2m AHD. The site itself ranges from 1-2m AHD on the river bank to 10.6m AHD at front boundary.

The floor height standard for the area is 14.3m, and the minimum ground level height under Hawkesbury LEP 1989 is 11.3m AHD. The applicant indicates that the natural ground level at the highest point being at 10.27m AHD. The 1 in 100 year flood level for the locality is 16.6mAHD.

Site Description

The site is regularly shaped and has road frontage to Coromandel Road. The land slopes from the road to the rear of the property and adjoins the Hawkesbury River. Existing on the site is a caravan, small shed and BBQ shelter/pergola which appears to be used for recreational purposes.

Statutory Situation

Clause 15 of HLEP 1989 allows the erection of a dwelling house on an existing allotment, however, Clause 25 applies and states as follows:

Development of flood liable land

25. (1) In this clause

"appointed day" means 6 April 1984;

"floodway" means the channel of a river or stream and those portions of the flood plain adjoining the channel which constitute the main flow path for floodwaters.

- (2) Except as provided by subclause (5), a building shall not be erected on any land lying, as at the appointed day, at a level lower than 3 metres below the floor height standard for the area in which the building is to be located.
- (3) The floor level of any habitable room in a building erected on any land to which this clause applies shall be at a level not less than the floor height standard for the area in which the building is to be located.
- (4) In respect of an application to erect a building on any land to which this clause applies, the height of the floor level of any habitable room in the building shall not exceed 3 metres above the existing ground level.
- (5) Notwithstanding subclauses (2) and (3), a residential building in existence as at the appointed day may, with the consent of the Council, be extended, altered, added to or replaced provided the floor level of any habitable room in the building does not exceed 3 metres above the existing ground level.
- (6) The Council shall, in the assessment of a development application, consider the flood liability of access to land and, if the land is within a floodway, the effect of isolation of the land by flooding, notwithstanding whether other aspects of this clause have been satisfied.

SEPP 1 Submission

The applicant has lodged a SEPP 1 objection which states that Clause 25(2) of HLEP 1989 is unreasonable and unnecessary based on:-

“Our land at the highest point where the dwelling will be is 10.27m on natural ground not 11.3m to comply with Council standards. Plans show our proposed 11.8m to be uninhabitable storage and garage with a underneath storage. Our habitable floor will be 14.8m.

The objection to the three metre height is because we bought land in 1978 thinking we could build without any problems. Also our neighbours have built in 1991 without any problems, our land levels are nearly the same.

Most of the homes in our street have been built after the 6 April 1984. With our proposed plans passed we will be higher than most of them. Ours is a vacant block between two houses. There are also houses down a lot lower on the opposite side of the road. We have seen the worst of the floods during these 19 years of enjoying life in the Hawkesbury area. We would be able to reach safety due to floods by going 300m up the road and we would not be isolated as there is road access to local shops”.

Comment

The main justification of the SEPP 1 is that adjoining properties have had dwellings erected on them. The applicant has stated that the immediate neighbour built in 1991 with “no problems” and that the adjoining dwelling is of very similar design to the current proposal.

The adjoining property referred to in the applicants SEPP 1 objection contains a three storey dwelling similar to the one currently proposed. The dwelling was approved in 1991 prior to the amendments to Clause 25 (gazetted 20 May 1994) which required the floor level of any habitable floor level to be no more than 3m above natural ground level.

Furthermore the DA 101/95 proposed a dwelling at 164 Coromandel Road was refused in July 1995 due to the non compliance with Clause 25. In this instance the habitable floor level was 4.36m above natural ground level, similar to the current proposal of 4.53m.

The SEPP 1 submission does not adequately address the underlying objectives of the floor height standard. Supporting this proposal would set an undesirable precedent that could lead to similar applications on flood prone along the Hawkesbury River. The standard is considered necessary and reasonable to protect life and property.

Assessment

The application does not comply with subclause (2) as the land needs to be at 11.3m AHD on the appointed day, 6 April 1984. The existing ground level is 10.27m and the applicant proposes to construct a dwelling which has a habitable room floor level of 14.8. This is 4.53m above the natural ground level and therefore the application does not conform to Clause 25(4) of HLEP 1989 which states that the floor level of any habitable room shall not exceed 3m above the existing ground level.

Amendment No 33 to HLEP 1989

In March 1994 Council resolved to prepare a draft local environmental plan to alter development standards as they relate to flooding so that the standards relate to actual levels on Australian Height Datum as opposed to flood frequencies. The main purpose of the amendment was to reduce the minimum residential floor standard from the recently announced 1 in 100 year flood level to the previous standard. The amendment became law on 20 May 1994.

However the amendment also removed reference to the previous 1 in 10 year flood standard which was the minimum level for the construction of a dwelling on an existing allotment. In place of this the amendment set the minimum land level at 3 metres below the floor height standard.

It is now unknown how the 1 in 10 year flood frequency level was calculated on Coromandel Road, however a very similar dwelling was approved on an adjoining lot with the same level as the subject land in 1991 before the change to HLEP 1989 by amendment no. 33.

The variation between the 1 in 10 year standard and 3 metres below the floor height standard was recognised both in a submission to Council and in the report to the Department of Urban Affairs and Planning by Council staff which states in part as follows:-

“The 1:10 year standard as a minimum restriction of land height has been difficult to administer, in that accurate levels of 1:10 floods are not available. Should there be any hardships caused by the suggested clause then there are other methods by which this can be addressed. There is however, only considered to be very localised areas where this may become an issue.”

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It is presumed that the author intended Council to apply State Environmental Planning Policy No. 1 to approve any houses between the 1 in 10 year flood level and 3 metres below the floor height standard.

Given that a house was approved on the adjoining lot in 1991 under the previous 1 in 10 year standard it must be assumed that the subject land would also meet that standard.

In retrospect it may have been desirable to have a savings provision for a finite period of time as the suggested use of SEPP No. 1 for properties below the new standard negates any change in the standard.

However given the statement in relation to the use of SEPP No. 1 for properties above the previous 1 in 10 year flood frequency standard, it is recommended that the application be approved.

RECOMMENDATION:

That the application be approved with conditions to be determined under delegated authority.

ATTACHMENTS:

- AT-1** Site Plan
- AT-2** Locality Plan
- AT-3** Elevations of proposed dwelling
- AT-4** Response to reasons for refusal
- AT-5** Letter from Hawkesbury SES

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Item: 72

ITEM: 72 **Proposed 32 Lot Residential Subdivision Lot 102 in a Subdivision of Lot 1 DP236602 and Lot 1 DP536078 Beaumont Avenue, North Richmond**

FILE NUMBER: SA120/97/EVD/ENK25LAX.V19

Applicant: John N Brown Lenton & Co Pty Ltd
Applicants Rep: G Lenton
Owner: Hawkesbury Sporting Club Limited
Stat. Provisions: HLEP 1980
Area: 2.854 hectares
Zone: Residential 2(a)
Advertising: Yes - two submissions
Date Received: 2 October 1997

Key Issues: Stormwater disposal
 Sewerage disposal
 Visual effect from river and bridge
 Effect on Old Railway cutting

Action: Deferred commencement approval

REPORT:

The applicant proposes to subdivide the site into thirty two (32) residential lots ranging in area from 570m² to 1153m². The larger lots are along the top of the embankment facing the river. The majority of the site has been cut and filled to provide a level sporting field and an existing factory building is located towards the front of the site. The rear of the lots along the embankment drop off steeply to the flood plain. The applicant proposes to erect a retaining wall and landscaping along this boundary to increase the useable area of the lots.

Drainage

The site has no drainage outlet at this time. The applicant has suggested three alternatives:

- (i) Along Beaumont Avenue in a northerly direction to Terrace Road and beyond. This would be an extremely long run and would redirect flow into a different catchment and into a pipe system near Terrace Road which is unlikely to be able to cope with the additional flow.
- (ii) Down Beaumont Avenue in a southerly direction and through Heritage Park to the river. This would require upgrading of drainage through the park which it is understood is contrary to the lease between Mr Hanna and Council.
- (iii) Discharge to the river through private land or lands to the east.

None of the affected owners have agreed to the creation of easements required by paragraphs (ii) or (iii) above. The applicant has no drainage outlet at this time and is hoping for help from Council in obtaining an outlet. He has requested that a deferred commencement consent be issued subject to gaining of downstream easement rights.

Sewer

The applicant states that Sydney Water has indicated that sewer facilities are available for the development either by direct access to a sewer main in the north western corner of the site or by draining across Heritage Park to the sewer pump station on Bells Line of Road.

There is no confirmation of this from Sydney Water. As the proposed lots are too small for satisfactory on-site disposal of effluent if sewer is not available the subdivision should not proceed. It is proposed that the provision of sewer be a second "deferred" commencement requirement.

Submissions

Two submissions were received:

- (i) One was from an estate agent purporting to act for an adjoining owner. They noted that no provision for drainage had been finalised and that their clients property may be affected. They requested that the subdivision not be approved until a satisfactory drainage easement had been negotiated.

Comment: No easement has been obtained. It is proposed to issue only a deferred commencement consent conditional upon the obtaining of downstream easement rights. Therefore the consent cannot be acted upon unless and until a drainage easement is obtained.

- (ii) The second submission was from the owner of a nearby property concerned about:
 - (a) safety of children from the estate wandering into her property (stock including a bull);
 - (b) suitability of housing so close to a cliff;
 - (c) effluent run-off onto her property;
 - (d) traffic congestion in Terrace Road at the lights; and
 - (e) security problems of new residents due to adjoining park.

Comments:

- (a) This is a matter for parental control. Further given the number of children already using the adjoining sporting fields it is unlikely that any significant change will occur.

- (b) The "cliff" is an approximately 6 metre high slope although the applicant does propose to erect a retaining wall. A suitable fence will need to be erected by the new owners to protect the occupants. The slope poses no particular danger to the structures.
- (c) The area is proposed to be drained and sewerred. No effluent run-off is likely to occur.
- (d) An additional thirty two (32) lots is not expected to have any appreciable affect on traffic congestion in the area.
- (e) Although this is a relatively isolated residential enclave surrounded by parks, club and industrial lands, given that at least thirty two (32) dwellings will exist in close proximity to each other, security is not considered to be a problem.

Statutory Situation

The site is zoned residential 2(a) under HLEP 1989 which requires 450m² for each lot. As the lots are all well in excess of this and all of adequate shape the lot layout is satisfactory. The subdivision proposed is permissible with consent.

Site Filling and Contamination

The site has been cut and filled in the past to provide a level playing field. No record of the quality or composition of the fill is available. The fill may require removal and recompaction. Further rubbish may be buried under the fill which would require removal. The site may also be contaminated due to burying of rubbish on the site or by the previous industrial uses of the site. Suitable conditions are proposed to cover these concerns.

A further matter for consideration is the visual and hydraulic effect of the applicant's proposal to erect a retaining wall along the embankment and to fill the rear of the lots. The applicant does propose to screen the wall with landscaping. Any retaining wall will be visible from the river, park and properties across the river. To a lesser extent it will be visible from the North Richmond Bridge. As the applicant has provided no real details of his proposal it is recommended that submission and approval of details be a deferred commencement condition.

Medium Density Development

The lots in the subdivision are generally quite large. In particular those along the river are generally 1000m² and nearly 24 metres wide. These are extremely suitable for dual occupancy or perhaps medium density development. It is considered likely that some medium density (or dual occupancy) development will be proposed similar to that which has occurred in a similar situation in Flinders Place a little upstream from this site.

That development resulted in considerable resident objection, particularly from owners of detached housing.

To avoid this two alternatives exist. A restriction could be placed on the site defining which lots could be used for medium density development. However, this could be challenged by an owner of another lot in the subdivision on the basis that its land was also suitable and seeking to change the restriction.

A second alternative is to allow the market to determine which lots are developed for dual occupancy or the like. However, to reduce the amount of objection a restriction of use of land should be imposed prohibiting objection to such development. Such a restriction would at least draw intending purchasers attention to the possibility of dual occupancies and at least reduce the incidence of objection.

Protection of Rail Cutting

Beaumont Avenue is located within the cutting occupied by the old railway line. While no historical listing can be found for the cutting it is certainly desirable that it be retained as far as practical. Some damage will necessarily occur to the embankment in front of proposed Lot 2 to allow suitable road construction to provide access to the new road in the subdivision. It is considered that the section of Beaumont Avenue across the frontage of the subdivision should be fully reconstructed including kerb and guttering on both sides as far as the new road. No work should be required beyond the new road. A condition is proposed requiring that alterations to the cutting be restricted to the minimum necessary to provide vehicular and pedestrian access to the new road.

Amenity

The site adjoins the Hawkesbury Sporting Club. It is likely that noise from the Club and the parking area behind will lead to complaint from future residents. It is proposed to require the developer to erect an acoustic fence along the north western boundary of the site and again to impose a Section 88B restriction prohibiting objection to the activities of the Club.

Summary

The subdivision is permissible with consent and the lots have adequate size and shape. Any consent issued should be a deferred commencement consent conditional upon obtaining of downstream drainage easements, evidence from Sydney Water that sewer will be available to each lot and details of the retaining wall. All other concerns can be covered by suitable conditions. Subject to the above the subdivision is considered satisfactory.

RECOMMENDATION:

- A. That a deferred commencement consent be issued subject to the applicant satisfying Council within 12 (twelve) months that:
 - 1. A suitable drainage outlet to the river is available by the creation of all necessary easements.

2. Reticulated sewer will be available to each lot by submission of written advice from Sydney Water.
3. Submission and approval of details of retaining wall, filling and landscaping along the south eastern boundary of Lots 22-32 inclusive. The design of the retaining wall and landscaping is to include an appropriate visual presentation from surrounding vantage points.
- B. Upon compliance with A above, subdivision consent be issued subject to the following:
 1. The submission of a Compliance Certificate under Section 73 of the Water Board (Corporatisation) Act 1994 prior to the release of the linen plan.
 2. 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.
 3. Submission of a Certificate from Telstra that satisfactory arrangements have been made for the provision of cables for telephones through the subdivision.
 4. Payment of a cash contribution of \$103,789 (one hundred and three thousand, seven hundred and eighty nine) 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.
 5. Payment of cash contribution to works of \$2,720 (two thousand seven hundred and twenty) for tree planting in Council's footway. 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.
 7. The construction of concrete kerb and gutter, both sides of the road, including layback vehicular crossings, the footway area being formed in earth and all necessary drainage, together with the full construction of the adjacent full width road pavement over the frontage of proposed Lots 1, 2 and 3 and the new road together with any such works as are necessary to make this construction effective. Works are to be designed to minimise disturbance to the existing cutting.
 8. The construction of Council's standard layback vehicular crossing to Lots 1 and 2 in accordance with Council's standard plan. The remainder of the lots may have roll kerb.
 9. Construction of a centrally located concrete driveway a minimum of 2.5 metres wide and 150mm thick reinforced with F82 mesh over the full length of the access handle to Lot 22 together with the construction of Council's standard residential footway and layback crossing also 150mm thick reinforced with F82 mesh.
 10. The provision of interallotment drainage covering all lots not draining directly to a public road and the creation of necessary easements free of cost to Council.

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11. 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.
12. Street name signs to be provided at the junction of the new road/s.
13. The new road/s to be named (to be advised).
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 of Environment and Development.
15. All fill including existing fill must be compacted to 98% standard compaction and verified by the submission of test results for each lot accompanied by a contoured depth of fill plan. Topsoil is to be stockpiled and respread over the finished surface.
16. A design checking and inspection fee calculated at \$50 per hour or \$10 per meter, whichever is the lesser, must be paid prior to release of the linen plan. This rate is valid until 30 June, 1998.
17. The submission of a soil contamination report certifying that the land is suitable for residential use prior to release of the linen plan.
18. The creation of a restriction of use of land pursuant to Section 88B of the Conveyancing Act that no objection shall be raised by the registered proprietor (or any person claiming through the registered proprietor) to the carrying out of medium density housing (duplexes, town houses, villas etc.) which complies with Council's Development Control Plan.
19. The erection of an acoustic fence along the full length of the north western boundary of the site to retain noise levels within the site to that suitable for residential use. The design is to be prepared by a suitably qualified noise consultant and submitted and approved prior to construction.
20. The existing buildings on the site to be removed and disposed of in accordance with work cover requirements.
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 (one thousand, three hundred and eighty). This amount is valid until 30 June 1998.
23. The subdivision shall be in general accordance with the submitted plan dated 1 October, 1997, Reference 25217DA.

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24. Details of any fill material to be removed from or imported to the site to be submitted with the engineering plans. Details to include quantities, borrow sites or disposal sites. A contribution based on 3¢ per tonne per kilometre shall be paid to Council prior to release of the engineering plans.
25. The creation of a restriction on the use of the land pursuant to Section 88B of the Conveyancing Act that no objection shall be raised by the registered proprietor (or any person claiming through the registered proprietor) to the activities of the North Richmond Sporting Club or its successors in title.

ATTACHMENTS:

AT-1 Plan of subdivision

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Item: 73

ITEM: 73 **Havelock Street subdivision - Increase in height of landfill for dwelling construction from 15.0 metres to 16.0 metres.**

FILE NUMBER: DA0117/97Pt01;DA0283/97Pt01/EVD/ENK25LAX.V22

Applicant: McKinlay Morgan and Associates Pty Ltd
Applicants Rep: None advised
Owner: RET Enterprises Pty Ltd
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: Approximately 4,000 square metres
Zone: Rural 1(c)
Advertising: Adjoining owners notified of report to meeting
Date Received: 27 October 1997

Key Issues: Amenity
 Floodproofing

Action: Conditional approval.

REPORT:

At Council's meeting on 11 November, 1997 it was resolved that this application be deferred, apparently at the request of the applicant. It has been requested that it be considered at this General Purpose Committee meeting. The report to the meeting on 4 November, 1997 is therefore reprinted in full.

Council at its meeting of 8 July 1997 approved a development application to increase the level of eight lots, seven of which have frontage to Havelock Street between Garfield Street and Old Hawkesbury Road to 15 metres. This involved the importation of approximately 4,000 cubic metres of clean fill to increase the level of the lots by a maximum of 1.3 metres. McKinlay Morgan and Associates state that the level of the lots is now 15 metres.

McKinlay Morgan and Associates have now lodged a development application to further heighten the surface level to 16.0 metres to allow slab on ground construction at the floor height standard.

Planning Assessment

It is understood that the initial reason for filling the lots to 15 metres was to provide future owners of the lots the flexibility of either constructing at the floor height standard or, alternatively, erecting a two storey house to achieve a habitable floor level at the 1:100 year flood frequency level of 17.3 metres.

Certainly, this approach provided a more aesthetically pleasing outcome given that filling on the site, particularly at the corner of Havelock Street and Old Hawkesbury Road, now exceeds two metres.

However, it is understood that the owner has received expressions of interest for purchase which require the filling of the land to 16.0 metres to allow slab on ground construction. The proposed additional metre of fill will now result in the lot on the corner of Havelock Street and Old Hawkesbury Road being in excess of three metres above the kerb. The height of fill tapers off up Havelock Street.

In assessing the development application for a further one metre of filling, consideration needs to be given to the “trade off” between the reasonable expectations of property owners to achieve a building site at the floor height standard and the appearance of the resultant development. If the request to increase the land level by a metre is refused, it is possible that applicants for dwellings may seek filling on an individual basis which Council would find difficult to refuse and which would be less desirable than the filling being completed for all of the lots as a single stage.

In summary, it is considered that whilst the current 15 metre level of the land will result in more aesthetically pleasing development, all of the lots have a building entitlement and a requirement to achieve the floor height standard of 16.0 metres.

By way of comment, if property owners elect to provide the habitable floor height at the 1:100 year flood frequency level of 17.3 metres, there is little value in increasing the level of the land as an elevated floor will still be required. However, if property owners elect to develop at the floor height standard as suggested, it is reasonable that a further one metre of fill be permitted.

RECOMMENDATION:

That the application to permit an additional one metre of filling on the building platforms be approved subject to the following conditions:

1. The development shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood in respect of noise, vibration, smell, dust, waste water, waste products or otherwise.
2. Only clean inert waste is to be used to carry out the landfill.
3. Details of the amount and origin of fill imported to the site being submitted to Council. Payment to Council at a rate of 3 (three) cents per tonne per kilometre of fill transported to the site will be required under Section 94 of the Environmental Planning and Assessment Act 1979 towards the maintenance of roads.
4. All filling shall be completed within 5 (five) weeks of commencement.

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5. All fill including existing fill must be compacted to 98% (ninety eight) standard compaction and verified by the submission of test results for each lot accompanied by a contoured depth of fill plan. Topsoil is to be stockpiled and respread over the finished surface. The contoured depth of the fill plan is to include the existing fill.
6. 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.
7. All loaded trucks arriving at the site shall have their payloads suitably covered to prevent spillage from the truck onto the road.
8. The topsoil shall be stripped and stockpiled and used to cover the landfill.
9. The filled area, including batters, shall be grassed to the satisfaction of the Director Environment and Development immediately after filling takes place.
10. All works shall be completed within 3 (three) months of commencement.
11. The landfill site shall be secured to prevent the depositing of any unauthorised material.
12. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
13. The submission of a works as executed plan showing the final levels on the site.
14. The hours of operation for the carrying out of the landfill being restricted to between the hours of 7.00am and 6.00pm on Mondays to Fridays and between 8.00 and 4.00pm on Saturdays

ATTACHMENTS:

AT-1 Plan.

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Item: 74

ITEM: 74 **Rezoning Request - Lot 11, DP576544 No. 120 Francis Street, Richmond**

FILE NUMBER: P0613/1130/EVD/ENK25LAX.V24

Applicant: Falson and Associates Pty Ltd
Applicants Rep: As above
Owner: Bodabet Pty Ltd
Stat. Provisions: Lot 11, DP576544, No. 120 Francis Street, Richmond
Area: 504m²
Zone: Business Special 3(b)
Advertising: Nil
Date Received: 6 August 1997

Key Issues: Relationship to potential development on adjoining properties
 Lack of details as to proposed development for site

Action: Request applicant to submit detailed development plans for consideration in conjunction with rezoning

REPORT:

The applicant has requested a rezoning of the subject property from Business Special 3(b) to Business General 3(a).

The subject property has an area of 504m² with a width of 10.06m and a depth of 50.019m. The property was rezoned from Residential 2(c) to Business Special 3(b) under Amendment No. 10 gazetted 16 July, 1993.

The applicant's request for rezoning is based on the following grounds:

1. The subject property and possibly the adjoining allotment is now an isolated anomaly in zoning terms given the recent change to 3(a) of Council's car park, and the similar zoning to adjoining land to be acquired by Council.
2. A change to 3(a) zone would have little effect in the overall scheme of commercial/retail development in Richmond.
3. A 3(a) zone would provide for a use that would be appropriate in the location and proximity to the existing and future car parking areas.
4. A 3(a) use would no doubt attract a better building style and would be more in keeping with nearby historical buildings.

The matters raised by the applicant are addressed under the following sections:

Zoning

The zoning of the subject property and adjoining properties is shown on Attachment A1 - Zoning Plan. It can be seen that the properties along the southern side of Francis Street are all zoned Business Special 3(b).

Council will recall that Development Consent has been issued earlier this year for extensions to Coles supermarket which involved the construction of a car park and access over No. 122-128 Francis Street, in exchange for developing over Council's car park. However, there was no change to the Business Special 3(b) zoning of these Francis Street properties as a car park is permissible within the zone.

As part of this development the heritage building on No. 128 Francis Street was kept, providing a group of three heritage buildings in Francis Street.

The objectives of the Business Special 3(b) zone incorporate in part to:

- C promote office development;
- C permit non-commercial development;
- C ensure adequate provision for car parking;
- C minimise pedestrian and vehicle conflicts; and
- C preserve the historic character.

The Business Special zone is generally around the edge of the commercial areas and forms as a buffer of lower scale development adjoining residential zoned land.

Whereas, the Business General zone the applicant has requested has the main objective to promote the development and expansion of business activities to meet the optimum employment and social needs.

There is currently a large number of vacant shops in Richmond. There must be some doubt that additional retail land is justified in terms of the existing retail area that is available for development, although it is recognised that it may not suit some traders.

Alternative

The subject property is narrow and only has a frontage of 10.06m, which is insufficient on its own for car parking and vehicle access.

For any development proposal it would be better to integrate a design with the two properties to the east being No's 116 and 118 Francis Street. Together all three properties have an area of 2,540m² which is a better area and size for redevelopment opportunities.

Should all three properties be developed in an integrated way there is opportunity to encourage appropriate development that may attract customers to this side of Richmond.

Constraints

In addition to the difficulties with redeveloping the subject property on its own due to its narrow width other constraints are considered appropriate should this property and/or adjoining properties be developed.

1. Access for vehicles denied to Francis Street

It is considered that all car park access should be provided from Council's car park. The benefit would be to avoid conflicts with the existing and approved access points to the car parking areas.

To successfully have access over Council's car park negotiations would be required to determine any effect on Council's car park.

2. Height of buildings restricted to single storey

It is recommended that buildings be restricted to single storey to be compatible with adjacent residential development.

3. Building design to provide architectural treatment to Francis Street frontage

Any development should have regard to present an architectural treatment to the Francis Street elevation to make the development in character with surrounding residential land.

4. Car parking to Council's Off Street Parking DCP No. 2**Conclusion**

It is considered that the applicant should be advised that Council would not consider a rezoning for the subject property without definite development plans.

RECOMMENDATION:

That:

1. The applicant be advised that Council would not consider a rezoning of No. 120 Francis Street without definite development plans.
2. Council would encourage a development that involved properties No's 116, 118 and 120 Francis Street that was attractive and economically viable to compliment the existing retail shops at Richmond.
3. Any development of the properties No. 116-120 Francis Street should have regard to the following constraints:

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- (i) access for vehicles denied to Francis Street;
- (ii) height of buildings restricted to single storey;
- (iii) building design to provide architectural treatment to Francis Street frontage; and
- (iv) car parking to Council's Off-Street Parking Development Control Plan No. 2.

ATTACHMENTS:

AT-1 Zoning Plan showing subject property and relationship to Coles additions.

oooO END OF ITEM 74 Oooo

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ITEM: 75 **Redevelopment of existing service station and adjoining dwelling to provide for service station, display area, workshop and associated facilities - Lots X and Y DP415117 Corner Argyle and George Streets, South Windsor**

FILE NUMBER: DA219/97/EVD/ENK25LBX.V20

REPORT:

The subject development application is reported separately at Item 59 of the Environment Section of the General Purpose Committee business paper. Since compiling that report, an amended plan submitted by the applicant was considered by the Local Traffic Committee on 21 November, 1997. The Committee was satisfied that the amended plan resolves the issue of queue capacity at the bowsters and that the existing two driveways to George Street will function safely.

In relation to tanker parking for fuel delivery the Committee recommended that the Argyle Street driveway be relocated approximately 9 metres to the east of the proposed location to accommodate fuel delivery tankers. The driveway is to be 9 metres in width.

RECOMMENDATION:

That the development application be approved with conditions of consent as listed in the Recommendation to Item 59 subject to the following alterations:

1. Proposed Condition 6 be deleted..
2. Proposed Condition 5 be deleted and replaced with the following:
 - "5. The Argyle Street driveway is to be relocated approximately 9 metres to the east of the proposed location to accommodate fuel delivery vehicles. The driveway is to be 9 metres in width and parking spaces and landscaping affected by this change are to be relocated on the site. An amended site plan is to be submitted with the building application for Stage 1 of the development."

ATTACHMENTS:

There are no supporting documents for this report.

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ITEM: 76 **Request to delete a road construction requirement for a four (4) lot subdivision in Shepherds Road, Glossodia - Portion 58 Parish of Currency, Shepherds Road, Freemans Reach (part of Glenroy Stud)**

FILE NUMBER: SA49/97/EVD/ENK25LBX.V23

REPORT:

On 17 July, 1997 development consent was issued for a four (4) lot subdivision of Portion 58 Parish of Currency, part of the Glenroy Stud Estate.

The condition was subject to a number of conditions including the construction of half width sealed pavement over the frontage of the site and extending approximately 150 metres to the existing seal in Shepherds Road on the Kurmond Road side.

Within the road reservation for Shepherds Road, there is an existing "track" which provides access to the proposed subdivision. There is sufficient width within the reservation to provide for half width road construction without removal of substantial numbers of trees.

The applicant has requested that the matter be reviewed on two occasions and it has not been agreed that the conditions should be deleted.

The most recent request is as follows:

"..It is now proposed to have the extension of Shepherds Road only a short distance north of the southern boundary of Lot 4 with reciprocal rights of way over the frontage of Lots 2, 3 and 4 as shown on the attached revised plan. This way there would be no disturbance to the remnant Cumberland Plain vegetation at all. We believe that Condition No. 5 as worded currently would still require some disturbance to the vegetation when access is gained to each lot from the half road construction.

We believe that the proposal now put to you is reasonable in all of the circumstances as the standard of road construction is maintained (albeit for a lesser distance), no vegetation is disturbed and no other property is disadvantaged. Should Council require at a later stage to construct a link between Shepherds Road and Creek Ridge Road then half road construction can still be carried out. It is submitted however that this requirement is unlikely and that there are no current requirements to have this link."

Since 1988, Council has required subdivisions with frontage to unconstructed roads to undertake road construction to a sealed standard, either full width or half width seal. In this instance, it is only likely that half width seal will ever be required given the relatively small number of lots served and also the presence of remnant Cumberland Plain vegetation across approximately half of the reservation.

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Whilst the request for an amendment of consent suggests the provision of a right of way across the front of the lots to provide access close to Shepherds Road there is no proposal to construct the right of way to a particular standard. There seems little point in providing a right of way and constructing it to a reasonable standard on an alignment adjacent to and parallel to the unconstructed Shepherds Road.

There is sufficient room within the reservation to construct a half width sealed road and contrary to the proposition and the request for amendment, it is not considered that the provision of access from the half width road to the individual lots will require any significant disturbance of vegetation.

RECOMMENDATION:

That Council not delete Condition 5 to the consent for a four (4) lot subdivision of Portion 58 Parish of Currency, Shepherds Road, Freemans Reach (SA49/97).

ATTACHMENTS:

AT-1 Letter and Plan from Falson and Associates dated 9 September, 1997

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