



general
purpose
committee
meeting

Mayoral Minutes

GENERAL PURPOSE COMMITTEE MEETING

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General Purpose Committee Meeting - 27th April, 1999

1. National Retail Enquiry GT255/016 PT3

A Joint Parliamentary Inquiry has been formed into the dominance or otherwise in the retail sector in Australia.

I understand that the major supermarket chains in Australia have over 80 per cent of market share and this is still rising. In fact, this has doubled from the position of 40 per cent some 20 years ago.

When compared to other countries this appears large, with the three top grocery chains in the United Kingdom having 45% of the market, the three top in the United States of America having 28% and in Japan the five largest have 17.5%.

Organisations such as the National Association of Retail Grocers of Australia indicate that this puts the position as an oligopoly which they see as unhealthy and destructive to small business and rural and regional communities.

In Australia the position has changed since 1975 as follows:-

- | | | | | | |
|---|------|--------------------|-----|--------------|----------|
| • | 1975 | Independent Stores | 60% | major chains | 40%; |
| • | 1985 | “ ” | 40% | “ ” | 60%; |
| • | 1998 | “ ” | 20% | “ ” | 80%; and |
| • | 2000 | “ ” | 15% | “ ” | 85%. |

The major chains are identified as Woolworths, Coles and Franklins. On a national basis as at December 1997 the market share for the three was Woolworths 35.2%, Coles/Bi Lo 28.5% and Franklins 14.7% giving a total of 78.4%. The state with the highest market share going to the majors is Queensland with 86.5% with the lowest being Western Australia where it stands at 58.6%.

I recommend that the Council advises the inquiry that it should look into the impact of the market share held by the major retailers, its impact on the economy including employment and likely impact should the trend continue to occur.

2. Australian Sister City Association Conference GP092/004 PT03

The Australian Sister City Association Conference is to be held this year in Darwin from Sunday 4 July to Wednesday 7 July 1999. Councillor Paine and Councillor Sheather have indicated that they wish to attend this Conference. Councillors Paine and Sheather are Council's delegates on the Hawkesbury Sister City Association.

Councillor Paine's costs for attending the Conference are \$2,585 and Councillor Sheather's are \$2,914.00. Council has adopted the policy that where the cost of transport, accommodation and out

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of pocket expenses exceeds \$1,500, the matter is to be reported to Council.

It is recommended that Council vote the sum of \$5,495 (five thousand four hundred and ninety five dollars), for Council's delegates to attend the Australian Sister City Association Conference in Darwin.

Councillor Stubbs

Mayor

oooO END OF MAYORAL MINUTES Oooo



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environment

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ENVIRONMENT

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Item: **99**

ITEM: 99 **Construction of a dwelling and formalising existing building works - Lot 1 DP717341 No. 608 Chaseling Road, Leeds Vale**

FILE NUMBER: MA779/98/EVD/END27NAX.V01

PREVIOUS ITEM: 89, GPC Section 1 - Environment (30.03.1999)

Applicant: MH Ashton
Applicants Rep: N/A
Owner: JA & AH Ashton
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 1.635 hectares
Zone: Environmental Protection 7(d) Scenic
Advertising: 14 days to adjoining owners, closed 23 December, 1998, no submissions received.
Date Received: 4 December, 1998

Key Issues: Engineering considerations
 Flooding and public safety
 Precedent and public interest

Action: Refusal

REPORT:

The following report was deferred for consideration at Council's Ordinary meeting of 13 April, 1999 to enable the applicant to address the Committee.

Proposal

Application is to erect a two (2) storey dwelling 9.2m x 9.2m with storage and laundry on the ground floor and bedroom, bathroom and living areas on the first floor. Also proposed is a 6.0m x 9.2m carport and the application proposes to legalise unauthorised buildings being a machinery shed, carport currently used as a dwelling and storage sheds.

The buildings are located on flood liable land. There is adequate flood free land on the opposite side of Chaseling Road to erect a dwelling.

From information submitted with a previous application the site, at the approved carport, is 4.73m AHD and the 1 in 100 year flood frequency level for the area is 6.9m AHD. The building site for the application is covered with flowing water at flood times.

GJ McDonald and Associates Pty Ltd, structural engineers have designed footings, slab and columns and have made the following statement to the applicant:

As a result of the inspection and subsequent calculations, we certify that the existing buildings and the proposed building are structurally adequate to withstand loads caused from flooding in the event of a 1 in 100 year flood. This is subject to the following:

- The timber frame surrounding the carport is either removed or vents of minimum 75mm ϕ are placed in the base of all walls at maximum 3,000mm centres.*
- Similar vents are placed in the steel shed and the proposed boat shed.*
- The materials used in the existing buildings and the proposed building are in accordance with the Flood Management Book.*

History

A development application (DA521/87) was lodged for a dwelling and a carport on the floodplain. The dwelling part of the proposal was withdrawn and the carport approved. (BA1212/87).

A development application (DA139/98) and building application (BA611/98) were lodged for a two storey boatshed (ground floor) and storage (first floor) on 27 May, 1998 on the floodplain part of the site.

These applications were withdrawn and the applicant indicated that she would consider submitting an application for a dwelling.

No approval can be found for the existing machinery shed, storage shed and additional carport.

The existing carport has been converted and is used for accommodation. It was clear that the proposed boatshed was capable of being used as a dwelling and considering structures currently on the property were being used for that purpose, it is likely the boatshed would have been.

Statutory Situation

The site is zoned as Environmental Protection 7(d) Scenic under HLEP 1989 and a dwelling is permitted with Council's consent.

Clause 25(2) of HLEP 1989 requires that with the erection of a dwelling the land must be at a level no less than 3.0m below the 1 in 100 year flood frequency level. The 1 in 100 year level is 6.9m AHD and the site level is 4.73m AHD therefore the site for the dwelling conforms to this Clause.

However, Clause 25(5) states as follows:

- (5) *The Council shall, in the assessment of a development application, consider the flood liability of access to the 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.*

The following parts of REP 20 need to be considered for the proposed development:

(15) Land uses in or near the river

Matters for consideration by the consent authority:

- (a) *The need to locate access points where riverbanks are stable, away from river shallows and major beds of attached aquatic plants, away from fishing grounds and fish breeding areas, where the proposed activities do not conflict with surrounding recreational activities, and where significant fauna and wetland habitats will not be adversely affected.*

Comment: The proposed access to the site meets these requirements.

- (b) *The need to require remedial works, such as the re-establishment of flora and fauna habitat.*

Comment: Not applicable to this proposal, no existing habitats will be effected.

- (c) *The potential for use of the land as a buffer to filter water entering the river.*

Comment: No significant change.

- (d) *The need for an Erosion and Sediment Control Plan.*

Comment: Erosion and sediment control measures would be required should any approval be granted.

- (e) *The need for a Vegetation Management Plan.*

Comment: Not applicable as no significant vegetation is being removed.

(16) Land uses in riverine scenic areas

Matters for consideration by the consent authority:

- (a) *The need to prevent large scale, high density or visually intrusive development on waterfront land or on slopes and ridgetops which are visible from the river or the surrounding visual catchment. (This requires consideration of the proposed form and siting of buildings, of the colours and building materials used, and of landscaping).*

Comment: The proposal is relatively small scale.

- (b) *Whether the materials used in stabilising the banks are consistent with the scenic character of the area as described in the Scenic Quality Study.*

Comment: The banks of the river along the frontage of the property have been stabilised.

(c) *Whether the development will damage the banks of the river or creeks.*

Comment: No damage likely.

(d) *Whether the development is adequately set back from the river.*

Comment: The development is located within a floodway which is not desirable.

(e) *Whether it is necessary and appropriate to increase public recreational and visual access to the river.*

Comment: Not applicable.

(f) *The need for conditions of consent to protect the scenic character, such as conditions requiring tree planting.*

Comment: Should approval be granted then a condition should be imposed regarding colours of building materials.

(g) *Whether any proposed works will improve scenic quality by repairing degradation.*

Comment: No significant change as there are existing structures in the area.

The Council has a Policy for Illegal Development - Flood Prone Land Adopted on 10 September, 1985, Minute No. 543. A copy of the Policy is attached.

The Policy deals generally with structures erected for non-habitable purposes but converted for living purposes on flood prone lands. The policy in effect allows Council to resolve to take no action against these types of illegal uses subject to the owner indemnifying Council against any liability.

In regard to the factors in the Policy, the following comments are submitted.

(a) *Whether the current owner was the original developer;*

Comment: It is understood the current owner built the existing structures.

(b) *The standard of the building;*

Comment: The carport is the only structure for which approval can be found. The other structures would not have had Council's usual building inspections.

(c) *The position of the building on the land;*

Comment: The buildings are erected on the floodway between Chaseling Road and the Hawkesbury River.

- (d) *The structural stability of the building;*

Comment: See Engineer's comments earlier in this report.

- (e) *The level of the land and relative floor levels of the building;*

Comment: The land level adjacent to the carport building is 4.73m AHD and the floor levels of the buildings are just above ground level. The 1 in 100 year flood frequency level is 6.9m AHD.

- (f) *The likely flow pattern of floodwaters in the vicinity of the building.*

Comment: The proposed building site is located on a floodway where in flood times the river tops the banks and flows through the site.

It is considered that should Council resolve not to take action against the unauthorised structures and use of the buildings that a liability to Council may still exist under Common Law rights despite the applicant entering into an agreement indemnifying Council against any liability. This situation could be further compounded as the existing use of the building as a dwelling is below the 1 in 100 year flood event and is prohibited development under Clause 25 of HLEP 1989. The existing sheds on the site would be permissible under Clause 25.

It is therefore recommended that Council take action to have the existing building used for residential purposes rendered uninhabitable and the owner invited to lodge an application for a building certificate for the unauthorised shed.

Environmental Assessment

Council when determining a development application is required to consider the matters in Section 79(c) of the Environmental Planning and Assessment Act 1979 and the following are the relevant matters.

Engineering Considerations

The DA files for the upstream sites have been perused as well as the flooding reports contained therein for a development in close proximity to the subject site (DA220/98).

From this report it appears the 1 in 100 year level is approximately 6.9m and flow velocity on the river flood plain approximately 0.8m/s.

The photocopy of the aerial photograph for the 1978 flood is inconclusive as to flow velocities (turbulence etc). It does appear to show the area of the proposed dwelling inundated in that flood with trees tops still clear.

It should however be noted that the area between the proposed building and the road is much lower than the building site and could lead to people being trapped in the dwelling if not evacuated earlier e.g. the flood level exceeds that predicted and evacuation left too late, therefore deep water to traverse.

The erection of the structure would have little effect on the river hydraulics, so not detrimental to adjoining properties.

GJ McDonald and Associates Pty Ltd have certified that subject to some specific requirements the proposed building is structurally adequate. The calculations referred to in the certificate have not been submitted to allow verification of this. Again with a flow velocity apparently in the order of 0.8m/sec there seems no reason why this could not be safe.

No comment has however been made of the adequacy of being hit by a floating log/tree or the additional pressure due to a build up of floating debris.

Flooding

The site of the proposed dwelling is flood prone and is located on land higher than the land between the dwelling site and Chaseling Road. This could lead to residents being marooned on the higher land at flood times or placed in danger if evacuation was attempted. Rescue measures for these residents would put increased demand on SES resources which are at peak demand during flood times.

There is adequate flood free land on the opposite side of Chaseling Road to erect a dwelling on the lot.

Precedent and Public Interest

The approval of this application could be a precedent for Council to approve similar development on adjacent lots and similar flood prone lots along the Rivers in the City area. Such development on flood prone lands, particularly in flow paths, is not in the overall public interest.

Conclusion

The erection of a dwelling on the site proposed is not supported for the following reasons:

1. The building site is flood prone and becomes covered in a 1 in 20 year flood, (1978 flood).
2. The building site is higher than the land between the building site and the road and residents could be marooned on an island at flood times. Flood free land is available.
3. The location of the dwelling on flood prone land could increase the need for the SES rescue services during flood times if the residents become cut off from the road by:
 - i. a rapid rise in the flood water; or
 - ii. predicting the wrong maximum flood height; or

- iii. flood waters rising at night.
- 4. The building site is located in a floodway and the velocity of floodwaters and debris could result in damage to buildings.
- 5. Approval of the proposal could be a precedent for Council having to approve similar development on flood prone lots and also legalising buildings erected without approval.
- 6. The proposed development is not in the public interest.

RECOMMENDATION:

It is recommended that:

- A.** The application be refused for the following reasons:
 - 1. The proposed building site is located on flood prone land and adequate area is available on the opposite side of Chaseling Road to erect a dwelling on this lot on flood free land.
 - 2. The proposed building site is higher than land between the building site and Chaseling Road and residents in the proposed dwelling could be marooned on an island, cut off from access to Chaseling Road.
 - 3. The erection of a dwelling as proposed on flood prone land could increase the demand for the services of the State Emergency Service during flood time.
 - 4. The proposed dwelling and other buildings, being located in a floodway, in the flow path of the Hawkesbury River in flood times, could be damaged by fast moving flood waters and the debris carried by flood waters.
 - 5. The proposed dwelling and other buildings could be damaged by their immersion in flood waters during flood times.
 - 6. Approval of the application as submitted could be used as a precedent for Council to approve other development on flood prone land and legalise development erected without Council approval.
 - 7. The proposal is not in the public interest.
- B.** Council take action to ensure the existing buildings are not used for residential accommodation and rendered uninhabitable.
- C.** The owner be requested to lodge an application for a building certificate for the remaining unauthorised structures. Prior to issue of any building certificate Council will need to be satisfied that the sheds are capable of withstanding a 1 in 100 year flood event.

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ATTACHMENTS:

AT-1 Locality Plan

AT-2 Site Plan

AT-3 Policy for Illegal Development - Flood Prone Land

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Locality Plan

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Site Plan

POLICY FOR ILLEGAL DEVELOPMENT - FLOOD PRONE LAND

There are a number of buildings within the Shire which had initially been erected with approval as recreational buildings, particularly boat sheds with upper level store rooms. Conditions of consent relating to these buildings included a condition precluding their use for habitable purposes. However, over the years many of these buildings have been modified for habitable use without approval and in many cases have changed ownership several times subsequent to this modification.

As it will be appreciated, these premises now represent a significant financial investment to the owners and it is felt Council should adopt a policy whereby such investment is able to be protected in appropriate circumstances. Accordingly, it is proposed, with Council's concurrence, to report the relevant factors in each of these instances whereby Council can decide appropriate action. That is, whether the conditions should be enforced or whether no action should be taken in regard to the occupation of these premises. The report to Council would need to include such factors as:

- (a) Whether the current owner was the original developer;
- (b) The standard of the building;
- (c) The position of the building on the land;
- (d) The structural stability of the building;
- (e) The level of the land and relative floor levels of the building; and
- (f) The likely flow pattern of floodwaters in the vicinity of the building.

Should Council resolve in any instance to take no action to prevent the future occupation of the building, it is believed the following conditions should apply:

- (i) Building works involving additions for habitable purposes will not be permitted.
- (ii) A Certificate of Compliance under Section 317A of the Local Government Act should not be issued.
- (iii) The owners to be advised that the land may be subject to flooding and that damage or loss of property may be encountered during flood conditions. Relative levels and known flood patterns would also be advised.
- (iv) A Deed of Release must be given to the Council, in a appropriate form drafted by Council's Solicitor absolving Council from liability in the event of loss or damage by flooding.
- (v) All prospective purchasers should be advised of the circumstances and a similar Deed of Release to the above would be required to be entered into should the property be purchased.

oooO END OF ITEM 99 Oooo

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Item: **100**

ITEM: 100 **Application for Modification of Consent to Relocate the Caretaker's Residence and Construct Additional Carparking for an Approved Aged Persons' Housing Development - Lot 1 DP811506 and Lots 21 & 22 DP812698 King Road, Wilberforce**

FILE NUMBER: DA236/93/EVD/END27NAX.V08

Applicant: Gary White
Applicants Rep: As Above
Owner: Nesale Pty Ltd and Gary White Super Fund
Stat. Provisions: Hawkesbury LEP 1989
 State Environmental Planning Policy No. 5
 Hawkesbury-Nepean REP20
Area: 25.667ha
Zone: Environmental Protection (Scenic) 7(d1)
Advertising: Advertised with 38 submissions received
Date Received: 26 November 1998

Key Issues: Past Approvals
 Changes to Planning Laws
 "Existing Use Right"
 Current Status of Approval
 Privacy
 Filling
 Flooding
 Visual Impact

Action: Support, subject to changes.

REPORT:

The Proposal

An application has been received in accordance with S.96 of the Environmental Planning and Assessment Act 1979 to modify an existing consent for aged and disabled housing comprising 86 units, a community and recreation facility, office and service building and caretaker's residence.

The subject application is to relocate the existing caretaker's residence adjacent to the eastern boundary of the property. The building is proposed to be used as a manager's residence rather than a caretaker's residence and will be two storeys in height. The area where the existing caretaker's residence is, at the front of the site, is proposed to be used to provide additional carparking spaces. The manager's residence is proposed to be located 3.5 metres from the eastern boundary setback approximately 60 metres from King Road.

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The existing approval contains a mixture of one and two storey villas, however, the location of the two storey villas was not clearly distinguished on the original approval. From the elevation it appears the approved caretakers residence was two stories, however, there are no floor plans or other elevations of this building to confirm this.

History

Report GPC 30/11/93 for 85 units. Recommended refusal.

14 December 1993	Ordinary Meeting. Application deferred subject to revised plan being submitted.
30 August 1994	Reported GPC recommending refusal for 71 units.
13 September 1994	Ordinary Meeting. Approval granted for "deferred commencement consent" for 71 units.
14 November 1995	S.102 modification of consent granted. Modification allowed additional 6 months to meet conditions of "deferred commencement consent".
1 March 1996	Council advised "deferred commencement" matters satisfied.
9 July 1996	Application to amend existing consent to allow 15 additional units refused by Council.
23 July 1996	Recision motion to refusal lodged.
13 August 1996	Recision motion to support application for additional 15 units approved.
26 November 1998	S.96 application received to modify existing consent to include three additional dwellings to be used as a residence for a manager, doctor and nurse.
Approx 10 March 1999	S.96 amended deleting two of the dwellings requesting the caretaker's residence be relocated and used as a manager's residence. A carpark is proposed where the existing caretaker's residence was. The original S.96 application was deemed not to be substantially the same and could not be considered.

Statutory Situation

The subject land is zoned 7(d1) Environmental Protection (Scenic) under the provisions of Hawkesbury Local Environmental Plan 1989. The existing development would be defined as a "Residential Flat Building Type B" under this plan and is prohibited under this zoning.

How Was the Original Proposal Approved?

The original proposal was approved under the provisions of State Environmental Planning Policy No. 5 - Aged and Disabled Housing. This policy, at the time, prohibited these types of development in Environmental Protection zones except where they adjoined a residential zone and the zoning permitted Residential Flat Buildings. Under the 7(d1) zoning, Residential Flat Buildings Type A (attached dual occupancies) are permitted and therefore at the time the application was considered it was deemed that Council could approve an aged housing development under the Environment Protection zoning.

Legal advice has recently been sought which confirms that this interpretation was correct.

Current Statutory Situation

The subject land is currently still zoned Environmental Protection 7(d1) under HLEP 1989.

In January 1998, State Environmental Planning Policy No. 5 was amended which now, in effect, would not allow this development on the site under this policy and therefore the development would be prohibited.

Status of Current Approval

The current approval was originally issued on 13 September 1994 and is still operational. Consents are valid for a period of 5 years, therefore this consent is due to expire on 13 September 1999 unless physical commencement of the development has occurred. No physical commencement has occurred to date, however, a building approval has recently been granted for the office and service facilities.

Does the Existing Development have "Existing Use Rights"?

No. Under section 106 of the Environmental Planning and Assessment Act 1979, if a development was lawfully approved as in this case and a subsequent planning instrument comes into force which prohibits the development and the development has not commenced within 12 months from the date of the prohibition, then the development, if constructed, does not enjoy the benefits of "existing use rights".

In the case of this development, the amendment to SEPP5 in January 1998 resulted in this development becoming prohibited development and as the development had not commenced by January 1999, then the development, if constructed, will not benefit from "existing use rights".

What are the Implications of this?

This is quite an unusual situation which results in Council being unable to approve any new development on the site in the future even if only of a minor nature such as a swimming pool or garden shed. The provisions of exempt and complying development when introduced would not apply to this development.

Can Council Approve this Application?

It is considered that Council can approve the relocation of the existing caretaker's residence as this is an existing approved building under the original approval. If, on the other hand, this was an additional building to that which was originally approved, it is considered that Council could not approve the application.

The proposed additional carparking area, however, is new development and therefore it is considered that this component of the development cannot be approved.

As mentioned previously, this is quite an unusual situation and is subject to legal interpretation.

Based on the above analysis, it is considered Council can only approve part of the current application and would be required to refuse the carparking component. It is believed that legally this cannot be done and therefore Council has no option but to refuse the current application. It is therefore suggested that if Council wishes to support the relocation of the caretaker's/manager's residence, the applicant should be invited to amend the application to delete the carparking component.

Public Consultation

The current application was notified to previous objectors and adjoining owners for a period of 14 days. At the conclusion of the exhibition period, 38 letters of objection were received. 36 of these letters were a form letter.

Planning issues raised in the objections include:

- Concern raised regarding the extent of fill required for the development (2.2m).
- Filling may impact on flooding in the area and create a precedent for surrounding properties.
- Assume two buildings being deleted are being utilised into other units.
- Loss of ironbark trees on the site.
- The visual appearance of the development and extent of landscaping.
- Concern regarding effluent disposal during wet weather periods.
- Contrary to 7(d) zoning.
- Loss of privacy to adjoining properties.
- Concern that deleted two storey residences will be added at a later date.
- Back up electricity supply unit located on adjoining land.

Planning Assessment

It is considered that Council cannot approve the current application without deletion of the carpark area from the amendment. Therefore, the following assessment relates only to the relocation of the caretaker's/manager's residence.

It is considered that Council can consider the relocation of the caretaker's/manager's residence under section 96 of the EPA as the overall development will remain substantially the same.

Flooding

The land where the building is proposed to be relocated is between the 15m and 16m contour. The 1 in 100 year flood level for this area is 17.2m AHD. The applicant proposes to fill the site where the dwelling is to be relocated to 17.2m AHD which is consistent with the existing approval. This is at the 1 in 100 year flood event.

The additional filling, as a result of this amendment, is minor compared to that which has already been approved and will have no measurable impact on flooding patterns in the area.

Visual Impact

The caretaker's/manager's residence is to be relocated to within 3.5m of the eastern boundary. Taking into account that the building will be elevated on approximately 2 metres of fill, it is considered that this will further increase the visual impact of the development from properties to the east.

Any approval should require the building to be constructed in dark toned colours.

Impact on Privacy

A dwelling is located on the adjoining property directly to the east. The dwelling fronts King Road and is located in close proximity to the boundary of the development site. The caretaker's/manager's residence is located 3.5m from the boundary and approximately 40 metres to the south west of the dwelling on the adjoining lot. Living areas of the proposed caretaker's/manager's residence are orientated to the east. The floor level of this residence will be raised up to 2m from natural ground level. This will result in overlooking and loss of privacy to the adjoining properties to the east.

It is suggested that should Council support this application, of the residence should be moved to a location some 70m from where it is currently proposed and setback 20m from the eastern boundary. This would minimise the impact on privacy.

Location of Back Up Utility Unit

It is not clear exactly where the back up utility unit for the effluent disposal system is located. One of the objectors claim that it is not located on the development site but rather on their land.

Adequate area is available to locate it on the development site if it is not. It is suggested that if Council supported the relocation of the caretakers residence that the applicant clarify this issue and amend their current application to include the relocation of this facility.

Comment on Issues Raised in Public Submissions

The issues raised directly relating to this application have been addressed throughout this report. The other issues raised such as effluent disposal relate to the approved development as a whole and are not relevant to the assessment of this application to modify the consent.

Conclusion

It is considered that the application for the relocation of the caretakers/managers residence can be considered under Section 96 of the EPA Act 1979 as the development is substantially the same and involves the relocation of the existing approved building.

The proposed carpark cannot be considered under the Section 96. The applicant would need to delete the carpark from the application prior to any approval being granted.

It is considered the application to relocate the caretaker's/manager's residence would be acceptable if it was located to where the doctor's residence was originally proposed.

The applicant should also be requested to clarify where the electricity supply unit is located and amend the application to ensure it is located on the development site if required.

RECOMMENDATION:

That:-

1. the applicant be advised that Council is prepared to support an amended application under Section 96 subject to:-
 - (i) deletion of the proposed carparking area from the application; and
 - (ii) relocation of the electricity supply unit onto the development site if required, and
2. upon receipt of the above amendments, the application be approved under delegated authority, subject to the caretaker's/manager's residence being located to where the doctor's residence was to be located.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 100 Oooo

ENVIRONMENT

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Item: **101**

ITEM: 101 **Two Lot Subdivision Proposal of Lot 62 DP242486 No. 12 Gregory Street, North Richmond**

FILE NUMBER: MA0285/99/EVD/END27NAX.V07

Applicant: Mr and Mrs Giannopoulos
Applicants Rep: Not Advised
Owner: As Above
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 1,012m²
Zone: Residential 2(a)
Advertising: Notification to seven adjoining owners from 18 March to 31 March 1999.
Four objections were received.
Date Received: 8 March 1999

Key Issues: Character
 Traffic
 Drainage
 Amenity

Action: Approval subject to conditions

REPORT:

Background

A similar application was considered by Council at its Ordinary Meeting on 13 October 1998 and was refused. The application was considered in conjunction with a two storey dual occupancy on the site and both were recommended for approval by Council staff.

Council's reasons for refusal of the subdivision were:-

- "1. Arrangements for the disposal of stormwater from the property are inadequate.
2. Access to the proposed lot will be unsatisfactory in terms of traffic safety.
3. The development will have an unacceptable impact on the amenity of adjoining residents by providing the ability for additional dwellings to be constructed.
4. Approval of the development would not be in the public interest."

In the light of the previous Council resolution, the applicant was advised in writing that the present application may also be refused. The applicant was given the option of withdrawing the application and receiving a refund of fees. However, the applicant wishes to proceed.

The Site

The subject site has a total area of 1,012m² and is located on the corner of Gregory and Michael Streets. Existing on the subject land is a two storey dwelling of brick construction with associated outbuildings including bird aviaries and an inground pool.

Surrounding development consists mainly of single storey dwellings with associated outbuildings. Some two storey development is also located in the general locality on Michael and Gregory Streets.

Statutory Situation

The land is zoned Residential 2(a) under the provisions of Hawkesbury Local Environmental Plan 1989 (HLEP 1989) and subdivision is allowable within this zone with Council's consent. The minimum area allowable for each new lot created in a subdivision is 450sqm in accordance with Clause 12(1)(a) of HLEP 1989.

Current Application

The proposed subdivision comprises two lots of 486.5m² and 525.5m². Development of the lot is not part of the current application and will be considered on its merits when and if an application is submitted.

The applicant has advised verbally that plans are being drawn for a single storey dual occupancy.

Public Notification

Adjoining owners of the site were notified of the proposal and four (4) objections were received.

The objections are summarised below:-

- out of character with area - generally 1,000m² lots;
- previous Council inspection and grounds of refusal, viz:-
 - inadequate stormwater disposal;
 - dangerous access in terms of traffic safety;
 - unacceptable impact on amenity of adjoining residents by allowing additional dwellings; and
 - not in the public interest,
- no details of future plans for the site;
- existing medium density development at end of Yvonne Place attracts undesirable elements;
- medium density development increases the likelihood of unsavoury characters - dangerous to children; and

- increased development density increases violence, anti-social behaviour and other social tensions.

Planning Assessment

Character

The area is generally of larger size lots, however, a number of recent subdivisions and medium density developments have occurred in the area, including a battle axe subdivision in Michael Street only 3 lots to the north.

The lots are generally in the order of 20-25m wide and 50m deep although some narrower and deeper lots do exist. The new lot has a frontage of 22.92m which will result in consistency of streetscape. The lot will of course at between 19.8 x 23.09m be shallower than the norm but this is not readily noticeable from the street.

Stormwater

The site falls away from Gregory Street, ie. in a north westerly direction. The site falls slightly away from Michael Street, however, a drainage pit about 1m deep exists in the kerb and gutter fronting the north western corner of the vacant lot. The roof water can be drained to the road gutter by using the head of the downpipe or alternatively by gravity to the rear of the pit. On this basis drainage of the site is not considered a problem.

Traffic

The future access point to the new lot will be located in Michael Street between 20 and 40m from the intersection of Gregory Street. Michael Street is a dead end cul-de-sac carrying limited traffic. Access to the lot is not considered dangerous and similar to other lots in the area.

Amenity

While the adjoining lot in Michael Street does currently adjoin a vacant rear back yard area the general development along the road is of houses spanning the majority of the width of the lots. Development of the new lot will be consistent with this and is not considered to have any significant impact on adjoining residents. It is not considered that one additional lot in the area, complying fully with the standards required by the LEP is against the public interest.

Social Impacts

No details of the future development of the lot have been submitted although the applicant has verbally suggested that a single storey dual occupancy is proposed.

While there has been considerable news exposure of problems with high density development in underprivileged communities, there is nothing to suggest that good quality medium density development leads to social problems particularly when integrated into normal low density residential development. Notwithstanding this, the application currently before Council does not propose medium density development but only the creation of a complying residential lot.

Conclusion

From our assessment it appears that the original subdivision refusal and the strong objections lodged are based on concerns generated by the previous application to erect a two storey duplex on the site. The future development of the lot can be assessed when an application is made and if unsuitable can be refused or modified to reflect the existing character and streetscape in the area. The proposed subdivision is, therefore, supported.

The new lot contains an existing inground pool. This is likely to be removed as a consequence of the future development of the site. However, a house could be designed on the lot and still retain the pool. It is, therefore, proposed to allow the pool to remain at this stage.

RECOMMENDATION:

That the application to subdivide be approved subject to the following conditions:-

Advisory

1. To confirm and clarify the terms of this approval, the development shall take place in accordance with the plans submitted with the application.
2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979.

Prior to Issue of Subdivision Certificate

3. A monetary contribution is to be paid to Council, pursuant to Section 94 of the Environmental Planning and Assessment Act 1979, towards the provision of the following public facilities in the locality:

- | | | |
|-----|---------------------------|-----------|
| (a) | Open Space and Recreation | (\$1,677) |
| (b) | Community Facilities | (\$2,357) |

The above contributions have been determined in accordance with Hawkesbury Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Offices, George Street, Windsor.

The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for 3 (three) months.

4. The submission of a Compliance Certificate under Section 73 of the Water Board (Corporatisation) Act 1994.
5. 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.
6. Submission of a Certificate from Telstra that satisfactory arrangements have been made for the provision of cables for telephones through the subdivision.
7. The construction of Council's standard layback vehicular crossing to Lots 621 in accordance with Council's standard plan.
8. The submission of a plan showing all existing services on the lots including septic tank and effluent disposal area, sewer connections, water connections and stormwater disposal, where applicable, and the correction of any encroachments or defects to the requirements of the Director Environment and Development.
9. The submission of the plan of subdivision, together with 4 (four) exact copies thereof, suitable for lodgement with the Registrar General.
10. Payment of a linen release fee of \$200. This amount is valid until 30 June 1999.

ATTACHMENTS:

AT-1 Subdivision Plan.

AT-2 Plan of Objectors.

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SUBDIVISION PLAN

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PLAN OF OBJECTORS

oooO END OF ITEM 101 Oooo

ITEM: 102**Draft Public Notification Development Control Plan****FILE NUMBER:**DCP2/99/EVD/END27NBX.V10

REPORT:**Introduction**

As a result of amendments to the Environmental Planning and Assessment Act 1979 in 1998 Councils are required to review their notification policies so that they are relevant to the new legislation. Also, it must be clear to accredited certifiers what is required to be notified or advertised. Existing policies must be re-written in the format of a development control plan and go through the required processes prior to it coming into force. Attached is a proposed Draft Notification Development Control Plan for Hawkesbury.

Current Situation

No comprehensive notification policy currently exists for development in the Hawkesbury. The only policy relates to notification of building applications and this policy largely relies on the discretion of the officer assessing the application on whether notification is given. This has resulted in problems and inconsistencies in the past.

No formal policy exists for the notification of development applications. Currently it is largely left to the discretion of the Building and Development staff. It should be noted that the majority of development applications are notified.

The Draft Plan

The draft plan identifies the types and level of notification/advertising required for each category of development by zone. The plan acknowledges that one type of development may significantly impact on surrounding property owners in one zone while in another it may have minimal impact. The plan does this by establishing four (4) levels of notification or advertising requirements. These are:

1. no advertising required;
2. notification to adjoining owners;
3. notification to adjoining and affected owners plus erection of on-site sign; and
4. notification to adjoining owners, affected owners, erection of on-site sign and placement of advertisement in local newspaper.

The draft plan contains the flexibility to allow an application to be advertised/notified at a higher level if considered appropriate. Criteria is established to make this determination.

Applications will be advertised/notified for a period of fourteen (14) days with an option for Council to extend this period to a maximum of twenty one (21) days subject to a written submission being made.

The plan sets out the form of any notification. Any submissions made will not be subject to confidentiality and may be made available to the applicant for the purpose of facilitating solutions to conflicts. This is in accordance with Council resolution of 9 March, 1999 relating to the report on the handling of complaints.

Public Exhibition

The draft plan is required to be placed on public exhibition for twenty eight (28) days in accordance with the EPA Act prior to the plan being made by Council. The plan takes affect from the date it is notified in the local newspaper following the exhibition and consideration of submissions.

RECOMMENDATION:

That Council place the draft Development Control Plan for Public Notification on public exhibition for a period of twenty eight (28) days in accordance with the provisions of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS:

AT-1 Draft Notification Policy Development Control Plan

DRAFT NOTIFICATION POLICY

Development Control Plan Number #

1. APPLICATION OF THE POLICY

- 1.1 This Policy applies to applications for development consent lodged under the Environmental Planning and Assessment Act 1979 (Development Applications).
- 1.2 This Policy applies to modifications of development consents under Section 96(2) of the Environmental Planning and Assessment Act 1979.
- 1.3 This Policy applies to Exempt and Complying developments as defined by Section 76A(5) and 76(2) respectively, of the Environmental Planning and Assessment Act 1979.

2. AIMS AND OBJECTIVES OF THE POLICY

- 2.1 To set out Council's Policy in relation to requirements for the notification of development applications and to carry out an activity.
- 2.2 To provide for public participation in the consideration of applications which may detrimentally effect the enjoyment of property or the public interest.
- 2.3 To allow for a reasonable time for inspection and making of submissions on applications while recognising the obligations of the Council to determine applications within prescribed periods.
- 2.4 To provide a direct avenue of access to the application process by affected residents and owners who wish to express their concerns about proposals to Council staff, Councillors or relevant Council Committee.
- 2.5 To set out the rights of adjoining owners and residents to make comment on applications and in respect of the determination of applications by the Council.
- 2.6 To set out the matters to which the Council will have regard when forming its opinion as to whether or not the enjoyment of adjoining or neighbouring land may be detrimentally effected by a proposed development or building after its erection.
- 2.7 To set out the Policy for advertising of applications and notifying persons other than persons who own land adjoining the land to which the application applies.
- 2.8 To clarify the circumstances when notice is not required.
- 2.9 To detail the form that the notification will take and the requirement of the notification plan.

3. INTERPRETATION

"Adjoining Land" means land which abuts an Application Site or is separated from it only by a road, lane, pathway, right of way, river or stream or similar thoroughfare.

"Advertising" means the placement of public notice in a newspaper circulating at least once a week in the locality.

"Application Site" means the land to which an application relates and includes any easement or right of way appertaining to the site.

"Approval Body" means a Stage Agency which may grant an approval in respect of Integrated Development as identified by Section 91 of the Environmental Planning and Assessment (Amendment) Act 1997.

"Building" includes part of a building and any structure or part of a structure, and includes a swimming pool.

"Council" means Hawkesbury City Council. References in this plan to the Council may include Council staff properly exercising authority delegated by the Council.

"Demolition" means the complete or partial dismantling of a building or structure including damage, defacement or the relocation of a building or structure.

"Integrated Development" means development (not being complying development) that, in order for it to be carried out, requires development consent and one or more of the approvals set out in Section 91 of the Environmental Planning and Assessment (Amendment) Act 1997.

"Neighbouring Land" means any land other than adjoining land, which may be detrimentally effected by the use of the Application Site or the erection of a building on an Application Site (includes properties in a neighbouring Council area).

"Notification" means giving written notice in accordance with this plan.

"Land" includes any building or part of a building erected on the land.

"Owner" means the name and address of the proprietor as registered in Council's property record.

4. NOTIFICATION AND ADVERTISING OF APPLICATIONS

4.1 Table 1 lists which developments will be notified/advertised and how they will be notified/advertised.

4.2 Notification will not be made of an application for works involving:-

- (a) alteration to an existing building where the works will not result in any change to the height, external configuration or external facade of the existing building;

- (b) change of use (in a commercial or industrial zone); and
- (c) intensification and hours of operation (in a commercial or industrial zone).

4.3 All applications to modify a development consent in accordance with Section 96(2) of the Act will be notified/advertised as set out in Table 1 unless the modification or amendment does not change the height or external configuration or facade of the proposal as shown on the original application.

5. WHO IS TO BE NOTIFIED?

5.1 For applications for development listed in Table 1. The Council will cause notice of an application to be sent to:-

- (a) all persons who, according to Council property rating records, own or occupy land immediately adjoining the application site;
- (b) owners or occupiers of any land that the Council or delegated staff considers, may be detrimentally affected by the application having regard to the following criteria:-
 - (i) the views to, from, and across/over the land;
 - (ii) overshadowing;
 - (iii) privacy;
 - (iv) noise;
 - (v) the visual quality of the building in relation to the streetscape and neighbouring properties;
 - (vi) the scale of the proposed buildings;
 - (vii) the likely effect on the drainage of adjoining sites;
 - (viii) the siting of the proposed building in relation to the application site boundaries;
 - (ix) hours of use;
 - (x) nature of use;
 - (xi) light spillage or reflection;
 - (xii) means of access to or provision of private parking on the application site;
 - (xiii) any covenant or easement benefiting the adjoining or neighbouring land or the Council;
 - (xiv) the height, materials and position of fences erected on the boundary;
 - (xv) traffic generation;
 - (xvi) particular circumstances of the application; and
- (c) any community group or government agency which may be affected by or have a legitimate interest in the application.

6. WHAT IS TO BE CONTAINED IN THE NOTICE?

6.1 The notice will contain:-

- (a) address of the site (Lot No., Deposited Plan, and House No.);
- (b) the name of the applicant;
- (c) a brief description of the proposal expressed as informatively as possible in a short statement;
- (d) the period during which a person may inspect the application;
- (e) where and when the plans can be inspected;
- (f) an invitation to make a submission; and
- (g) a statement that confidentiality will not be available to objectors; and
- (h) for applications to erect a single building, a plan (A4 size) showing the height and external configuration and external facade of the building in relation to the site on which it is proposed to be erected.

7. WHAT PERIOD IS TO BE ALLOWED TO INSPECT AN APPLICATION AND MAKE SUBMISSIONS?

- 7.1 A period of fourteen (14) calendar days will be allowed for persons to inspect an application and make a submission unless otherwise determined.
- 7.2 The Council will not determine the application before the expiry of the period referred to in Section 7.1 above.
- 7.3 For "advertised" or "designated development" the length of the inspection period and how the application will be advertised shall be in accordance with the requirements of the Environmental Planning and Assessment Regulations.

8. COUNCIL CONSIDERATION OF THE SUBMISSIONS

- 8.1 The Council or delegated staff will consider all submissions made in respect of an application.
- 8.2 In making a determination the content of a submission must be balanced with the Council's statutory obligations. Submissions form a part of the assessment of an application.

9. WILL THE APPLICANT BE ADVISED OF OBJECTIONS?

- 9.1 Confidentiality will not be available to objectors.

9.2 The applicant, on request, will be advised of the terms of any objection and from where it emanated. The applicant, by appointment is entitled to read all submissions received.

9.3 Where applications are amended in response to objections received, comments may be sought from previous objector/s.

10. WHICH OTHER PERSONS ARE TO BE NOTIFIED?

10.1 A notice in accordance with Section 6.1 will be given to the relevant Council listed in 10.2 in respect of applications on land adjoining those Local Government areas.

10.2 Councils to be notified:-

- (a) City of Blue Mountains;
- (b) City of Penrith;
- (c) City of Blacktown;
- (d) Shire of Baulkham Hills;
- (e) Shire of Gosford;
- (f) City of Greater Cessnock;
- (g) Shire of Singleton; and
- (h) City of Lithgow.

10.3 In respect of Integrated Development, notification will be given to the appropriate approval body as required by Clause 52A of the Environmental Planning and Assessment Regulation.

10.4 Applications may be notified at a higher level than that indicated in Table 1 based on consideration of the following criteria:-

- (a) scale of development;
- (b) traffic generation;
- (c) social and economic impact; and
- (d) impact on streetscape.

11. NOTIFICATION OF DETERMINATION OF APPLICATIONS

11.1 Following determination of an application all persons who made submissions will be advised in writing of the decision as soon as practical.

12. COST OF ADVERTISING AND NOTIFICATION

12.1 The applicant shall pay to the Council a fee in accordance with Council's adopted Schedule of Fees and Charges to cover the cost of advertising and/or notification of the application and any amendment or modification of it.

13. OTHER RELEVANT PROVISIONS NOT AFFECTED

- 13.1 This Policy shall not operate so as to limit advertising or notification which is required for any reason other than the provision of this policy.

TABLE 1

Zone	Type of Development	Type of Notification or Advertisement
Rural Zones 1(a), 1(b), 1(c), 1(c1), 1(d)	Child Care Centre Club Education Establishment Sawmill Tourist Facility	- Letter to adjoining owners - Letter to effected owners - Site sign
	Airline Terminal Carnival Generating Works Helipad Heliport Hospital Institution Mine Extractive Industry Waste Management Facility	- Letter to adjoining owners - Letter to effected owners - Site sign - Notice in local newspaper
	Subdivision - All other development: - dwellings and dwelling additions located more than 10m from the boundary; - farm sheds; - exempt and complying development; - strata subdivision; and - advertisements	Letter to adjoining owners
Residential 2(a), 2(a1), 2(c)	Child care Centre Club Education Establishment Motel Place of Public Worship Residential Flat Building Tourist Facility Units for Aged Persons	- Letter to adjoining owners - Letter to effected owners - Site sign

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Zone	Type of Development	Type of Notification or Advertisement
	Carnival Helipad Hospital	- Letter to adjoining owners - Letter to effected owners - Site sign - Notice in local newspaper
	Subdivision - All other development except for: - single storey dwelling houses and additions; - sheds less than 30m² in area 2.4m in height measured from ground level; - exempt and complying development; - strata subdivision; and - advertisements.	Letter to adjoining owners
Commercial 3(a), 3(b)	Bus Depot Bus Station Child Care Centre Club Education Establishment Motel Place of Assembly Place of Public Worship Service Station	- Letter to adjoining owners - Letter to effected owners - Site sign
	Airline Terminal Brothel Carnival Generating Works Helipad Heliport Hospital Hotel	- Letter to adjoining owners - Letter to effected owners - Site sign - Notice in local newspaper
	Animal Establishment Dual Occupancy Residential Flats Retail Plant Nursery Tourist Facility Units for Aged Persons	Letter to adjoining owners

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Zone	Type of Development	Type of Notification or Advertisement
Industrial 4(a), 4(b)	Airline Terminal Extractive Industry Generating Works Helipad Heliport Hotel Institution Liquid Fuel Depot Mine Offensive or Hazardous Industry	- Letter to adjoining owners - Letter to effected owners - Site sign - Notice in local newspaper
	Place of Assembly Place of Public Worship Sawmill Stock and Sale Yards All development adjoining or adjacent to a residential zone	- Letter to adjoining owners - Letter to effected owners - Site sign
Special Uses 5(a), 5(b)	All development except for:- - advertisements; and - exempt and complying development.	- Letter to adjoining owners - Letter to effected owners - Site sign
Open Space 6(a), 6(b), 6(c)	Public Building Recreation Area Recreation Facility Recreation Vehicle Area Recreation Establishment Refreshment Room	Letter to adjoining owners
	Child Care Centre Club	- Letter to adjoining owners - Letter to effected owners - Site sign
	Carnival (except where exempt development) Helipad Hospital	- Letter to adjoining owners - Letter to effected owners - Site sign - Notice in local newspaper
Environment Protection 7(a), 7(d), 7(d1), 7(e)	Child Care Centre Club Education Establishment Hotel Sawmill Tourist Facility	- Letter to adjoining owners - Letter to effected owners - Site sign

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Zone	Type of Development	Type of Notification or Advertisement
	Airline Terminal Carnival (except where exempt development) Helipad Heliport Hospital	- Letter to adjoining owners - Letter to effected owners - Site sign - Notice in local newspaper
	Subdivision - All other development except for:- - dwellings and additions located more than 10m from the boundary; - farm sheds; - exempt and complying development; - strata subdivision; and - advertisements.	Letter to adjoining owners
8(a), 9(b)	All development except advertisements.	

Note: A site sign will be a minimum size of 418mm x 297mm (A3), laminated for weather resistance and positioned on the application site where clearly visible from the public footpath or road. The sign shall include the wording "Development Proposal" in bold letters.

oooO END OF ITEM 102 Oooo

ITEM: 103 **Conservation Plans for the Great North Road - Convict Trail Project and National Parks and Wildlife Service**

FILE NUMBER: GH20/005 PT03/EVD/END27NBX.V09

REPORT:

Introduction

This report discusses two conservation plans for the Great North Road.

The first conservation plan is titled *Stage 1 Conservation Plan for the Great North Road*. This plan has been prepared for the Convict Trail Project Group by consultants Siobhan Lavelle, Dr Grace Karshens and RTA Technology and was funded by a grant from the NSW Heritage Office and assistance from the RTA. Hawkesbury City Council is a member of the Convict Trail Project Group and Council staff attend meetings of the Convict Trail Executive Group and Convict Trail Heritage Group.

The first plan deals within the historic background and significance of the Road, provides an overview description of its physical conditions, considered present management issues, and provides policy and recommendations to assist with the future management of this highly significant heritage item. The aim of the plan is to establish overall guidelines, development of policies and consideration of opportunities for the future management of the entire Road. The Plan has been forwarded to Council for endorsement and adoption.

The second conservation plan titled *Draft Old Great North Road Conservation Management Plan Dharug National Park* has been prepared by the National Parks and Wildlife Service. This draft plan relates to the "Old Great North Road" which is identified as a 43km section of the Great North Road between Wiseman's Ferry and Mount Manning. This section of the Road is the only section of substantial length that has remained undeveloped and relatively intact due to its early abandonment for new and alternate routes. The policies and strategies of the draft plan relate only to those parts of the Old Great North Road owned and managed by the NPWS.

The draft plan has been forwarded to Council for comment.

The Road

The Great North Road is some 240km in length and built by convict labour between 1826 and 1836. The Road was built to link Sydney with the Hunter Valley. It was the first of a network of "Great Roads" which radiated to the north, west and south of Sydney .

The original line of the Road ran between Baulkham Hills and Wollombi via Wisemans Ferry, at the confluence of the Hawkesbury and Macdonald Rivers. From Wollombi it originally ran north east to Maitland and Newcastle; later in the construction period , branches were added to the upper and middle Hunter Valley.

What is perhaps most striking about the Road in terms of engineering heritage is its integrity and the fact that examples of most phases, types, features and standards of colonial road engineering survive, from the simplest earth formations to the most elaborate retaining walls and bridges. The Road is an extraordinary outdoor museum which clearly demonstrates the technology brought by the engineers and surveyors, and the skills acquired and fostered by the convicts in the gangs. Through the Road we can see how the British theory was translated and modified by local conditions and materials.

The physical evidence which comprises the Road includes the line of the Road, its formation and pavements, side cuttings and component structures such as retaining walls, culverts and bridges, as well as adjoining landscape corridors, environment (natural and built) and setting.

Significance of the Road

The Road is an item of national heritage significance. It has values under all relevant heritage assessment criteria, including historic, aesthetic, scientific and social significance. The Road has historic associations with notable colonial figures including Governor Darling and Surveyor-General Sir Thomas Mitchell. The Road is also tangible evidence of the development of the colony of Sydney, and of policies which saw convict gangs used to construct major public works during the 1820s and 1830s.

Parts of the Road are heritage listed by various Council LEPs, Australian Heritage Commission (Register of the National Estate), and National Trust.

Parts of the road have been included in the "Convict Sites Group" World Heritage nomination.

Ownership of the Road

The road is currently under the control, management or ownership of an extremely diverse range of management authorities. These include the DUAP, RTA, NPWS, and Drummoyne, Ryde, Hornsby, Baulkham Hills, Hawkesbury, Gosford, Cessnock, Singleton, Maitland, Newcastle and Wyong Councils.

The biggest issue for the entire length of the road is the lack of an overall management structure which can assess and view proposals for the Road from the perspective of its entire context.

Stage 1 Conservation Plan for the Great North Road - Convict Trail Project.

The whole of the Road was studied and then divided up into 8 Sections. These being:

- | | |
|-----------|--|
| Section 1 | Baulkham Hills to Wisemans Ferry |
| Section 2 | Branch of the Great North Road between Abbotsford and Dural (the New Line) |
| Section 3 | Wisemans Ferry to Mount Manning Junction |

Section 4	Mount Manning Junction to Wollombi
Section 5	Wollombi to Maitland
Section 6	Wollombi to Broke
Section 7	Broke to Patrick's Plain
Section 8	Broke to Warkworth (Jerry's Plain)

These 8 sections were further broken up into 39 precincts. Sections of the Road that are within the Hawkesbury LGA are Sections 1, 3, and 4.

Parts of the road within Hawkesbury LGA and/or under the care, control or management of Hawkesbury City Council

Section and Precinct inventory sheets have been included in the Plan. The inventory sheets include specific information on historical notes, statement of significance, condition, threats and recommended action for conservation/management.

Parts of the Road and associated locality/structures/buildings that fall within the Hawkesbury LGA are listed below. Items denoted by * are either wholly or in part under the care, control and management of Hawkesbury City Council.

- Wisemans Ferry Crossing *
- Old Great North Road/Settlers Road *
- Parts of road within Dharug National Park including Devines Hill ascent, Devines Hill convict stockade, Shepherds Gully Road *, Mitchell's Loop, Ten Mile Hollow, Clare's Bridge.
- Parts of road within Yengo National Park including Frog Hollow Stone Hut foundations, ascent to Mount Baxter, quarry site, Sampsons Pass, Circuit Flat and quarry.
- Stone Bridge, Settlers Road, 500m west of Wisemans Ferry Crossing *
- St Albans Road * /George Downs Drive/Old North Road/Wollombi Road

With respect to the ferry crossing the identified threat was the total loss/removal of the last vestiges of the original 1827 crossing.

The identified threats to Settlers Road and St Albans Road were a lack of maintenance, ongoing decay and deterioration, unsympathetic remedial works/upgrading.

The identified threat to the stone bridge was that future upgrading works in the immediate vicinity have potential to impact upon the structure and its ancillary features.

Overall Conservation Policy and Recommendations

Conservation policies have been developed which cover issues such as fabric and setting, structures, landscape, vegetation, curtilage, appropriate uses, new works, interpretation, signage, archaeology, artefacts, control of physical intervention in the fabric, archival material, research and publication, monitoring, management co-ordination and responsibility, statutory recognition.

One of the main actions identified in the conservation policy is to pursue, via DUAP, a single statutory planning instrument, such as a Regional Environmental Plan, to ensure a holistic planning and management approach is adopted in the conservation of the Road.

Recommended Key Actions

The recommended key actions of the conservation plan area:

1. Adopt the Stage 1 Conservation Plan and in particular the Conservation Policy
2. Investigate the feasibility of obtaining a single Statutory Planning Instrument (an REP) applying specifically to the Great North Road.
3. Ensure Local Government Planning Instruments (LEPs) include provisions applying specifically to the Great North Road and its contextual environment.
4. Obtain consistent heritage listing(s) for the entire length of the Great North Road.
5. Update the Plan as new information becomes available.
6. Review this Conservation Plan.

The Convict Trail Executive has requested that Hawkesbury City Council adopt the conservation plan and the above recommended key actions.

Draft Old Great North Road Conservation Management Plan Dharug National Park

As stated in the introduction this draft plan relates to the “Old Great North Road” which is identified as a 43km section of the Great North Road between Wiseman’s Ferry and Mount Manning. The policies and strategies of the draft plan relate only to those parts of the Old Great North Road owned and managed by the NPWS

The plan contains the following conservation management policies:

1. Recognise the Old Great North Road as being nationally significance.
2. Manage and interpret the site in accordance with its recognised significance.
3. Improve our understanding of the significance and history of the Road through research and investigation.

4. Conserve significant structures and elements of the Road by undertaking capital works and cyclical maintenance.
5. Ensure that site management is low-key, cost-effective and appropriate to levels of interpretation, visitor need and conservation requirements.
6. Ensure that all development and impact on the Road is suitably assessed prior to works and that works are documented and monitored.
7. The NPWS will investigate the best means for conservation of those parts of the Road which are not owned by the NPWS (this includes possible acquisition of parts of the road and entering Conservation Agreements with landowners and managers of parts of the road)
8. Visitor access to the Road will be minimised to reduce impact on the fabric (essentially this policy aims to restrict vehicle access to the Road other than by Transgrid and other authorised persons. Walking, bicycling and horse riding (in parts) will still be permitted.
9. Access to the Road for management purposes will be minimised to reduce impact on the fabric.
10. Physical intervention into the fabric for the purposes of interpretation, identification and management will aim to minimise impact on the fabric.
11. Use of and impact on the Road for fire operations will be reduced as much as possible through long-term planning.

Each conservation policy is accompanied by specific strategies and actions to achieve the intended policy.

RECOMMENDATION:**Part A**

That Council adopt the conservation plan and recommended key actions of the *Stage 1 Conservation Plan for the Great North Road*; and

Part B

That the Council congratulate the NPWS on preparing the *Draft Old Great North Road Conservation Management Plan Dharug National Plan* and support the conservation policies identified in the draft plan.

ATTACHMENTS:

AT-1 Maps of Great North Road

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MAP

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MAP

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Meeting Date: 27 April, 1999

Item: **104**

ITEM: 104 **Draft Local Environmental Plan 3/99 - Lot 63 DP751632 No. 749
Upper Colo Road, Upper Colo**

FILE NUMBER: LEP3/99/EVD/END27NBX.V06

REPORT:

No. 749 Upper Colo Road is incorrectly zoned as National Parks and Nature Reserves 8(a) under Hawkesbury Local Environmental Plan 1989 and, not being part of the Wollemi National Park, should be zoned Environmental Protection 7(d) Scenic.

The land is owned by R W Edwards and Five Towns Conveyancing Services have requested the lot be correctly zoned.

The boundary between the 8(a) zone and the 7(d) has been incorrectly located due to a drafting error on HLEP 1989 and the subject land should be rezoned to 7(d).

RECOMMENDATION:

That:

1. a draft local environmental plan be prepared for Lot 63 DP751632 No. 749 Upper Colo Road, Upper Colo, from National Parks and Nature Reserves 8(a) to Environmental Protection 7(d) Scenic;
2. an environmental study be not required as the matter is minor;
3. Council exercise its delegation in respect of the Section 65 Certificate and the Section 69 Report; and
4. Council advise the Department of Urban Affairs and Planning pursuant to Section 54(4) of the Environmental Planning and Assessment Act 1979 of Council's decision.

ATTACHMENTS:

AT-1 Site Plan.

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SITE PLAN

oooO END OF ITEM 104 Oooo

ITEM: 105 **Lot 24 DP794424 No. 7 Bayliss Place, North Richmond - Appeal Against Council's Refusal of an Application for Subdivision and Erection of a Single Storey Dwelling**

FILE NUMBER: M89/98/EVD/END27NBX.V05

PREVIOUS ITEM: 41, Ordinary (08.12.1998)

PREVIOUS ITEM: 41, GPC Section 1 - Environment (24.11.1998)

REPORT:

At the Ordinary Meeting of 8 December 1998, Council considered a development application for a 2 lot residential subdivision creating lots with areas of 518m² and 708m² and the erection of a dwelling on the vacant smaller lot.

Council resolved to refuse the application for the following reasons:

11. The proposed subdivision is out of character with lot sizes and lot layouts in the surrounding area.
12. Approval of the subdivision could create a precedent that could lead to similar applications in the surrounding area.
13. The proposed dwelling, in the location proposed, could adversely affect the amenity of the adjoining residents.
14. The location of the proposed dwelling does not provide access to the rear yard of the proposed Lot 242 with the result that any future carport or garage would have to be located in front of the proposed dwelling which could adversely affect the visual quality of the two dwellings as viewed from adjacent properties and from Bayliss Place.
15. Approval of the proposed development would not be in the public interest.

The applicant subsequently lodged an appeal against Council's refusal in the Land & Environment Court. Solicitors, Abbott Tout, have been instructed to act for Council in this matter and defend the appeal. Mr John Mullane, Mullane Planning Consultants, has also been engaged to provide expert evidence in this matter.

A callover will take place on 27 April 1999, when it is anticipated that a hearing date will be fixed. Council will have an opportunity, if desired, to mediate the matter in the Court, and if Council is of a mind to do so, an acceptable position should be resolved.

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RECOMMENDATION:

1. Council note the information and endorse the actions in engaging Solicitors and a Planning Consultant.
2. Council resolve whether to mediate the matter.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 105 Oooo

ITEM: 106 **Draft Local Environmental Plan 11/98 - Lot 2 DP7001, Lot F DP374602 and Other Lots, Grose Vale Road, Kurrajong**

FILE NUMBER: LEP11/98/EVD/END27NBX.V04

PREVIOUS ITEM: 104, Ordinary (08.12.1998)

REPORT:

Introduction

Council, at its Ordinary Meeting of 8 December 1998, resolved to prepare a draft local environmental plan to relocate the boundary between the Rural 1(b) and Rural 1(c1) zones at Kurrajong along Grose Vale Road rather than through properties.

Public Authorities Comment

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

- Integral Energy;
- Telstra;
- Sydney Water Corporation;
- Environment Protection Authority;
- NSW Agriculture; and
- Department of Land and Water Conservation.

The following is a summary of the replies received:-

NSW Agriculture

The Department supports the rezoning if the Council is satisfied that increased density of dwellings in the area will not affect the water quality for down-stream agricultural users.

Environment Protection Authority

i) Water Quality

Concern is raised, re: on-site disposal of effluent and recommends that Council apply appropriate guidelines for effluent disposal systems.

ii) Air Quality

Council should take every opportunity to ensure that subdivisions, where possible, encourage the use of transport options other than cars for local trips, for example, cycling and walking.

Department of Land and Water Conservation

The Department has given comments relating to the following:-

- Rivers and Foreshores Improvement Act (1948);
- NSW State Rivers and Estuaries Policy;
- Erosion and Sediment Control;
- Water Reforms;
- Farm Dams Policy;
- Native Vegetation Conservation Act (1997);
- Effluent Treatment and Wastewater Disposal; and
- Crown Land matters.

Community Consultation

The Director General of Urban Affairs and Planning issued a Section 65 Certificate on 16 February 1999 and the draft plan was exhibited from 3 March 1999 to 9 April 1999. Land owners affected by the draft plan and adjoining owners were notified of the draft plan by letter dated 2 March 1999 and an advertisement was placed in the local newspaper on 3 March and 24 March 1999.

One submission has been received from Hawkesbury Progress Association which states as follows:-

"Our Association objects to the further subdivision of rural land where such subdivision increases the number of residential dwellings without enhancing any other land use.

There should be incentives to consolidate small lots of rural land into larger holdings so that land planning and use may be optimised. The residential potential of such land could be in small community title lots in the optimum location within that land for residential dwelling."

Comment

The proposed zoning boundary change will allow limited additional lots in an area where 4ha lots and smaller lots exist. There is not likely to be any adverse impact on agricultural pursuits in the area.

The Parliamentary Counsel has advised that with minor changes to the exhibited plan, the plan may be legally made. A copy of the consented document and map are included at the end of this report.

The plan should now be referred to the Department of Urban Affairs and Planning for gazettal.

RECOMMENDATION:

That:-

1. Council adopt the amended document and map as included in this report;

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2. Council not hold a public hearing pursuant to Section 68 of the Environmental Planning and Assessment Act 1979; and
3. The plan be forwarded to DUAP in accordance with Section 68 of the EPA Act 1979 for finalisation.

ATTACHMENTS:

AT-1 Consented Document

AT-2 Map

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**HAWKESBURY LOCAL ENVIRONMENTAL PLAN 1989****(AMENDMENT No. 113)**

I, the Minister for Urban Affairs and Planning, in pursuance of Section 70 of the Environmental Planning and Assessment Act 1979, make the local environmental plan set out hereunder.
(P98/00071/S 69)

Minister for Urban Affairs and Planning

Sydney,

1999.

Citation

1. This plan may be cited as Hawkesbury Local Environmental Plan 1989 (Amendment No. 113).

Aims, objectives, etc

2. The aim of this plan is to enable the land to which this plan applies to be rezoned from partly Rural "C1" and partly Rural "B" to Rural "C1" under Hawkesbury Local Environmental Plan 1989.

Land to which plan applies

3. This plan applies to land within the City of Hawkesbury, being:-

Lot 1, DP 544412, No. 1019 Grose Vale Road, Kurrajong;
Lot 2, DP 544412, No. 1021 Grose Vale Road, Kurrajong;
Lot B, DP 416222, No. 1027 Grose Vale Road, Kurrajong;
Lot 2, DP 7006, No. 1041 Grose Vale Road, Kurrajong;
Lot 3B, DP 341461, No. 1063 Grose Vale Road, Kurrajong;
Lot B, DP 356350, No. 1065 Grose Vale Road, Kurrajong;
Lot C, DP 374602, No. 1067 Grose Vale Road, Kurrajong;
Lot D, DP 374602, No. 1069 Grose Vale Road, Kurrajong;
Lot E, DP 374602, No. 1071 Grose Vale Road, Kurrajong;
Lot 3D, DP 346122, No. 1073 Grose Vale Road, Kurrajong; and
Lot F, DP 374602, No. 1075 Grose Vale Road, Kurrajong,

as shown edged red and lettered "1(c1)" on the map marked "Hawkesbury Local Environmental Plan 1989 (Amendment No. 113)" deposited in the office of the Council of the City of Hawkesbury.

Relationship to other environmental planning instruments

4. This plan amends Hawkesbury Local Environmental Plan 1989 in the manner set out in clause 5.

Amendment of Hawkesbury Local Environmental Plan 1989

5. Hawkesbury Local Environmental Plan 1989 is amended by inserting at the end of the definition of "the map" in clause 5(1) the following words:

Hawkesbury Local Environmental Plan 1989 (Amendment No. 113)

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MAP

oooO END OF ITEM 106 Oooo

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Item: **107**

ITEM: 107 **Lot 32 DP753828 Webbs Creek Road, Wisemans Ferry - The Grove - Class 4 Proceedings in the Land & Environment Court**

FILE NUMBER: P2307/018/EVD/END27NBX.V02

PREVIOUS ITEM: 21, Ordinary (11.08.1998)

PREVIOUS ITEM: 122, Ordinary (09.12.1997)

REPORT:

At the Ordinary Meeting held on 9 December 1997, Council resolved to take legal action to restrain the camping activities and meditation retreat at The Grove. Class 4 Proceedings were commenced in the Land & Environment Court and the matter was mediated in the Court on 18 June 1998.

A further mediation took place on 15 January 1999 in relation to an appeal against Council's refusal of a previous development application. That mediation resulted in Consent Orders for a Deferred Commencement Consent for a primitive camping ground limited to 15 people, 6 tents and 6 cars parked on the property overnight.

Given the circumstances, and sequence of events, Council's Solicitors were instructed to seek an Order for costs against the respondents in the Class 4 Proceedings. The matter was heard on 8 April 1999 by Mr Justice Lloyd, who ordered that the respondents pay Council's costs up to and including 30 June 1998. In brief, his Honour's reasons included that Council had acted reasonably in the proceedings and was therefore entitled to its costs.

Council's costs in this matter were approximately \$8,000 and this is now being pursued by Council's Solicitor.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 107 Oooo