



general
purpose
committee

1
section

environment

GENERAL PURPOSE COMMITTEE - ENVIRONMENT

Table of Contents

Meeting Date: 31 March 1998

Page 2

ITEM	SUBJECT	PAGE
SECTION 1 - ENVIRONMENT.		
114:	Residence and All Day Care Child Care Centre - Lot 3 DP850151, No. 160 Cattai Road, Pitt Town DA14/98/EVD/ENC31LAX.V24	3
115:	Non Compliance with Conditions of Consent - Landfill of Existing Dam - Lot 18 DP817528, No. 78 Scheyville Road, Oakville DA7/97; P1936/85/EVD/ENC31LBX.V23	15
116:	Additional Information - Proposed Extension to Existing Windsor Town Shopping Centre Lot 1 DP740132 Lot 14 DP619789, Part Lot 1 DP572611 (Lot 2 DP871860), Lot 2 DP572611, 6-12 Kable Street and No's 3, 7 and 9 Baker Street, Windsor DA33/98/EVD/ENC31LBX.V25	18

oooO END OF TABLE OF CONTENTS Oooo

ENVIRONMENT

Meeting Date: 31 March, 1998

Item: **114**

ITEM: 114 **Residence and All Day Care Child Care Centre - Lot 3 DP850151, No. 160 Cattai Road, Pitt Town**

FILE NUMBER: DA14/98/EVD/ENC31LAX.V24

Applicant: Mr & Mrs O'Neil
Applicants Rep: N/A
Owner: Mr & Mrs O'Neil
Stat. Provisions: HLEP 1989
Area: 2.293 hectares
Zone: Rural 1(c)
Advertising: Adjoining owners, 13 objections
Date Received: Development Application received 20 January, 1998, additional information received 17 March, 1998.

Key Issues: Traffic
 Noise
 Effluent Disposal
 Economic Effect
 Child Safety
 Amenity and character of the area

Action: Refusal

REPORT:

The Proposal

The proposal is to build a single storey child care centre with three (3) bedroom residence attached. The centre and residence measures 34m long by 10.5m wide. The centre consists of two (2) playrooms, toilets, kitchen, office and administration area and an outside play area measuring 16m long by 15.5m wide. The child care centre is for all day care only and will cater for a maximum of twenty eight (28) children aged 2 - 5 years old. The centre will require four (4) permanent staff, ie one of the residents and three employees.

The proposed hours of operation are 7.00am to 6.00pm Monday to Friday. Water is to be supplied by water tanker as required and on-site disposal of effluent is to be achieved by using an aerobic wastewater treatment system.

The Site

The lot was created by a 10 lot subdivision (SA127/93) of the old Hardie Ferrodo testing ground at Pitt Town. The property is relatively flat and has an area of 2.293ha. Whilst the site has road frontage to Cattai Road, the only vehicular access to the site is via a sealed right of carriageway which runs along the rear boundary of the property. This right of carriage way is held in joint care,

control and management by 6 property owners (Lots 2, 3, 4, 5, 6 and 10 DP 850151) and is accessed from Pitt Town Dural Road.

An area 64m wide by 33m deep immediately west of the right of carriageway has been filled in accordance with the subdivision approval to provide a building area at a height above the floor height standard, 15.9m AHD. West of the filled area is the old testing track which has a pavement width of approximately 30m. Past the test track is a grassed area approximately 64m wide by 35m deep followed by a sporadic stand of vegetation, mainly consisting of melaleucas, which extends for approximately 75m until it meets at a 2.5m wide open drainage channel. Between the drainage channel and Cattai Road is a part cleared / part vegetated area approximately 64m wide by 120m deep.

The applicant proposes to erect the child care centre and residence within the nominated building area with semi circular driveway off the right of carriageway.

Statutory Situation

The property is zoned Rural 1(c) under HLEP 1989. Child care centres are permitted within the zone.

Public Notification

Surrounding owners were notified of the proposal. Thirteen (13) letters of objection were received.

The objections are summarised below:

- C increase in traffic will cause congestion and damage to the right of carriageway. The access road is too narrow and not designed to carry the additional car and truck movements. Who is to pay for the upkeep of the road?;
- C increase in traffic will conflict with pedestrian safety;
- C activities of the child care centre will reduce the existing quiet rural atmosphere by increasing traffic and noise pollution;
- C run off from the septic system may present a health risk and may cause harm to Long Neck Lagoon and/or Scheyville National Park;
- C there is the potential for children at the child care centre to slip unnoticed into neighbouring dams;
- C the small population of Pitt Town and surrounds does not need nor can sustain an addition child care centre as there are three (3) in the area already. An additional child care centre will mean the loss of jobs in the existing child care centres; and,
- C the proposed building is out of character with the surrounding area and will cause overshadowing to the adjacent property.

On-Site Meeting with Applicant, Objectors and Council Staff

On 26 March, 1998 an on-site meeting was held with the applicants, Mr and Mrs O'Neil , 17 resident objectors and Council staff.

The main issues raised by residents were:

- C likely increase in cars using the right of carriageway as well as trucks required to deliver water and pick up rubbish;
- C noise and dust created by additional vehicles and noise of child care centre;
- C potential conflict between vehicles and children walking to and from the school bus stop especially given that there is no footpath;
- C a child care centre would destroy the rural/residential atmosphere of the area and is a use that was not expected to occur when the road was constructed or when the surrounding residents bought their properties; and,
- C the ability of the property to dispose of effluent on-site.

The applicants explained that they were seeking approval for a 28 place child care centre however initially it would only have 18 children. Restricting the number of children to 18 was put to the residents as a possible solution, however, it was rejected.

The applicants suggested that in order to reduce traffic noise and speed they would pay for the installation of speed humps. This was rejected by the residents, mainly on the basis that they did not want the traffic using the right of carriageway at all.

Council staff put to the residents the possibility of the applicant entering into a road maintenance contract, or similar, with the residents to provide for the upkeep of the right of carriageway. This was rejected by the residents because they considered that the operation of the child care centre would reduce the rural/residential living style which was the main reason why they bought their properties.

Planning Assessment

The following is an assessment of the proposal using the relevant heads of consideration under Section 90 (1) of the EPA Act 1979 and also considering the submissions received.

Provisions of Hawkesbury Local Environmental Plan 1989

“Child care centres” are permitted within the Rural 1(c) zone. The relevant objective of the zone is:

- (a) *to primarily provide for a rural residential living style; and*

This objective aims to allow and control land uses which are compatible with rural residential living and prohibit those types of uses which are not compatible. Child care centres are permitted within the zone. Child care centres may be compatible with residential uses depending on the location and size of the centre.

The surrounding lot pattern is characterised by properties with areas of at least 2 hectares which are either vacant or contain single dwellings. The only vehicle access to the subject property and those most likely to be effected by the proposal is via a right of carriageway which presently, and as one would normally expect, carries very little traffic. The surrounding development pattern and the small amount of traffic using the right of carriageway gives the area a quiet rural/residential atmosphere. The likely increase in traffic that will occur as a result of the child care centre will unreasonably detract from this rural/residential living style and hence it is considered that the proposal is contrary to this objective of the zone.

Impact of the development on the environment

The applicant has suggested that with 100% occupancy, the centre will produce approximately 2000L per day of waste water. This figure has been checked by Council staff and would seem reasonably accurate. By way of comparison, it is estimated that Council's Child Care Centre at North Richmond uses approximately 2100L per day. Council's centre caters for 27 2-5 year olds, is serviced by a reticulated water supply and the estimated water usage is based on 100% occupancy. The proposal child care centre will require tank water therefore the owners will want to restrict water usage as much as possible and tank water will not be required for landscaping as this will be irrigated by the sewerage system.

It is assumed that the residence will produce approximately 700L of waste water per day. Hence the total development will produce approximately 2700L of waste water per day. The applicant proposes an aerobic wastewater treatment system to dispose of effluent on-site.

Depending on the soil type, an area between 810m² and 2700m² will be required to dispose of waste water on site. It is estimated that there will be 2300m² of land available to irrigate which is clear of the stand of melaleucas and does not require the removal of the old test track. If more area is required then the test track could be removed creating up to 1900m² for irrigation or irrigation could occur within the melaleucas as they are capable of withstanding the likely nutrient and phosphorus loads.

Threatened Species Conservation Act 1995

It is known that *acacia pubescens*, listed as a vulnerable species under the Threatened Species Conservation Act 1995, exists within the Maraylya / Pitt Town region and may exist on the subject property. The proposed development is located wholly within a cleared area which does not contain any *acacia pubescens*.

Economic Effect of the Development

Two letters of objection were received from other child care centres in the area and a number of the surrounding property owners objected to the proposal on the grounds that a new child care centre in this area will have a negative economic effect on the other three (3) child care centres operating in the area. Two recent court cases are of interest in determining the weight Council should place on the economic effect of this development. The cases are *Hayden Theatres v Penrith City Council & Ors* (unreported 12 February 1997) and *Fabcot Pty Ltd v Hawkesbury City Council* (unreported 10 April 1997). In both cases Mr Justice Lloyd held that "market forces and fair trading legislation are the appropriate vehicles for regulating economic competition, not the courts. Neither the Council or the Court should be concerned with mere threat of economic competition between individual competing businesses".

External Appearance of the Development

The external appearance of the child care centre and residence is compatible to other large homes in rural zones throughout the City. Therefore it is considered that the building is not out of character with the surrounding area. However parking and driveway requirements will require a large paved/all weather surface area.

The proposed building is single storey and located 1.5m from the southern boundary. The property to the south has an area of 2.207ha. The overshadowing to this property caused by the development is not significant or unreasonable.

Flooding

The property is flood effected however the proposed building is to be erected above the floor height standard for the area and therefore the development complies with Clause 22 "Development of Flood Liable Land" of HLEP 1989.

Access to the site and the amount of traffic to be generated

The right of carriageway is 6m wide, with a 4 - 5m wide pavement. The applicant has advised that parents will be picking up and dropping of their children at staggered intervals during the day, therefore the "peak" number of motor vehicle movements will be reduced.

The right of carriageway is constructed to carry the amount of traffic to be generated and legally able to be used as such. The likely traffic is undoubtedly more than one would normally expect for a single property. A water truck and probably private garbage collection truck will be required to regularly visit the site. These trucks may cause damage to the surface of the right of carriageway and may cause nuisance to the surrounding neighbours.

ENVIRONMENT

Meeting Date: 31 March, 1998

Item: **114**

The likely amount of traffic to be generated by the child care centre operating with 18 children and with 28 children is shown below. These figures are based on the "RTA Guide to Traffic Generating Development" and have been doubled to reflect that the right of carriageway is a dead end and therefore the one car will be passing the same house twice. These figure include three staff coming to the site between 7.00 and 9.00am and leaving the site between 4.00pm and 6.00pm (1 car per staff member). The figures do not include truck movements which are estimated to be four (4) per week ie one water delivery and one rubbish removal.

Peak Vehicle (Car) Movements (Monday to Friday)			
	7.00am -9.00am	2.30pm -4.00pm	4.00pm - 6.00pm
18 children	31	11	28
28 children	47	17	42

Particular concern is raised over the inability for two cars to pass each other and the damage that will occur on the road shoulders of the right of carriageway. The amount of cars using the right of carriageway will also present a risk to the resident school children who have to walk along the road because there is no footpath.

Car parking

The applicant has not provided a plan of parking however has raised no objection to providing 8 parking spaces. This has been calculated on the basis of 1 space per 8 children and 1 space per permanent employee. There is sufficient area within the semi-circular driveway to provide parent parking for drop off and pick up. Behind the semi-circular driveway there is sufficient room to provide two spaces near the play area and two spaces near the residence for staff parking.

Landscaping, trees and other vegetation

No significant trees or shrubs are required to be removed as a result of the proposal because the development is to occur on the area nominated as the building area. A detailed landscaping plan has not been submitted with the application, however, the applicant has advised that they have no objection to providing landscaping to the satisfaction of Council.

Existing and likely future amenity of the neighbourhood

The main concern of the objectors relates the noise of the child care centre, the likely amount of traffic to be generated and the reduction in the quiet rural/residential atmosphere of the area.

The applicant advises that the children will be outside for only one (1) hour a day, the remainder of the day will be spent indoors learning, eating or sleeping. The outside play area is located to the north of the centre, 8.7m from the northern boundary and 35.5m from the southern boundary. The centre is to be constructed of double brick and therefore this will reduce the transmission of noise from within the centre.

The applicant also proposes to erect a sign at the centre advising parents of the importance of being as unobtrusive as possible when entering and exiting the centre.

The surrounding neighbours most likely to be effected by the development are listed below:

Lot 2 DP 850151 - is immediately north of the subject property and currently vacant. The likely impacts to this property will be the increase in traffic and the creation of noise as a result of the children play outside.

Lot 4 DP 850151 - is immediately south of the subject property. The owner is in the process of building a house which is setback approximately 30m from the right of carriageway. Increase in traffic will be the main impact on this property.

Lots 5 and 6 DP 850151 - are south of Lot 4. Both have dwellings on the property Lot 5 being setback approximately 30m and Lot 6 being setback approximately 50m. The right of carriageway is widened as it passed through Lot 5 in order to create a designated passing bay. Increase in traffic will be the main impact on this property.

Lot 10 DP 850151 - fronts Pitt Town Dural Road and is the first property to enjoy use of the right of carriageway. The dwelling is setback approximately 15m from the right of carriageway. Increase in traffic will be the main impact on this property.

Lot 1 DP 509872 - is east of the Lot 10. The property contains a dwelling which is setback from the right of carriageway by approximately 35m. Between the dwelling and the right of carriageway there is a small dam and a 1.5m high earth bound on the boundary of the right of carriageway.

Lot 1 DP 599174 - is on Pitt Town Dural Road and opposite the right of carriageway. The property contains a dwelling which is setback from Pitt Town Dural Road by approximately 15m. The increase in traffic as a result of the child care centre along this section of Pitt Town Dural Road would be minimal however the owners of this property may be impacted upon by additional headlight glare from vehicles exiting the right of carriageway in late Autumn and Winter months.

All of the above property owners objected to the proposal.

Three letters of objection were received from property owners further away from the child care centre. The closest being Lot 3 DP 221698 which contains a dwelling more than 100m north of the development and whose legal vehicular access to the property is off Cattai Road. The other properties are located on Pitt Town Dural Road and whose property boundaries are more than 150m and 440m from the development.

Safety of Children at the Centre

The applicant has advised that the child care centre and playground area is to be fenced in accordance with the "Centre Based and Mobile Child Care Services Regulations" No. 2 1996. These regulations require that outdoor play area must have a child proof fence on all sides and that if the premises is near any hazard, including water hazards or roads, the premises must be isolated from the hazards by an effective barrier or fence.

Public Interest

As stated above, thirteen (13) letters of objection were received by Council. The on-site meeting with seventeen (17) objectors shows that there is strong public interest in this proposal.

Conclusion

The proposed development is inconsistent with the objectives of the zone in that it will unreasonably reduce the rural/residential living style of the area.

The likely increase in traffic and the impact the development will have on the surrounding neighbours by way of noise, dust, and appearance as well as the likely damage to the road shoulders will unreasonably impact of the amenity of the residents.

The application is recommended for refusal.

RECOMMENDATION:

That the application to establish a child car centre with residence attached be refused due to the following reasons:

1. The development is contrary to the objectives of the Rural 1(c) zone.
2. The development, being located at the end of a narrow right of carriageway, is in an inappropriate location.
3. The likely increase in traffic as a result of the development will have an unacceptable impact on the amenity of the existing and future surrounding residents.
4. The likely increase in traffic will cause a traffic safety risk due to increased damage to the right of carriageway and increased pedestrian/vehicle conflict.
5. Approval of the development would not be in the public interest.

ATTACHMENTS:

- AT-1** Elevation plan
- AT-2** Floor plan
- AT-3** Site plan
- AT-4** Map of objectors

ENVIRONMENT

Meeting Date: 31 March, 1998

Item: **114**

ENVIRONMENT

Meeting Date: 31 March, 1998

Item: **114**

ENVIRONMENT

Meeting Date: 31 March, 1998

Item: **114**

ENVIRONMENT

Meeting Date: 31 March, 1998

Item: **114**

oooO END OF ITEM 114 Oooo

ITEM: 115 **Non Compliance with Conditions of Consent - Landfill of Existing Dam - Lot 18 DP817528, No. 78 Scheyville Road, Oakville**

FILE NUMBER: DA7/97; P1936/85/EVD/ENC31LBX.V23

REPORT:

Complaints were received regarding an unauthorised landfill activity occurring at 78 Scheyville Road, Oakville in January 1997. As a result an inspection was conducted and this revealed that a quantity of waste material in the form of bricks, concrete and timber were being used to fill an area adjacent to a dam on the property.

Subsequently a Development Application was submitted and later approved on 7 August 1997 for the filling of the existing dam. The consent contains 22 (twenty-two) conditions. The applicant has not complied with the following conditions and any direction given has been met with denial and verbal abuse.

1. *Clean fill only to be deposited on the site to fill the existing dam with no putrescible waste, domestic garbage, timber, vegetation, asbestos, cytotoxic or quarantine waste or any substance classified in the Australian Dangerous Goods Code to be deposited on the site.*
7. *Prior to any further work commencing, a plan is to be submitted for approval showing overland drainage flow paths, the proposed contoured depth of fill plan and the full dimensions of the fill area.*
10. *The development shall be carried out in accordance with the submitted amended plan, except where amended by conditions of consent.*
11. *All necessary works being carried out to ensure that the flow from adjoining properties is not impeded.*
22. *The applicant is to submit details by way of dockets showing the origins of all fill material to ensure that fill material is not contaminated. Such dockets are to be submitted monthly.*

Clean Fill as defined in Council's Development Control Plan for Landfill means; -

"The filling of land by soil and/or other extractive material that is not contaminated by demolition material, trees or vegetation waste, waste building material, or any leachate, chemical residue, chemical product or putrescible matter"

Demolition Fill means; -

“Fill material containing demolition material, building material or non putrescible garbage matter other than trade waste, and effluent, but excluding asbestos and other toxic material.”

The plans approved for filling include an area 60 metres x 70 metres x 7.5metres deep to the north east of the existing residence on the property. The type of material to be used in the filling was to consist of clean fill only with no putrescible waste, domestic garbage, timber, vegetation, asbestos, cytotoxic or quarantine waste. In order to verify the source of the material, load dockets were required to be submitted to Council on a monthly basis. This is required to ensure that no contaminated material is placed on the property.

Since the 25 September 1997, seven (7) notices have been forwarded to the applicant to cease importing material onto the site. This was required after conditions of consent were found to be contravened. The area being filled by the applicant has extended in size to approximately 120 metres x 100 metres. It appears that the type of material used in the filling consists of broken bricks, concrete, green waste, timber and steel. However, this is only from visual inspections as load dockets have not been provided to ascertain the origin and type of the fill material used.

Discussions have been held with the drivers of loaded trucks attempting to enter the property and although they have been directed not to drop the loads they disregard any direction given. Information received suggests that some loads have been brought from a demolition site at the corner of Riley and Goodlets Streets, Surry Hills. This material was expected to contain asbestos, however, it is unknown if any asbestos has reached the subject property.

The applicant continues to disregard notices issued and fails to provide documents and information required to determine the quality of material used in the landfill. Plans have not been provided to ensure overland drainage flows and the proposed contoured depth of fill.

Conclusion

It is considered that the approved area for filling has been exceeded. The type of material used in the landfill may contain contaminants and with the fall of the land leachates have the potential to enter neighbouring dams.

The Environment Protection Authority classifies material obtained from demolition sites as “Inert Waste” and restrictions are imposed on the removal of this type of material from properties. Further, the amount of material permitted to be accepted at a landfill site is also restricted and may attract a fee from the EPA.

RECOMMENDATION:

That a notice be served on the applicant/owner requiring compliance with conditions of consent and to undertake the following:

ENVIRONMENT

Meeting Date: 31 March, 1998

Item: **115**

1. The applicant is to have the material already placed in the landfill analysed with the test results provided to Council within 30 (thirty) days of notification.
2. The applicant is to cause all of the landfill material to be removed from the property within forty (40) days and disposed of at a site approved by the Environment Protection Authority should the analysis indicate the presence of any contaminated material.
3. The applicant is to provide to Council a plan showing overland drainage flow paths, the contoured depth of fill plan and full dimensions of the fill area and comply with all conditions of development consent within forty (40) days.
4. Class 4 proceedings are to be commenced to restrain the activities by the applicant on the property should he fail to comply with the above.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 115 Oooo

ENVIRONMENT

Meeting Date: 31 March, 1998

Item: **116**

ITEM: 116 **Additional Information - Proposed Extension to Existing Windsor Town Shopping Centre Lot 1 DP740132 Lot 14 DP619789, Part Lot 1 DP572611 (Lot 2 DP871860), Lot 2 DP572611, 6-12 Kable Street and No's 3, 7 and 9 Baker Street, Windsor**

FILE NUMBER: DA33/98/EVD/ENC31LBX.V25

PREVIOUS ITEM: 102, GPC Section 1 - Environment (31.03.1998)

REPORT:

Since preparing the report (Item 102) on this application the applicant has made contact and requested the matter be deferred pending further discussions with Council staff. Accordingly, it is recommended that the application not be determined at this time.

RECOMMENDATION:

That the development application be deferred pending further discussions between the applicant and Council staff.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 116 Oooo