



general
purpose
committee

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section

environment

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ITEM: 117 **Hawkesbury Nepean Floodplain Management Strategy**

FILE NUMBER: GR060/018 Pt02/GMA/END28NAX.G01

REPORT:

The Government has released the Hawkesbury Nepean Floodplain Management Strategy and will have it on public exhibition from April 3rd until June 10th 1998. The Chairman of the Committee Mr Graham Andrews will be present to address the Committee on the report's contents and to answer questions.

Strategy components of the report address existing development; future development; emergency services and implementation.

In terms of future development at the local level, there is a need to prepare a methodology for incorporating variable flood risk into local floodplain management plans and planning controls through such things as local environmental plans, development control plans and local approvals policies.

For emergency services there is a need to improve flood emergency planning, including flood forecasting, warning systems and then to have in place post-flood recovery plans.

There is a need for Council to carefully consider the plan and make a submission to the Government, also seeking the assistance of WSROC to seek implementation of the Committee's proposed ongoing work over the next two years and funding for the infrastructure program, including roadworks.

RECOMMENDATION:

That Council make a submission to the exhibition following discussion with Chairman, Mr Graham Andrews.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 117 Oooo

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ITEM: 118 **Hawkesbury-Nepean Catchment Management Trust - Meeting with Representatives**

FILE NUMBER: GR060/075 PT01/GMA/END28NAX.G02

REPORT:

The Trust advises that revision of its Corporate Plan and Business Plan will be completed in late March and is seeking a meeting with Council to discuss these plans and the Trust and Council relationship. The Trust views its relationship with Local Government as critical to the successful restoration of the Hawkesbury Nepean River System. The coming years bring many challenges to Local Government, the Trust and the river environment as land use pressures increase and resource constraints on government tighten.

John Klem, Chairman; Peter Davey, Chief Executive Officer and Frank Gasparee, Local Government and Catchment Management Co-ordinator have been invited to attend this meeting and to address the Committee.

RECOMMENDATION:

The information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 118 Oooo

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Item: **119**

ITEM: 119 **Proposed two lot subdivision creating lots of 8.1 hectares and 13.11 hectares and clearing for a proposed vineyard - Lots 2 and 3 DP246709 No's 408 and 430 Bull Ridge Road, East Kurrajong**

FILE NUMBER: SA66/97/EVD/END28NAX.V10

Applicant: McKinlay Morgan and Associates Pty Ltd
Applicants Rep: McKinlay Morgan and Associates Pty Ltd
Owner: KR & ME Thorn (Lot 3) and
 FP & KJ Mullen (Lot 2)
Stat. Provisions: HLEP 1989
Area: Lot 3 - 10.870 hectares
 Lot 2 - 10.340 hectares
Zone: Rural 1(b)
Advertising: Not exhibited due to minor nature of boundary change
Date Received: SA - 5 June, 1997
 SEPP 1 objection - 2 September, 1997
 Agricultural assessment - 14 October, 1997
 Flora and Fauna study - 17 February, 1998
 Area to be cleared - 8 April, 1998

Key Issues: Flora and fauna
 Clearing and burning
 Agriculture potential
 Minimum Area Clause 11(2)(b) SEPP No. 1 objection
 Access
 Objectives of the Rural 1(b) zone

Action: Support for SEPP No. 1 objection

REPORT:

A subdivision application has been received to undertake a two lot rural subdivision of the above 2 x 10 ha lots that will add 2.24 ha from Lot 2 to Lot 3. The resultant lots will be 8.1 ha and 13.11 ha in area. The purpose of the subdivision is to provide additional land at the rear of Lot 3 to allow expansion of the existing vineyard on that lot (refer to attached plan).

The applicant has submitted an objection under SEPP No. 1 which states as follows:

The development standard to be varied is to permit one allotment of 8.1 hectares and one allotment of 13.11 hectares.

The re-subdivision will allow the owner of existing Lot 3 to establish a 3 hectare vineyard on suitable land above the creek.

The topography of the area consists mainly of sandstone rock outcrops apart from the area above the creek.

The proposed re-subdivision is intended to minimise changes to the existing boundary layout.

The proposed boundary adjustment is consistent with the specific objectives of the Rural 1(b) zoning, providing for agricultural uses and maintaining the rural character of the land as well as minimising landscape disturbance that may be required to create a suitable area for a vineyard.

The proposal does not create any new allotments but will vary the existing allotment sizes.

Statutory Situation

The lots are zoned as Rural 1(b) under Hawkesbury Local Environmental Plan 1989 and the minimum area for subdivision under Clause 11(2)(b) is 10 ha per lot.

The proposal cannot be considered under Clause 13 relating to boundary adjustments as both existing lots conform to the minimum area provisions (10 ha) but, as a result of the subdivision, Lot 101 will be less than the minimum area.

The proposed Lot 101 is more than 10% under the minimum area therefore, if Council supports the SEPP No. 1 Objection, the concurrence of the Department of Urban Affairs and Planning (DUAP) is required.

The provisions of the Threatened Species Conservation Act need to be considered as the subdivision is for the purpose of a vineyard and clearing will be undertaken.

Environmental Assessment

Council is required, when assessing a development/subdivision application to consider the heads of consideration under Section 90(1) of the Environmental Planning and Assessment Act 1979 and Section 333 of the Local Government Act. A full assessment has been carried out and the following are the most relevant items for consideration.

Flora and Fauna

A site inspection on 11 November, 1997, revealed that the proposed vineyard site contained extensive vegetation and species of fauna, particularly bird life. The applicant was therefore requested to provide a flora and fauna study and address the eight point test under Section 5A of the Act.

A flora and fauna assessment was prepared by AES Environmental Consultancy, which concludes:

In consideration of the above factors it is concluded that the proposed boundary re-alignment and subsequent vineyard development will not have a significant effect on threatened species or their habitats. Therefore, a Species Impact Statement need not accompany the development application.

The applicant also provided a plan showing the following:

- exclusion of tree clearing from land within 20m of the creek/water course;
- restrict clearing generally to regrowth areas;
- ensure no major trees including grey gums and melaleucas are to be removed; and

The flora and fauna assessment addressed the 8-point test and concludes that the subdivision and subsequent vineyard development will not have a significant effect on any threatened species or their habitats. The conclusion that a Species Impact Statement is not needed is supported.

Clearing and Burning

Restrictions on clearing is covered in the previous section and, as stated in the application, no native trees will be felled.

In regard to burning, this is allowable for agricultural use but is restricted to stubble and residue from a previous crop. It is considered that this on-site material does not generally meet this requirement and burning should not occur.

Agriculture Potential

An agriculture assessment was prepared by Tizzana Management Services Pty Ltd, to support the use of the rear land for a vineyard. The assessment contains details of land, soil type and quality, weather pattern, horticulture in the Hawkesbury, Requirements for Viticulture. The assessment concludes that the land is suitable for a vineyard having regard to microclimate, soil type and location.

Access

The proposed access to the vineyard area is proposed over the present walking track and any works should be kept to a minimum to retain the vegetation and rock outcrops and works restricted to that necessary for access only.

Minimum Area Clause 11(2)(b) SEPP No. 1 Objection

The minimum area for subdivision under Clause 11(2)(b) is 10 ha per lot under Hawkesbury Local Environmental Plan 1989. The existing lots conform to the minimum area provisions, however, the subdivision will result in a lot with an area of 8.1 ha, 19% below the minimum required.

Council supported a similar agriculturally based subdivision last year (Item 61, GP 25.11.97 and Ordinary 9.12.97) in Grose Vale Road, Grose Vale (SA135/97) and concurrence was given by DUAP.

There is no future subdivision possible for the larger lot (13.11. ha) under the present planning requirements. It is considered that the applicant has demonstrated that the standard is unreasonable in the circumstances. The SEPP 1 Objection is therefore supported.

Objectives of the Rural 1(b) Zone

The objectives of the 1(b) 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 proposed subdivision and the resultant vineyard development do not conflict with the above objectives.

Conclusion

The existing lots comply with minimum lot provisions of 10 ha per lot. The subdivision proposes a rear area be added to one of the lots to expand the existing vineyard. The application is supported by an agricultural assessment and flora and fauna study which conclude the area is suitable for the establishment of a vineyard and the proposal will not have a significant effect on any threatened species or their habitats.

In view of special circumstances of this proposal, the subdivision and resultant vineyard is supported.

RECOMMENDATION:

That:

- A. Council support the SEPP No. 1 Objection to vary the minimum area under Clause 11(2)(b) of Hawkesbury Local Environmental Plan 1989 from 10 hectares to 8.1 hectares;

- B. The application be referred to the Department of Urban Affairs & Planning for concurrence under State Environmental Planning Policy No. 1 - Development Standards; and
- C. Upon concurrence being received from the Department of Urban Affairs and Planning development consent be issued, under delegated authority, subject to any conditions imposed by the Department of Urban Affairs and Planning and subject to the following conditions:
1. No clearing to be undertaken within 20 metres of the creek or above the 10 metre contour and all established native trees within the reduced area to be cleared to be retained.
 2. Works for the access from Bull Ridge Road (formally East Kurrajong Road) to the vineyard site are restricted to the minimum clearing and construction for reasonable access. Existing vegetation, trees and rock outcrops to be retained wherever possible to protect the environment of the site and area generally.
 3. For the clearing and construction of the access, 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.
 4. No burning of vegetation or trees to occur on the site and material cleared for the vineyard to be mulched, chipped or removed from the site.
 5. The submission of a Compliance Certificate under Section 73 of the Water Board (Corporatisation) Act 1994 prior to the release of the linen plan.
 6. 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.
 7. Submission of a Certificate from Telstra that satisfactory arrangements have been made for the provision of cables for telephones through the subdivision.
 8. The submission of the plan of subdivision, together with 4 (four) exact copies thereof, suitable for lodgement with the Registrar General.
 9. Payment of a linen release fee of \$180.00 (one hundred and eighty dollars). This amount is valid until 30 June 1998.
 10. The subdivision shall be in general accordance with the submitted plan dated 2 June, 1997 submitted with letter dated 7 April, 1998 except where modified by Conditions of this Consent.

ATTACHMENTS:**AT-1** Subdivision plan

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ITEM: 120 **Lot 4 DP857570, No. 133a Old Bells Line of Road, Kurrajong - Proposed Home Activity (Beauty Therapy)**

FILE NUMBER: DA42/98/EVD/END28NAX.V07

Applicant: Mrs A Boeree
Applicants Rep: Not applicable
Owner: Mr M & Mrs A Boeree
Stat. Provisions: Hawkesbury Local Environmental Plan 1989 - Home Activity permissible with consent
Area: 2741m²
Zone: Residential 2(a1)
Advertising: 14 days to adjoining and affected owners, 4 submissions received
Date Received: 25 February, 1998

Key Issues: amenity of locality
 use of private road
 traffic generation
 aerated effluent disposal system
 scale of home activity

Action: Temporary approval for six (6) months

REPORT:

The applicant seeks consent for a home activity for beauty therapy treatments which will be carried out in a room in the existing dwelling house. Two to three clients per week by appointment are expected and parking for a vehicle is available at the rear of the house, with direct entry for the clients into the proposed room for the activity.

Statutory Situation

The site is zoned Residential (a1) under the provisions of Hawkesbury Local Environmental Plan 1989 and Home Activities are permissible with Council consent.

Community Response

Applications of this nature are generally low key and have little impact on surrounding development. However, the nature of this particular subdivision and the possible cumulative impact associated with a similar current DA applying to the adjacent property, has created concern in the neighbourhood. Three objections from neighbouring properties and one objection from Sydney Water were received. Concerns raised are as follows:

- C Use of private access road by clients, including safety of children walking to school and issues of wear and tear of surface.

- C Residential areas used for businesses when two shops vacant in village.
- C Constant use of unsealed driveway, lack of turning at the junction to the four dwellings
- C Environmental issues such as additional noise from cars trucks, disposal of solvents
- C Cumulative concerns with home activity proposed adjoining (DA 32/98)
- C Quiet residential area
- C Building requirements should be completed prior to any business approval
- C Parking to meet Council requirements
- C No hours of operation listed.
- C Sydney Water has objected to the application as the owners have not satisfied Sydney Water's conditions in regard to restricted water supply connections.

On 1 April, 1998, an onsite meeting was to be held between the applicants, objectors and Council staff to discuss the proposal and consider the objections raised. The applicants were in attendance, together with the applicants of the development application applying to the adjacent property. The objectors were invited but did not attend.

Environmental Assessment

An assessment of the proposal using the relevant heads of consideration under Section 90(1) of the Environmental Planning and Assessment Act 1979 has been carried out. The following is a review of the relevant matters which also considers the submissions received.

The Site / Private Access Road

The property is one of four lots of a subdivision, all of which have shared private access to Old Bells Line of Road. The accessway is approximately 7m wide and has an approximate sealed width of 4 m.

The locality plan annexed to this report indicates the shared ownership of the accessway and it should be noted that the owners of the subject property, Lot 4, and the adjoining Lot 3 own the access to the street, ensuring maintenance of the laneway. The owners of Lot 32 DP 862160 also own that part of the accessway leading to the street from their property frontage. The owners of Lot 2, DP 857570 have a right of way over the accessway.

The owners of Lot 11, DP 831533, which has frontage to Old Bells Line of Road, also have informal access to the driveway at its head. The owners of the accessway have agreed to this arrangement.

Traffic Generation

The applicant is proposing 2-3 cars per week, with parking for one vehicle being available at the rear of the house, giving clients direct access to the subject room.

There is potential for safety and traffic hazards to the adjoining owners due to the nature of the shared private road. However, it is suggested that given the extra width in the driveway that is not sealed, a passing bay could be constructed opposite the entry to Lot 32 to:

- (a) improve ingress/egress for the residents of Lot 32; and
- (b) allow two cars to pass safely.

Amenity of Locality

Noise from the clients' vehicles is of concern to the adjoining owners. It is considered that amenity of the neighbourhood will not be adversely affected due to the low key nature of the proposal. Clients will be by appointment only, generally in the late afternoon but no later than 8 pm and only 2-3 times per week.

Disposal of Wastes

The property is serviced by an aerated on-site effluent disposal system and no waste products will be generated such that disposal would be required through that system.

Water connections

The submission from Sydney Water is noted, however, the connection of restricted water meters is a matter to be resolved between the owners and Sydney Water. The amount of water to be used in the home activity is minimal.

Adjoining Property Current DA

Council should be aware of the application for a Home Activity (Hair Dressing Salon) on the adjoining Lot 3, also reported to this meeting of the General Purpose Committee.

Conclusion

The proposed home activity is low key in nature, particularly as the business is new and currently has no client base. The applicant shares ownership of the accessway ensuring its maintenance. Suitable conditions, including a six (6) month consent period, can be imposed to restrict any substantial growth that may create adverse affect to the amenity of the locality. These conditions can also alleviate the concerns of the adjoining neighbours as raised in the submissions.

The development can be reviewed after the six (6) month period, prior to any extension of the consent.

RECOMMENDATION:

That consent be granted for a Home Activity - Beauty Therapy at Lot 4, DP 857570, No 133a Old Bells Line of Road, Kurrajong, subject to the following conditions:

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1. This consent is limited to a period of six months from the date of commencement. It is the applicant's responsibility to advise Council in writing of the date upon which the use commenced. The application will be reviewed at the expiration of the six (6) month period.
2. The development is to be carried out in accordance with the approved stamped plans, submitted with Development Application No 42/98 dated 25 February, 1998.
3. The development is to be carried out in accordance with the provisions outlined in the NSW Health Department's Draft Skin Penetration Guidelines, to the satisfaction of the Director of Environment and Development.
4. Operating hours shall be limited to three hours per day, finishing before 8.00 pm. Clients are to attend by appointment only.
5. The construction of a passing bay in the accessway, opposite the entry to Lot 32, to the satisfaction of the Director of Environment and Development.
6. The driveway and one parking space at the rear of the dwelling house shall be constructed in an all weather surface to the satisfaction of the Director of Environment and Development.
7. No chemicals or other toxic matter is to be disposed to the effluent disposal system.
8. A hand wash basin supplying hot and cold water through a single outlet is to be provided in a convenient location approved by the Director of Environment and Development.
9. The floors, walls and ceilings shall have a smooth impervious surface capable of being easily cleaned.
10. Compliance with the following requirements of a "Home Activity" as defined in HLEP, 1989:

The activity or pursuit does not:

- (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise;
- (ii) involve exposure to view from any public place of any unsightly matter;
- (iii) require the provision of any essential service main of a greater capacity than that generally available in the locality;
- (iv) involve the employment of persons other than residents of the dwelling house or dwelling;

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- (v) involve the exhibition of any notice, advertisement or sign (other than a notice or sign not exceeding 1 (one) metre by 0.6 (zero point six) metres exhibited on that dwelling house or dwelling to indicate the name and occupation of the resident thereof.

ATTACHMENTS:

AT-1 Locality Plan

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ITEM: 121 **Six Month Review of Heritage House and Carriage Tours - Windsor Town Centre**

FILE NUMBER: DA214/97/EVD/END28NAX.V06

PREVIOUS ITEM: 61, Ordinary (14.10.1997)

Applicant: Colo Colonial Carriages
Applicants Rep: J & D Swaisland
Owner: Colo Colonial Carriages
Stat. Provisions: HLEP 1989
Zone: Public Road in Town Centre
Advertising: Not required
Date Received: DA received 3 September 1997

Action: Review matter in six (6) months

REPORT:

Background

At the Ordinary Meeting on 14 October, 1997 Council approved an application to conduct heritage tours of Windsor Town Centre by horse and carriage.

Approval was issued subject to the following conditions:

1. *The activity being carried out in accordance with plans and specifications received by Council on 3 September 1997 and letter dated 24 September 1997.*
2. *The carriage being fitted with rubber tyres to prevent damage to road pavements.*
3. *Where bus stops are used, arrangements are to be made with the relevant bus companies to provide bus access to the bus stops when required.*
4. *The operator is to be appropriately insured in the event of any injury to patrons in the amount of \$10 million (ten million).*
5. *All waste generated by the proposed activity shall be immediately removed from public roadways and stored in a suitable container to the satisfaction of the Director of Environment and Development.*
6. *This matter is to be reviewed in 6 (six) months.*

Six (6) months has lapsed since approval was issued, hence the matter is being reported to Council.

Review

The applicant has advised that two (2) tours were conducted in November and one (1) tour was conducted in December. The hours of operation being as approved, viz; 10.00am-2.00pm weekdays and 10.00am-6.00pm weekends. The tours are conducted in a twelve (12) seater carriage (2 drivers and 10 passengers) being pulled by two (2) draft horses.

Streets involved in the tours are The Terrace, Baker, George, Arndell, Court, Pitt, Palmer, North, Fitzgerald, Johnston, New, Catherine and Little Church.

At the time the application was considered by Council, it was proposed that the applicant's truck be parked outside 14 Pitt Street, Windsor during the days on which tours operated. (Note: the truck is used to transport the horses and carriages to Windsor each day from the applicant's property at Colo, the truck is not parked in Windsor overnight). The then owner of 14 Pitt Street had no objection to this arrangement. Surrounding owners were notified of the proposal, no objections were received. The matter was referred to Council's Local Traffic Committee, no objection was raised.

After consent was issued by Council, 14 Pitt Street was sold and the new owner objected to the applicant's truck being parked outside the property. The owner of 9 Pitt Street also objected to the truck being parked outside 14 Pitt Street.

Discussions were held with the applicant regarding the parking of the truck. The applicant suggested he park the truck on the grass verge near Governor Phillip Park, in Palmer Street. This was agreed to and the applicant was advised to examine parking the truck on private property. No complaints have been received by Council about the truck being parked in Palmer Street. The applicant has advised that they have been unsuccessful finding private property on which to park.

The owners of 9 and 14 Pitt Street have been contacted and both raised no objection to the truck being parked in Palmer Street.

The applicant has advised that the three tours were very successful, however believes summer is the wrong time to operate due to the extreme heat. The applicant hopes to conduct more tours on a regular basis now that the weather is cooler. The applicant also advises that no complaints have been directed to him about the operation of the tours or the parking of the truck in Palmer Street.

Conclusion

No complaints have been received by Council regarding the activity since the truck has been parked in Palmer Street, however, only three tours have been conducted in the past six (6) months. In the next 6-8 months, with the weather being cooler, more tours are likely to be conducted and therefore Council will be more able to review the operations of the tour and any damage to the parking area in Palmer Street. It is therefore recommended that the activity be permitted to continue with a further review in six (6) months i.e. October 1998.

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RECOMMENDATION:

That:

1. The applicant be advised that the activity may continue for a further six (6) months.
2. The matter be further reviewed at the General Purpose Committee meeting in October, 1998.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 121 Oooo

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Item: **122**

ITEM: 122 **Lot 3 DP857570, No. 133b Old Bells Line of Road, Kurrajong - Proposed Home Activity (Hair Dressing Salon)**

FILE NUMBER: DA32/98/EVD/END28NAX.V08

Applicant: Mrs H Muscat
Applicants Rep: Not applicable
Owner: Mr J & Mrs H Muscat
Stat. Provisions: Hawkesbury Local Environmental Plan 1989 - Home Activity permissible with consent
Area: 2465m²
Zone: Residential 2(a1)
Advertising: 14 days to adjoining and affected owners, 4 submissions received
Date Received: 10 February, 1998

Key Issues: traffic generation
 scale of home activity
 use of private road
 on site parking
 aerated effluent disposal systems
 scale of home activity

Action: Approval

REPORT:

The applicant seeks consent for a home activity for a hairdressing salon which will be carried out in a room in the existing dwelling house. The activity is carried out by appointment only and parking is available to clients in the driveway to the dwelling. No signage is proposed for the development.

Statutory Situation

The site is zoned Residential 2(a1) under the provisions of Hawkesbury Local Environmental Plan 1989 and Home Activities are an allowable use with the consent of Council.

Community Response

Applications of this nature are generally low key and have little impact on surrounding development. However, the nature of this particular subdivision and the possible cumulative impact associated with a similar current DA applying to the adjacent property, has created concern in the neighbourhood. Three objections were received from neighbouring properties and one objection was received from Sydney Water. Concerns raised are summarised as follows:

- C Use of private access road by clients, including safety of children walking to school and other pedestrians.

- C Disposal of toxic waste and subsequent run off into a wet weather creek.
- C Quiet residential area.
- C Building requirements should be completed prior to any business approval.
- C Noise of vehicles on the small road.
- C Sydney Water has objected to the application as the owners have not satisfied Sydney Water's conditions in regard to restricted water supply connections.

On 1 April, 1998, an onsite meeting was to be held between the applicants, objectors and Council staff to discuss the proposal and consider the objections raised. The applicants were in attendance, together with the applicants of the development application applying to the adjacent property. All objectors were invited to this meeting but did not attend.

Environmental Assessment

An assessment of the proposal using the relevant heads of consideration under Section 90(1) of the Environmental Planning and Assessment Act 1979 has been carried out. The following is a review of the relevant matters which also considers the submissions received.

The Site / Private Access Road

The property is one of four lots of a subdivision, all of which have shared private access to Old Bells Line of Road. The accessway is approximately 7m wide and has an approximate sealed width of 4 m.

The locality plan annexed to this report indicates the shared ownership of the accessway and it should be noted that the owners of the subject property, Lot 3, and the adjoining Lot 4 own the access to the street, ensuring maintenance of the laneway. The owners of Lot 32 DP 862160 also own that part of the accessway leading to the street from their property frontage. The owners of Lot 2, DP 857570 have a right of way over the accessway.

The owner of Lot 11, DP 831533, which has frontage to Old Bells Line of Road, also have informal access to the driveway at its head. The owners of the accessway have agreed to this arrangement.

Traffic Generation

The nature of the proposal to have clients coming to the dwelling house mainly by car has potential to create disturbance to the amenity of this particular subdivision.

The proposed hours of operation for this application are 9am to 12 noon Monday to Saturday and 6pm -8pm Monday to Friday with cuts being by appointments only.

Given the shared accessway there is the potential for safety and traffic hazards due to an increase in vehicles using the road. However, it is considered that the additional width in the driveway that is not currently sealed, a passing bay could be constructed opposite the entry to Lot 32. This would:

- (a) improve ingress/egress for the residents of Lot 32; and
- (b) allow two cars to pass safely.

Parking and manoeuvring

The existing driveway has the potential to accommodate two vehicles. The applicants vehicles can be housed within the existing double garage. Whilst this is considered to be a satisfactory arrangement, the driveway is at the head of the private road and manoeuvring at this location is difficult. The applicants have indicated that they are willing to provide a manoeuvring area adjacent to the driveway to allow for vehicles to enter or leave the site in a forward direction. This is considered to be an adequate arrangement.

Disposal of Waste Products

The property is serviced by an aerated on-site effluent disposal system. The products used in the salon, such as solutions, dyes and tints have the potential to reduce the effectiveness of the aerated system by killing the bacteria used in the breakdown of waste. This issue was raised with the applicant who has since indicated that she will not use hair dyes or tints or the like. The shampoos and conditioners will not affect the workings of the waste disposal system.

Water connections

The submission from Sydney Water is noted, however, the connection of restricted water meters is a matter to be resolved between the owners and Sydney Water. The amount of water to be used in the home activity is considered to be minimal.

Adjoining Property Current DA

Council should be aware of the application for a Home Activity (Beauty Therapy) on the adjoining Lot 4, also reported to this meeting of the General Purpose Committee.

Conclusion

The proposed home activity is low key in nature. The applicant has indicated a relatively small client base. The applicant shares ownership of the accessway ensuring its maintenance. It is considered that with appropriate conditions, including a six (6) month consent period, the concerns of the adjoining neighbours can be overcome.

The application is therefore recommended for approval which will be reviewed after a six month period, prior to any extension of the consent.

RECOMMENDATION:

That the application for a Home Activity - Hair Cutting Salon at Lot 3 DP 857570, No.133b Old Bells Line of Road be approved subject to the following conditions:

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1. This consent is limited to a period of six months from the date of commencement. It is the applicant's responsibility to advise Council in writing of the date upon which the use commenced. The application will be reviewed at the expiration of the six month period.
2. The development is to be carried out in accordance with the approved stamped plans and information submitted with Development Application No 32/98.
3. The construction of a passing bay in the accessway, opposite the entry to Lot 32, to the satisfaction of the Director of Environment and Development.
4. Construction of an all weather surface manoeuvring area adjacent to the existing driveway and the driveway of Lot 2 DP857570 to allow for vehicles to enter and exit the site in a forward direction.
5. The floor covering shall have a smooth impervious surface capable of being easily cleaned.
6. All benches, shelves, chairs and the like are to be constructed or covered with materials that are durable, smooth, impervious to moisture and capable of being easily cleaned.
7. All hairdressing appliances and utensils to be stored in an hygienic manner and adequately disinfected to the satisfaction of the Director of Environment and Development.
8. A hand wash basin supplying hot and cold water through a single outlet is to be provided in a convenient location approved by the Director of Environment and Development.
9. No chemicals or other toxic matter is to be disposed to the effluent disposal system.
10. Operating hours shall be limited to 9am to 12noon Monday to Saturday and 6pm to 8pm Monday to Friday. Clients are to attend by appointment only.
11. Compliance with the following requirements of a "Home Activity" as defined in HLEP, 1989:

The activity or pursuit does not:

- (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise;
- (ii) involve exposure to view from any public place of any unsightly matter;
- (iii) require the provision of any essential service main of a greater capacity than that generally available in the locality;
- (iv) involve the employment of persons other than residents of the dwelling house or dwelling;

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- (v) involve the exhibition of any notice, advertisement or sign (other than a notice or sign not exceeding 1 (one) metre by 0.6 (zero point six) metres exhibited on that dwelling house or dwelling to indicate the name and occupation of the resident thereof.

ATTACHMENTS:

AT-1 Locality Plan

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ITEM: 123 **Proposed two (2) lot rural subdivision creating lots of 1.546 hectares and 3.607 hectares - Lot 11 DP713095 No. 194 Pebbly Hill Road, Cattai**

FILE NUMBER: SA19/98/EVD/END28NAX.V09

Applicant: N R Smerdon
Applicants Rep: N R Smerdon, Surveyor
Owner: L Z Clark
Stat. Provisions: HLEP 1989
Area: 5.153 hectares
Zone: Rural 1(c) (2 hectares area)
Advertising: 14 days to adjoining owners, closed 1 April, 1998, no submissions received.
Date Received: 12 March, 1998

Key Issues: Minimum Area Clause 11(2)(c) SEPP No. 1
 Access
 Concurrence of DUAP
 Section 88B restriction on 1.546 hectare lot

Action: Support for SEPP No. 1 objection

REPORT:

A subdivision application has been received to undertake a two (2) lot subdivision creating lots of 1.546 ha and 3.607 ha. The land has frontages to Pebbly Hill Road and Reedy Road. The smaller lot of 1.546 ha will front Pebbly Hill Road and the larger lot will front Reedy Road. Reedy Road is gravel only.

The 1.546 ha lot contains an existing dwelling, tennis court and sheds, parts of which are used to grow mushrooms in bags. The larger lot contains mushroom growing sheds, storage sheds, peak heat sheds and open composting slab. The owner advised, at the time of the inspection on 25 March, 1998 that the compost was for his farm and for several small growers. The mushroom growing on this site is bag only. A copy of the plan of the proposed subdivision is attached.

The applicant has submitted an objection under SEPP No. 1 - Development Standards, to vary the 2 ha minimum lot size to 1.546 ha for one of the lots.

The objection states as follows:

As the proposed Lot 101 does not comply with the area requirements of the LEP, formal objection, pursuant to State Environmental Planning Policy No. 1 is lodged to the two hectare development standard as it is considered unreasonable and unnecessary having regard to the particular circumstances of this case. Council's support for the creation of the undersized allotment is sought on the following grounds:

- 1. The objective of the zone, namely "to primarily provide for a rural residential style" is satisfied in that the proposed Lot 101 whilst used as part of the mushroom farming use on Lots 101 and 102 contains a substantial residential and tennis court and is substantially used for residential purposes.*
- 2. The objective "to prevent the establishment of traffic generating development upon main and arterial roads" is satisfied in that the subdivision will not generate any additional traffic whatsoever and the development does not front a main or arterial road.*
- 3. The subdivision will not be inconsistent in size with existing lot sizes in the locality.*
- 4. The area of land available for Lot 101 is constrained by the location of the mushroom sheds erected upon the proposed Lot 102.*
- 5. The original parcel Lot 11 has an area of 5.153 hectares and has a subdivision potential of two lots and the proposed subdivision is for two lots.*

Statutory Situation

The site is zoned as Rural 1(c) under HLEP 1989 and the minimum area for subdivision under Clause 11(2)(c) is 2 ha per lot. The objectives of the Rural 1(c) zone are:

- (a) to primarily provide for a rural residential living style; and
- (b) to prevent the establishment of traffic generating development along main and arterial roads.

The proposed subdivision does not conflict with these objectives. The land is above the floor height standard of 15.2m AHD for the area.

The proposal does not conflict with Sydney REP 20 (Hawkesbury Nepean River).

As one of the proposed lots is more than 10% under the minimum area of 2 ha, the concurrence of the Department of urban Affairs and Planning (DUAP) is required if Council favours the proposal.

Environmental Assessment

A full assessment has been undertaken which addresses all heads of consideration under Section 90(1) of the Environmental Planning and Assessment Act 1979 and Section 333 of the Local Government Act. The following are the most relevant items for consideration.

Access

All access to the development is currently off Pebbly Hill Road. Lot 102 will have frontage only to Reedy Road. Reedy Road is a gravel pavement and quite dusty. As such it is considered unsatisfactory for access to the mushroom farm in its current state. The normal requirement is to provide a half width sealed pavement over the frontage of the site. This however would still not provide satisfactory access to the development on the lot. It is recommended a 4.5m wide sealed pavement be required from Pebbly Hill Road to an access point to the lot.

A large dam is located across the common boundary of Lot 102 and Lot 1 DP532126. Any access to the proposed Lot 102 would need to be beyond the dam. An alternative to the sealing of Reedy Road would be to provide a right of way to the subdivision mushroom farm along the present access off Pebbly Hill Road that is located between the dwelling and tennis court. This alternative may be satisfactory while both lots remain in the family, however, with the sale of one of lots, the right of way and its use could be a source of conflict and therefore is not recommended.

Minimum Area Clause 11(2)(c) and SEPP No. 1 Objections

The minimum area for subdivision under Clause 11(2)(c) of Hawkesbury Local Environmental Plan 1989 is 2 ha per lot.

The existing Lot 11 has an area of 5.153 ha and therefore has the potential under the 1(c) zone of two lots.

Due to the location of the existing mushroom growing farm and composting establishment, the Pebbly Hill lot can only have an area of 1.546 ha while retaining all the main farm buildings on the one lot.

The larger rear lot with an area of 3.607 ha has no outright potential for future subdivision.

In view of the special circumstances of this proposal, to retain an established mushroom farm on the one lot, the subdivision can be supported.

Section 88B Restriction

To prevent future objections to the existing mushroom growing farm and mushroom composting establishment on the proposed Lot 102, it is recommended a Section 88B restriction as to user under the Conveyancing Act be imposed on the proposed Lot 101 to prevent future owners of Lot 101 objecting to the existing farm on Lot 102.

Conclusion

The existing lot, on a lot yield basis in the Rural 1(c) zone, can provide two lots to the minimum area requirements. However, due to the location of the main mushroom growing and composting buildings, the Pebbly Hill Road lot can only have an area of 1.546 ha, 0.454 ha under the minimum

area. Due to the special circumstances, i.e. of a retention viable agricultural use on one title, it is recommended that Council support the SEPP No. 1 objection and refer the application to DUAP for concurrence.

RECOMMENDATION:

That:

- A. Council support the SEPP No. 1 objection to vary the minimum area under Clause 11(2)(c) of Hawkesbury Local Environmental Plan 1989 from 2 hectares to 1.546 hectares;
- B. The application be referred to the Department of Urban Affairs and Planning for concurrence under State Environmental Planning Policy No. 1 - Development Standards; and
- C. Upon concurrence being received from the Department of Urban Affairs and Planning, development consent be issued, under delegation of authority, subject to any conditions imposed by the Department of Urban Affairs and Planning and subject to the following conditions.
 - 1. Construction of a 4.5 metre wide sealed pavement and all necessary drainage from the existing seal in Pebbly Hill Road to a suitable access point into the proposed Lot 102. The pavement to be located to eliminate the need for further removal of trees.
 - 2. The creation of a restriction on the use of land pursuant to Section 88B of the Conveyancing Act preventing the owner(s) of Lot 101 from objecting to the existing mushroom growing farm and mushroom composting establishment on Lot 102.
 - 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 \$3,987.00 (three thousand nine hundred and eighty seven dollars) 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 construction of vehicular access, at no cost to Council, to proposed Lot 102 such construction to be to the requirements of the Director of Environment and Development. The maximum grade shall not exceed 1 : 6.

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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 pollutants. Details shall be submitted and approved prior to any works commencing.
9. 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.
10. The submission of a plan showing all existing services on the lots including septic tank and effluent disposal area, water connections and stormwater disposal, where applicable, and the correction of any encroachments or defects to the requirements of the Divisional Manager Environment and Development.
11. The submission of the plan of subdivision, together with 4 (four) exact copies thereof, suitable for lodgement with the Registrar General.
12. Payment of a linen release fee of \$180.00 (one hundred and eighty dollars). This amount is valid until 30 June 1998.
13. The subdivision shall be in general accordance with the submitted plan.

ATTACHMENTS:

AT-1 Subdivision plan

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oooO END OF ITEM 123 Oooo

ITEM: 124 **Rear access and draft local environmental plan - Windsor Street, Richmond**

FILE NUMBER: LEP1/93, DCP2/93/EVD/END28NBX.V05

PREVIOUS ITEM: 88, GPC Section 1 - Environment (11.02.1997)

REPORT:

In regard to the rezoning of land generally between Hobart Street and Pitt Street, fronting Windsor Street, Richmond from Residential 2(a) to Light Industrial 4(b). Council, at its Ordinary meeting of 11 February, 1997 resolved:

- "1. That Council not proceed with the Development Control Plan.
2. That Council reaffirm its previous decision to rezone this land to Light Industrial and part of the rezoning have a restriction that no vehicular access from Windsor Road be allowed and that a road easement be created over the rear of these properties.
3. That finalisation of the LEP will be dependent on a resolution of the rear access to all of the properties."

The following letter dated 18 December, 1997 was sent to all thirteen affected property owners, shown shaded on the attached plan, the Windsor Street frontage lots are currently zoned Residential 2(a) while the two large rear lots and currently zoned as Light Industrial 4(b).

Rear Access Road - Lukis Avenue to Hobart Street, Richmond

Reference is made to previous correspondence regarding a Draft Local Environmental Plan, Draft Development Control Plan and Development Contribution Plan affecting your land at Richmond.

You are advised, Council has resolved that before it proceeds with the rezoning of the Windsor Street land generally between Pitt and Hobart Street, from Residential 2(a) to Light Industrial 4(b), a rear road be created so that no vehicular access is available to Windsor Street with the future industrial development of the lots.

The 10m wide rear access road is proposed in two parts, one off Lukis Avenue and one off Hobart Street and has widened areas towards the end of each section for vehicle turning areas. The proposed access roads are shown highlighted on the attached plan which is an extract from the previously draft Development Control Plan. Also enclosed is a plan showing the affected lots.

You are requested to advise if you are willing to dedicate the proposed access road as it affects your land on the understanding that Council will construct the access roads, and part of Hobart Street, to provide rear access to the lots in the proposed rezoning plan. The cost of the construction will be recovered by Council as a contribution when the lots are developed for industrial purposes, following gazettal of the rezoning plan.

Your early advice would be appreciated as, when agreement has been received from all affected property owners, Council will proceed with the Light Industrial 4(b) zoning plan.

Due to the lack of response, a follow up letter was sent on 13 February, 1998. To date the following replies have been received:

Charlton Horseland

I am willing to go along with the re-zoning of the land along Windsor Street. We have already been committed for a percentage of the drainage cost to be paid on development of the land. I believe the problem lies in the area around Hobart Street and the commercial area which was established without sufficient drainage, and really has nothing to do with the properties on the Richmond end of the proposed zoning change.

Referring to the 10 metre access road, would it be possible to resume the area up to the rear building line of the properties in Lukis Avenue. This would cut the resumption down by 3+ metres. I own No. 19 Lukis Avenue and would be prepared to talk to you if there is some way this land could be used in some sort of land swap.

Mr & Mrs A Rogerson and Mr & Mrs D Seale

We wish to advise that at present we are not in a position to be able to dedicate land towards the proposed access road off Lukis Avenue.

Windsor Exhaust Centre

I have looked at the drawing and have noted that it would cut off existing side access to buildings that we use on a daily basis. This would dramatically hinder our business operations.

I consider the above mentioned proposal to be totally unacceptable.

Discussions have taken place with a number of the owners in the area and additional information has been supplied when requested. There are a total of nineteen (19) properties which would need to be involved in the rear access proposal. Given the overall lack of response it is considered that the rezoning should not proceed at this time.

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RECOMMENDATION:

It is recommended that no further action be taken in the draft local environmental plan to rezoning the lots from Residential 2(a) to Light Industrial 4(b).

ATTACHMENTS:

AT-1 Plan of adjoining owners

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oooO END OF ITEM 124 Oooo

ITEM: 125 **Draft Local Environmental Plan Lot 1 DP581544 and Lot 33 DP203875, Bells Line of Road, Kurrajong Heights**

FILE NUMBER: LEP1/98/EVD/END28NBX.V04

PREVIOUS ITEM: 68, Ordinary (10.02.1998)

REPORT:

Council, at its Ordinary Meeting of 10 February, 1988, resolved to prepare a draft Local Environmental Plan (LEP) to change the existing incorrect Open Space 6(a) Existing Recreation zone to Environmental Protection Scenic 7(d) for the above two sites at Kurrajong Heights, copy of the draft plan is attached to this report.

Council also resolved to exercise its delegation in respect of the Section 65 Certificate and this was issued on 5 March, 1998. The draft plan was exhibited from 11 March, 1998 to 17 April, 1998 and adjoining owners were advised of the draft plan by letter dated 5 March, 1998. No submissions have been received.

Pursuant to Section 62 of the Act, the draft plan was referred to the following Government Authorities:

- Integral Energy;
- Roads and Traffic Authority;
- Telstra;
- Environment Protection Authority;
- NSW Agriculture;
- Department of Land and Water Conservation; and
- NSW Tourism Commission.

The Environment Protection Authority, NSW Agriculture and Department of Land and Water Conservation have advised verbally they have no objections to the draft plan. No replies have been received from the other organisations.

The Parliamentary Counsel has advised the plan may be legally made.

The plan can now be forwarded to the Department of Urban Affairs and Planning for final gazettal.

RECOMMENDATION:

That:

1. Council not hold a public hearing pursuant to Section 68 of the Act, 1979;

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2. Council exercise its delegation for the Section 69 Report to the Director General; and
3. The plan be forwarded to the Department of Urban Affairs and Planning for final gazettal.

ATTACHMENTS:

AT-1 Site Plan

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oooO END OF ITEM 125 Oooo

ITEM: 126 **Draft Local Environmental Plan Lot 22 DP626483 Greenway Crescent, Windsor - 3 Lot Subdivision - T Allen**

FILE NUMBER: LEP9/97/EVD/END28NBX.V03

PREVIOUS ITEM: 126, GPC Section 1 - Environment (09.12.1997)

REPORT:

Following exhibition of a proposal for a three (3) lot subdivision of the higher land of the above site, the Council, at its Ordinary meeting of 9 December, 1997 resolved as follows:

That a draft local environmental plan be prepared to permit a 3 (three) lot subdivision of the land generally in accordance with the plan prepared by Matthew and Peter Freeburn, Surveyors, dated 15 June, 1997, with the existing Environment Protection 7(d1) zoning to remain unchanged.

The Department of Urban Affairs and Planning were advised of the proposal as required by Section 54(4) of the Environmental Planning and Assessment Act, 1979. Prior to the Department being requested to issue the Section 65 Certificate, the Department by letter dated 20 February, 1998 replied as follows:

The submission under Section 54 is noted. It is noted that it is Council's intention to request that the Director-General issue the Section 65 Certificate.

However, I would advise you that the Department has serious concerns with this proposal to fragment and subdivide rural land. It is appreciated that the site is on the very edge of the built up area of Windsor, however, the subject land is in agricultural use as a turf farm. The lot has no subdivision potential given the 10 hectare minimum lot size in the 7(d1) Environmental Protection (Scenic) zone.

The Department is aware of Council's commitment and support given to agriculture in the Hawkesbury through the Hawkesbury Sustainable Agricultural Development Strategy (HSADS). The proposal to permit a three lot subdivision on this 10 hectare lot is contrary to the aims, objectives and specific strategies in HSADS. The strategies include a proposal for an Agricultural Production zone for the 7(d1) zone, where subdivision would be limited to agricultural purposes and where rural residential uses and conflicts are to be minimised. It is noted that Council does not intend to change the zoning of the subject land.

The Department is concerned that the current proposal is completely at odds with HSADS. It represents an incremental spread of urban uses into the surrounding productive rural land. On an individual basis, the impact of two additional lots may not be considered to be significant, but gazettal of this plan would set a precedent for further encroachments into agricultural land which may be difficult to resist and which would lead to a cumulative

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erosion of the agricultural productivity of the area. It is inappropriate to encourage residential development in an Environmental Protection (Scenic) zone and no justification has been put forward to warrant a departure from the plan for this site.

If Council wishes to designate further areas of land for residential development in the LGA it should identify them as part of its Residential Strategy rather than proceed through a spot rezoning for individual parcels of land, without the necessary environmental studies.

It is clear that the Department will not support the proposal or issue the Section 65 Certificate to allow the plan to proceed to the exhibition stage. The applicant has been forwarded a copy of the Department's letter and advised of today's meeting. Since preparing the draft LEP the applicant has received development approval for consolidation and resubdivision in accordance with the subdivision requirements of Hawkesbury LEP 1989. Given this and the advice from DUAP, it is considered that no further action should be taken by Council.

RECOMMENDATION:

Council take no further action in respect of the draft local environmental plan and the applicant be advised accordingly.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 126 Oooo