



general
purpose
committee

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section

environment

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Item: **88**

ITEM: 88 **Erection of a 30 metre high telecommunication pole, 12 panel antennas, 0.6 metre diameter microwave dish, equipment hut and associated equipment - Lot 1 DP601428 No. 615 Windsor Road, Vineyard**

FILE NUMBER: MA860/98/EVD/ENC30NAX.V04

Applicant: Telstra Corporation
Applicants Rep: Hirst Consulting Services
Owner: A J Pye
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 2.003 hectares
Zone: Rural 1(c)
Advertising: To adjoining owners, and in local newspaper, closed 5 February, 1999.
Four (4) submissions and a petition received.
Date Received: 21 December 1998

Key Issues: Visual impact
Flood prone land
Landscaping and screening
Commercial use of site and existing use
Alternative location

Action: Approval

REPORT:

Application has been received to erect a 30 metre high pole and associated equipment on the above 2.003 hectare lot at Vineyard. The proposed telecommunication facility is a mobile telephone base station to improve the existing network coverage and capacity of the area and comprises the following:

- a 30 metre slim line galvanised steel pole with base diameter of 800mm tapering to a top diameter of 280mm;
- at the top of the pole, a triangular headframe measuring 3,000mm per side will be mounted;
- the headframe will support 12 panel antennas, four per side and each antenna will measure 2,270mm in length;
- at the 27.5 metre level, a 600mm diameter microwave dish will be located. This will provide the link to the telephone network;
- provision has been made for a second headframe at the 25 metre level to support antennas for new technology services;
- at the base of the pole a small transportable prefabricated equipment hut measuring 4,400mm (L) x 2,600mm (W) x 3,250mm (H) will be installed. The hut will be constructed from Colorbond steel sheeting and will be coloured green;
- the leased area will be surrounded by a 2.4 metre galvanised chain wire security fence.

Hirst Consulting Services were approached regarding alternative sites particularly in the Mulgrave or Riverstone Industrial Areas. The following reply has been received:

Your attention is drawn to Section 5 of the Statement of Environmental Effects accompanying the Development Application for this proposal. Included in Section 5 is a list of properties which were investigated as alternative locations for the proposed development. You will note, in most instances the property owners declined approaches by Telstra. In the case of the van village located on Bocks Road, the proposal was not supported by Council officers or nearby property owners.

The subject site was selected following an extensive search for a property within Telstra's identified area. Investigations were concentrated on those properties which were already being used for a commercial or industrial type purpose. In this regard it is noted that the subject property is utilised for the sale and repair of tractors and tractor parts.

It is considered this site represents an appropriate location for the proposed facility for the following reasons:

- it is well located in terms of its relationship to Telstra's identified target area, being that area currently experiencing poor mobile phone coverage;*
- it is located on a commercial property within a rural area;*
- the proposed facility is separate from nearby dwellings. It is noted that the closest dwelling is approximately 150 metres from the site; and*
- the facility is located in the vicinity of 20 metre high trees which will serve to screen the hut and the lower portions of the pole. To assist in blending the facility with surrounding vegetation, it is proposed to paint the structure green.*

Statutory Provisions

The site is zoned as Rural 1(c) under Hawkesbury Local Environmental Plan 1989 and the proposal is allowable with Council's consent.

The proposal is located on land below the 1 in 100 year flood frequency level of 17.3m AHD but is permitted under Clause 25.

The site is located in an area where buildings over 90m in height require consultation with the RAAF as the structure is 30m high, no consultation is necessary.

The proposal is not included in the definition of a low impact facility under the Telecommunications Code of Practice 1997 of the Telecommunication Act 1997 and therefore Council's consent is required.

Council's Development Control Plan - Telecommunications Facilities, contains Objectives and Performance Criteria and in respect of Matters for Consideration states as follows:

In determining a proposal for a telecommunications facility, Council will have specific regard to the following environmental factors:

- *the location, design and siting of the facility;*
- *the existing and proposed use of the land and adjoining properties;*
- *the need for the proposal with respect to expansion of the carrier's network and alternatives examined within the proposed area to be covered;*
- *the proximity of the proposed facility to residential and community facility land uses;*
- *any guidelines, advice or supporting information submitted by the proponent or other authorities which may be relevant;*
- *the visual impact of the proposal and measures to ameliorate this impact;*
- *site access, security and landscaping proposals;*
- *the impact of electromagnetic radiation on public health, safety and other electronic communications; and*
- *any submissions received from the public.*

Community Response

The proposal was advised to adjoining owners and advertised in the local newspaper. Four submissions have been received together with a petition containing fifteen (15) signatures. A summary of the concerns follows:

- visual impact;
- only lower section will be screened by existing trees;
- site is not a commercial site as stated in application;
- better located in neighbouring industrial areas, Riverstone and Mulgrave;
- adversely affect rural area and amenity of area;
- adversely affect property values of surrounding properties;
- site is flood prone;
- health effects;
- pole and equipment is unsightly;
- facility to be erected on land filled without approval;
- site plan does not show vegetation or dwellings on adjoining lots;
- screening vegetation is on adjacent lots and beyond the control of the applicant;
- facility very visible from adjacent lands;
- privacy of adjoining residents adversely affected by visiting maintenance staff;
- pole 10m higher than surrounding trees
- pole can be extended 5.0m without Council approval; and
- other carriers could locate their equipment on the pole once erected.

Environmental Assessment

Council is required, in the determination of a development application, to consider the matters under Section 79c(1) of the Environmental Planning and Assessment Act 1979, as amended, and the following are the relevant matters for this proposal.

Flood Prone Land

The facility site is located on land between the 15m and 16m contour AHD. The 1 in 100 year flood frequency level for the area is 17.3m AHD. The facility can be approved in this location but it would be desirable to locate all equipment above the 17.3m level.

Landscaping Screening

A low level screen planting of trees and shrubs could be provided outside the proposed fence to screen the building and the low part of the pole. Some screening of the facility will occur by trees on adjacent lands but the pole will be visible from Windsor Road, adjoining lands and higher lands to the north.

Alternative Location

The Applicant's consultant has addressed the aspect of an alternative location and their reply is given earlier in the report.

Visual Impact

The proposed pole, although some distance from Windsor Road, will be visible from that road but will have a background of trees on higher land to the north. Due to the land falling away and a number of buildings fronting Windsor Road the lower part of the structure will largely be screened.

A residence located approximately 150m to the south west will be most significantly impacted by the visual appearance of the structure. However a number of large eucalypts will screen the tower to a certain extent from this residence. It is suggested that the developments perimeter fencing be located a minimum of 3 metres of the adjoining property boundary to allow more extensive vegetative plantings around the lower part of the structure.

A number of dwellings exist to the north located approximately 400-500 metres away. It is considered the visual impact of the proposal when viewed from these premises will not be significant as they will be looking back towards a number of other commercial type developments which exist along Windsor Road.

Commercial Use of the site and existing use

One of the factors used to justify the location of this development is that the site has an existing commercial use and the proposal is compatible with this use. The site is being used as an earthmoving depot with storage of earthmoving equipment, spare parts, containers and portable office.

A review of air photographs reveals the following:

1982	No evidence of any commercial/industrial activity, dwelling and several small sheds only.
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| 1993 | Evidence of some filling towards the rear and shedding or containers behind dwelling. No evidence of equipment stored in the open. |
| 1997 | Shedding/containers similar to 1993 in photograph but behind buildings used to store equipment. |

There was no particular evidence of a commercial/industrial use on the site as reviewed from Windsor Road when the Existing Use Register for Windsor Road was undertaken in May 1992.

The current owner, A Pye, purchased the land from Donglen Pty Ltd on 31 March, 1998. This company purchased from Black on 30 May, 1989.

No approval can be found to use the land for the present use. The illegal filling of the land is being pursued with the owner. It is proposed the current commercial use also be investigated further with a view of requesting the current owner to lodge a development application if appropriate. Notwithstanding the current status of the existing use on the site the proposal must be assessed on its merits. Having regard to other uses in the area and the general amenity along Windsor Road it is considered the subject proposal is acceptable.

Conclusion

The site for the proposed telecommunication facility is generally acceptable and the painting of the pole and equipment will reduce the visual impact of this proposal.

RECOMMENDATION:

That the approval be granted subject to the following conditions:

Advisory

1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans (prepared by Telstra Mobile Networks numbered NX26093/B2, NX26093/B7 and NX26093/B) submitted with Development Application No. MA860/98 dated 18 December, 1998 provided by the conditions of this consent.

Note: modifications to the approved plans will require the lodgement and consideration by this organisation of a separate application pursuant to Section 96 of the Environmental Planning and Assessment Act, 1979.

2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
3. Prior to construction of the approved development it is necessary to obtain a Construction Certificate.

4. No excavation or site works shall be commenced prior to the issue of the construction certificate.

Prior to the Issue of Construction Certificate

5. Submission of proposed colours of the pole and equipment and approval of this colour scheme before any work on the site commences. Colours shall be dark toned and comprise of green or grey to blend with the surrounding landscape.
6. The fenced area around the development is to be set back a minimum of 2.0 metres from the adjoining boundary.
7. Provision of a landscape screen around the fenced area to screen the buildings and lower part of the pole from adjacent properties. Landscaping plan to be approved by Council before any work commences on the site.
8. All equipment that can be adversely affected by immersion in floodwaters to be located above the 17.3m AHD level.

Prior to Commencement of Works

9. Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of litter, vegetation debris or other water borne pollutants in accordance with Council's Development Control Plan 1/94 - Soil Erosion and Sedimentation
10. The applicant or person having the benefit of this development consent must give at least two days notice prior to commencement of works to Council of the intention to commence works. This notice is to be given in accordance with form 7 of the Environmental Planning and Assessment Regulation 1998.
11. The applicant shall advise Council of the name, address and contract number of the principle certifier, in accordance with Section 81A 4(b) of the Environmental Planning and Assessment Act, 1997.

During Construction

12. All building work must be carried out in accordance with provisions of the Building Code of Australia.
13. All necessary works being carried out to ensure that "any water" flow from adjoining properties is not impeded.
14. All demolition, construction and associated work necessary for the carrying out of the development being restricted to between the hours of 7.00am and 6.00pm on Mondays to Fridays and between 8.00am and 4.00pm on Saturdays.

Prior to Issue of Occupation Certificate

15. In order to ensure that the development complies with this consent, the approved use shall not commence until all conditions of this Development Consent have been complied with.
16. Landscaping shall be completed in accordance with the approved landscaping plan and shall be maintained in perpetuity by the existing or future owners and occupiers of the property. In this respect a occupational certificate will not be granted on the application until the landscaping is complete.

Use of the Site

17. The pole and equipment to be maintained in the colour scheme as approved and any modification or replacement equipment is to be painted in the same colour scheme.
18. Any maintenance carried out on the pole and equipment to be undertaken only during daylight hours and in a manner that will not adversely affect the residents or neighbouring properties.

ATTACHMENTS:

- AT-1** Site Plan
AT-2 Plan of telecommunication facility
AT-3 Locality Plan

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Item: **89**

ITEM: 89 **Construction of a dwelling and formalising existing building works - Lot 1 DP717341 No. 608 Chaseling Road, Leeds Vale**

FILE NUMBER: MA779/98/EVD/ENC30NAX.V03

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:

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.

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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Item: **89**

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.

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Item: **90**

ITEM: 90 **Extension of operating hours and use of building for functions - Lot 12 DP834771, 99 Gadds Lane, Kurmond**

FILE NUMBER: MA124/99/EVD/ENC30NAX.V11

Applicant: Mr A Radnovic
Applicants Rep: Mr A Radnovic
Owner: Mr A and Mrs M Radnovic
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 10.65 hectares
Zone: Rural 1(b)
Advertising: Adjoining owners. Six letters of objections, one letter of support.
Date Received: MA received 5 February, 1999. Additional information received 10 March, 1999.

Key Issues: Traffic generation
 Vehicle access to the site
 Noise
 Character of the area
 Effluent disposal

Action: Refusal

REPORT:

Proposal

The applicant seeks Council consent to use an existing building on the property for functions such as weddings, parties and the like. The applicant also seeks an extension to the approved trading hours from 12.00pm to 5.00pm to 9.00am to 6.00pm for the general operations of the winery, ie tastings and sales and 6.00pm to 1.00am for functions such as weddings, parties etc.

A maximum of 70 people are proposed. Catering is to be provided by an external service with all foods being prepared off site. The applicant proposes a maximum of one function per week.

Applicant's Justification

The applicant has provided the following justifications for the application:

We are finding it impossible to attract enough interest from Bus, Tourist and general companies to use our existing premises for functions. With the constrained opening hours for our venue, being no earlier than 12.00 noon and no later than 5.00pm it is impossible to appeal to the average customer's requirements. This lack of interest and restrictive opening hours is making our business economically unsound for we must have more events to supplement our income to a normal level.

The number of patrons is very low to non-existent. Due to the survival needs of our boutique winery and the 'lack' of 'state-of-the-art' conditions we embark on a 'total revival strategy' for our business. This involved initiatives such as various submissions to council which unfortunately were not supported by Council. We were not prepared to invest until at least a subset of such plans received Council support. Patronage has been and will remain low to non-existent until a workable scenario for our business and livelihood has been agreed upon with Council.

Previous Approval

In July 1995 Mr Radnovic submitted a development application (DA154/95) to use the existing building as a function hall so that meals (generally "Australia" type BBQ's) can be provided as part of the winery activities generally for bus/coach tours. On 21 December 1995 Council issued development consent to use the existing building as a function hall subject to conditions, specifically:

1. *All vehicular access to and from the site to be via the end of Gadds Lane and the right of way is not to be used for bus and visitors vehicles.*

- 13 *Operating hours shall be limited to 12.00 noon to 5.00pm 7 (seven) days per week. Any alteration of these hours will require the approval of the Director Environment and Development.*

16. *The function hall is not to be used as a reception venue for weddings, parties and the like.*

Mr Radnovic advises that he has not operated on this consent. The development consent will lapse on 21 December 1999 if the development is not commenced prior to this date.

Subject Site

The property has an area of 10.65 ha and is currently developed by way of a large shed which is used as a processing, bottling and storage area with a small attached residence.

The property is irregular in shape with eastern and western boundaries of approximately 620m and northern and southern boundaries of approximately 250m. The eastern, southern and western boundaries are shared with adjoining rural residential properties. The north boundary runs along Howes Creek

The existing vineyard occupies approximately half of the property and is located towards the rear of the property. The balance of the property is cleared with the exception of dense vegetation along Howes Creek.

The elevation of the property varies from 108m AHD towards Gadds Lane and 58m AHD towards Howes Creek. Average slope of the land is approximately 7%.

Vehicle access to the site is gained by a semi circular driveway, the entry being off Gadds Lane and the exit being off a right of carriage way shared by four (4) other properties.

Statutory Situation

The property is zoned Rural 1(b) under HLEP 1989. "Tourist facilities" and "refreshment room" are permitted within this zone.

The property falls within the Middle Nepean and Hawkesbury River Catchment Area of Sydney Region Environmental Plan No. 20 (No.2 - 1997).

Public Notification

The application was on public exhibition from 17 February to 4 March 1999. Six letters of objection and one letter of support was received.

A summary of the objections is provided below:

- concerned about safety and amenity impacts of increased traffic on Gadds Lane which is a quite, narrow, unlit, dead end country lane
- significant increase in noise would occur as a result of the activity
- activity is out of character with the area and will increase rural/residential land use conflicts
- the use of the building as a function centre is not related to the business of a winery
- the proposal is contrary to the objectives of the zone and recommendations of "Our City Our Future" and the HSADS report
- objects to use of right - of - carriageway by patrons of the proposed activity
- proposed car parking is inadequate
- it is not Council's place to support landowners who cannot manage their business by allowing the use of the land for ventures which do not comply with the HLEP 1989 guidelines for land zoned Rural 1(b)
- the application does not address such issues as days of operation, traffic and noise management, liquor licencing, waste disposal and disposal of effluent
- previous functions have been held and on one occasion more than 100 people attended
- does not object to extended hours for the winery however objects to premises being used for weddings, etc between the hours of 6.00pm and 1.00am

The letter of support stated:

- *In my experience over thirty years, no detrimental effect to the immediate area has resulted from any activities on “the vineyard” this includes “functions” privately hosted by Mr Radnovic from time to time*
- *Any foreseen traffic problems on Gadds Lane and the ‘right of way’ are minimal as travel would be virtually one-way, to and from the event*

Planning Assessment

Objectives of the 1(b) zone

The objectives of the Rural 1(b) zone are:

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

It is considered the proposal is contrary to objective (d) as functions to 1.00am has the potential to generate significant noise having a detrimental impact on the rural character of the area.

Sydney Regional Environmental Plan No.20 (SREP No. 20)

The property falls within the Middle Nepean and Hawkesbury River Catchment Area of SREP No. 20 (No.2 - 1997).

The aim of SREP No. 20 is to protect the environment of the Hawkesbury - Nepean River system by ensuring that the impacts of future land use are considered in a regional context.

The provisions of SREP No. 20 Clause 11 (17) "Sewerage systems or works" are applicable to this application. The relevant provision of this clause are:

- b) *The suitability of the site for on-site disposal of effluent or sludge and the ability of the sewerage systems or works to operate over the long-term without causing significant adverse effect on adjoining property.*
- c) *The likely effect of any on-site disposal area required by the proposed development on:*

- *any water bodies in the vicinity (including dams, streams and rivers), or*
- *any groundwater.*
- d) *The scope for recycling and reusing effluent or sludge on the site.*
- e) *The adequacy of wet weather storage and wet weather treatment capacity (if relevant) of the proposed sewerage system or works.*
- ...
- g) *the need for ongoing monitoring of the system or work*

The applicant advises that the function hall is connected to a septic tank with absorption trenches. The applicant has not provided any detailed information on the size of this system, the expected effluent to be generated as a result of the activity or the suitability of the site for the on-site disposal of effluent.

Concern is raised over the possibility of the increased effluent loading contaminating the down slope vineyard, Howes Creek and the underlying groundwater. This matter can only be adequately assessed by the submission of a detailed effluent design and water balance report. This information was not requested as it was not considered appropriate to put the applicant to the expense of a detailed report when there are other issues which will result in the application being recommended for refusal.

Noise

Gadds Lane and the surrounding locality is typical of a quiet rural area where evening background noise levels would be expected to be very low. The activity's noise sources will primarily be from vehicles entering and exiting the site, patrons and any live or recorded entertainment.

Four dwellings are located within approximately 150m of the function hall. Other dwellings located along Gadds Lane are setback 15m - 50m from the road. The noise generated from the functions particularly any entertainment and the departure of patrons in the late evening/early morning has the potential to significantly increase the existing background noise level. The EPA Environmental Noise Control Manual states that for public address systems noise should not exceed 5 dB(A) above background at any affected residences and noise from licensed premises should not exceed 5 dB(A) above background up to midnight and should not exceed the background level after midnight. Given that the nearest residence is less than 100m from the function hall and immediately adjacent to the exit driveway it is considered that the activity, including the movement of vehicles, would exceed the recommended noise levels.

Access and Traffic

Gadds Lane is approximately 1 km long and has a 3.5m wide sealed pavement. Site distances at the intersection of Gadds Lane and Kurmond Road are very short and approximately 150m from the intersection is a very sharp narrow bend in Gadds Lane. Gadds Lane does not have street lights and the subject site is located at the end of Gadds Lane.

The applicant advises that a maximum of 70 persons would attend a function at any one time. The proposed operating hours of 6.00pm - 1.00am for weddings, parties etc, would suggest that patrons would generally arrive between 5.00pm and 6.30pm and depart between 11.30pm and 1.30am. Based on 2-3 people per vehicle, then 24-35 vehicles (48-70 movements) would be generated as a result of the activity.

Prior to the driveway to the subject site there are nine (9) dwellings along Gadds Lane. These dwellings are setback between 15m and 50m from the roadway. Surrounding the subject site are an additional four (4) dwellings which are served by the right of carriageway at the end of Gadds Lane. The applicant proposes to use the right of carriageway to exit the site.

The amount of traffic generated and the time of guest departure has the potential to adversely impact upon the existing amenity of the residents. The narrow width of Gadds Lane makes it very difficult for two cars to pass and due to existing vegetation, opportunities for passing bays are limited. The sharp bend and limited site distance at the intersection of Gadds Lane and Kurmond Road could prove to be a safety hazard for guests unfamiliar with the locality.

Proposal to increase general operating hours of the winery

As stated above the applicant also seeks an extension to the approved trading hours from 12.00pm to 5.00pm, to 9.00am to 6.00pm for the general operations of the winery, ie tastings and sales.

It is understood, from supporting information to the previous development application (DA154/95), that the expected average maximum patronage would be two to three per day during the week and ten to fifteen per day on weekends with a maximum generally of three at any one time. This represents a very low level of patronage.

Extending the hours as proposed in the current application would significantly increase the amount of visitors and would give the applicant greater flexibility in arranging for the arrival and departure of visitors. It is therefore considered that extending the visiting hours for the winery would not detrimentally impact upon the amenity of the area by way of increased traffic or noise generation.

Conclusion

The proposed weddings, parties etc for up to 70 guests will substantially increase the amount of traffic on Gadds Lane whilst functions are being held. The resultant noise created will exceed the permissible noise levels designated by the EPA. The applicant has not provided sufficient information for Council to assess the method and adequacy of effluent disposal.

It is therefore considered that the proposal is contrary to objective (d) of the Rural 1(b) zone, does not satisfy matters for consideration as prescribed by Clause 11(17) of SREP No. 20 and will detrimentally impact upon the existing amenity enjoyed by the residents of Gadds Lane. Hence, it is concluded that the proposed use of the existing function hall for weddings, parties etc should not be supported.

It is however recommended that extending the visiting hours of the winery to 9.00am to 6.00pm be approved subject to the applicant submitting a "Request to Modify Development Consent" under Section 96 of the Environmental Planning and Assessment Act 1979.

RECOMMENDATION:

- A.** That the proposed use of the function hall for wedding, parties etc between 6.00pm and 1.00am be refused for the following reasons:
1. The proposed is contrary to the objectives of the zone.
 2. The applicant has not submitted sufficient information to assess the likely impact of on-site disposal of effluent.
 3. The proposed activity would detrimentally impact upon the existing amenity of the area.
 4. The proposed activity will significantly increase traffic on Gadds Lane, above an acceptable level.
 5. The proposal is not in the public interest.
- B.** That the extension of the visiting hours of the winery be approved subject to the applicant submitting a "Request to Modify Development Consent" under Section 96 of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 90 Oooo

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ITEM: 91 **Recreation Establishment Comprising Education Workshops and Camping Ground**

FILE NUMBER: MA439/98/EVD/ENC30NAX.V15

PREVIOUS ITEM: 64, GPC Section 1 - Environment (02.02.1999)

Applicant: J R Segal & A D Watts
Applicants Rep: As Above
Owner: J R Segal & A D Watts
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 16.19ha
Zone: 7(d) Environmental Protection Scenic
Advertising: To adjoining owners for a period of fourteen (14) days. Six (6) submissions against the proposal and eighteen (18) in support.
Date Received: 30 September 1998 - application incomplete.
 10 November 1998 - all information submitted - application complete

Key Issues: Noise
 Access
 Flooding
 Effluent Disposal

Action: Refusal

REPORT:

An application has been received to run educational workshops on environmental and personal development. The subject property is known as "The Grove" and is located at 718 Webbs Creek Road, Wisemans Ferry.

Two types of events are proposed:-

Type 1 - Ongoing workshops catering to members of the public. Each event is proposed to run for 3-4 days and would be attended by a maximum of twenty (20) fee paying participants. These events will be run regularly.

Type 2 - Private social events restricted to relatives and personal friends. Six (6) of these events are proposed annually and will be broken up as follows:-

- (a) three (3) occasions for three (3) days attended by a maximum of seventy five (75) people;
- (b) two (2) occasions for three (3) days attended by a maximum of one hundred and twenty (120) people; and

- (c) one (1) occasion for four (4) days attended by a maximum of one hundred and twenty (120) people.

People attending the proposed activities will camp in an area between 2-3ha located in the south west corner of the property adjacent to Webbs Creek. A number of structures are proposed to be erected to cater for guests visiting the site. These include kitchen block, shower and toilet block and carparking area. A house and old barn currently exist on the site.

The subject property comprises an area of 16.19ha, and is located on the north east side of Webbs Creek. The property has frontage to Webbs Creek of approximately 750m. The property contains a wetland, mapped and identified by Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean River. The property is located some 9-10km upstream from the confluence of Webbs Creek and the Hawkesbury River at Wisemans Ferry.

History

On 9 September 1997 Council refused a development application for camping ground and amenities building on the subject land. The application was to accommodate twenty (20) people.

On 8 September 1998 an Appeal was lodged with the Land and Environment Court.

On 15 January 1999, mediation was held at the Land and Environment Court. At the conclusion of the mediation, parties agreed to a deferred commencement consent for a maximum of fifteen (15) people on the camping area of the subject land and six (6) tents and six (6) cars in the carparking area.

On 12 February 1999 the Court issued consent orders consistent with the terms of the mediation.

Statutory Provisions

The site is zoned 7(d) Environmental Protection under the provisions of Hawkesbury Local Environmental Plan 1989. The proposed development is defined as a recreational facility and is permissible with consent under the zoning.

The objectives of the 7(d) zone are:-

- (a) to preserve the existing wooded ridges and escarpments;
- (b) to protect hilltops, ridgelines, river valleys and other local features of scenic significance by controlling the choice and colour of building materials and the position of building, access roads and landscaping;
- (c) to prevent the establishment of traffic generating development along main and arterial roads;
- (d) to control outdoor advertising so that it does not disfigure the rural landscape;
- (e) to protect the low density, broad-acre character of the rural areas; and

(f) to protect orcharding in the Bilpin area.

Sydney Regional Environmental Plan No. 20 - Hawkesbury/Nepean River No. 2 1997 applies to the subject land.

The subject land is located on a riverine scenic area under this plan and is classed as having regional significance. The proposed development could be conditioned if approved to satisfy the matters outlined under SREP 20.

The subject land also has a wetland identified under SREP 20 as Wetland No. 74. No works are proposed adjacent or in this wetland, however, the effluent disposal system proposed has the potential to pollute this wetland if it fails. This risk is increased as a result of grey water disposal areas being located on the floodplain.

Community Response

The application was notified for a period of fourteen (14) days. Six (6) submissions objecting to the proposal and eighteen (18) submissions in support of the proposal were received.

Issues raised against the proposal are summarised below:

- high flood hazard;
- fire risk;
- threats to water quality as a result of effluent disposal system;
- health risks as a result of effluent disposal system;
- potential damage to aquatic habitat, riverine vegetation, bank stability from large number of people;
- tree removal required for amenities building in contravention of SREP 20;
- impact on Flora and Fauna;
- potential for soil and water contamination from composting toilet failure;
- risk of damage SREP Wetland No. 74;
- potential exposure of acid sulphate soils;
- narrow access road to site unsuitable;
- contrary to the zone objectives of the LEP;
- noise disturbance;
- unacceptable risk from waste generation;
- risk of non-compliance with consent conditions;
- the proposal has already been refused in the past;
- proposed businesses use of the site; and
- impact on the rural amenity of the area.

Issues raised in support of the proposal are summarised below:-

- provides opportunity for people to become familiar with nature;
- positive contribution to the area;
- local community would benefit;
- development environmentally friendly;

- disruption to neighbours from noise minimal;
- strengthens the tourist market;
- natural beauty of area provides good setting for workshops;
- workshops positive benefit to community;
- enhance environmental awareness; and
- the proposal is in the public interest.

The relevant planning issues raised for and against the proposal are addressed in the proceeding part of this report under the heading "Planning Assessment".

Planning Assessment

Effluent Disposal and Waste Management

One (1) Maxi Rota-Loo and one Clivus-Multrum composting toilet is proposed to be used to dispose of human waste from the site. This system is proposed to be located above the 1 in 100 year flood level.

It is proposed that there be four (4) showers, three (3) handwashing sinks and one (1) laundry tub in the amenities block be provided.

It is proposed that grey water pass through a three (3) compartment grey water septic tank. The grey water is then proposed to gravitate to a distribution box, and from there to capillary seepage trenches for land treatment. When there are no more than twenty (20) people on the site, the grey water would be directed to an upper land application area which is above the 1 in 100 year flood level. When there are more than twenty (20) people the grey water would be directed to the lower floodplain which is below the 1 in 20 year flood event. It is proposed not to use the site for more than twenty (20) people for a period of two (2) weeks following the flooding of the lower area to minimise the risk of polluting waterways.

The water balance report submitted with the application states that *"the NSW Government Guidelines for on-site sewerage management advises that on-site systems should preferably be above the 1% AEP flood level, and no less than the 5% AEP flood level"*. As mentioned above the four (4) trenches proposed on the floodplain would be below the 5% level. The report attempts to dismiss this requirement by saying the trenches will not be used for a period of two (2) weeks after a flood event. This is considered unacceptable as it would be difficult to police.

The Environment and Health Protection Guidelines for On-site Sewerage Management for Single Households recommends that all land application systems have a buffer distance of 100m to permanent surface waters (eg. river, streams, lake, etc.). The land application area for this proposal is less than 100m.

The applicant proposes a "take home what you brought in" policy for waste management. Considering that it is proposed to have up to one hundred and twenty (120) people there at any one time it is considered that this policy would be almost impossible to enforce. For the reasons outlined above it is considered the proposed means of effluent disposal and waste management to be unacceptable.

Flooding

Flood levels have not been surveyed or mapped for Webbs Creek. However, the Floor Height Standard (FHS) for the Hawkesbury River at the confluence of Webbs Creek is 5.6m AHD and the FHS for the Macdonald River ranges from 6.6 - 6.9m AHD. Note that the FHS is the 1 : 100 level mapped prior to Sydney Water releasing revised levels in 1994. The levels for this area have not been recalculated at this time, although the current 1 : 100 level would be higher than the FHS.

The site plan (sketch) submitted with the DA shows a contour line at 7.3m drawn by the applicant, which purports to represent the 1 : 100 flood level. Although not verified by any survey, it is understood that Mr Watts (owner) mapped this line from historical information and evidence of flood debris. In the absence of any survey information, 7.3m is a reasonable assumption.

Webbs Creek appears to have a fairly large catchment, stretching upstream some 20km. It is also fed upstream by three smaller tributaries, and in the upper part, Webbs Creek flows through fairly steep and narrow country.

Notwithstanding the lack of survey information, it is clear that the area proposed for camping does indeed become inundated in times of flood. No published information on the flood characteristics, in terms of velocity, warning times, etc. It is also clear that campers would need to be evacuated from the property before flood waters reach the land. Given the poor level of road access to the site, it is considered that the risk to campers would increase corresponding to the number of campers on the site.

Access to the Site

Access to the property is via Webbs Creek Road which is a narrow winding unsealed road with limited opportunity to pass. Access into the camping area is via an existing dirt track which passes by the existing dwelling and along the edge of Webbs Creek. This internal track is proposed to be upgraded with road base. Significant upgrading would also be required where this track gains access to Webbs Creek Road.

It is considered that Webbs Creek Road is unsuitable for large numbers of vehicles which would be generated at times by the proposed development. It is not practicable to upgrade this road.

The internal access to the camping ground is significantly flood affected. Emergency access to high ground and to Webbs Creek Road during flooding is via a roughly formed steep track. This is considered unsatisfactory for the evacuation of large numbers of people during periods of flood.

The applicant argues that there is a three day warning period prior to flooding. Submissions received would indicate otherwise.

Noise

The noise generated on the property during events will most likely increase noise levels in the area. The background level within this area would roughly be 30dB(A) - 40dB(A) during the daytime, at night the background level could drop to as low as 25dB(A).

Due to these characteristics of the site and the number of people visiting the site at times it will be difficult to keep the noise levels to a maximum of no more than 5dB(A) above background noise as required by EPA Guidelines, when the average decibel level of a conversation is around 60dB(A).

It is, therefore, considered that the proposed development has the potential to generate unacceptable noise levels.

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

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

The applicant states that:-

"We hereby give notice that we do not wish to operate a camping ground on our property but rather, we wish to hold educational and cultural events where, for reasons of convenience, we would like persons attending to stay in tents.....".

The fact is it is proposed that up to one hundred and twenty (120) people will be attending the site and these people will be camping at the site. It is, therefore, considered that this regulation does apply to the subject development and the proposal must comply with Divisions 1-8 of Part 3 of the Regulation. Full compliance with this Regulation would result in a fully developed camping ground which is not suitable to the site and locality and compliance would be extremely difficult to achieve.

The applicant has also argued that "Primitive Camping Ground" provisions of this Regulation should only apply as the majority of events will involve no more than twenty (20) people and the provision of no more than two (2) tents per hectare would result. The requirements under the "Primitive Camping Ground" provisions are far less onerous and could be complied with.

This argument is, however, not supported as any development would be assessed on its peak occupancy. It is likely that many of the caravan parks and camping grounds in the Hawkesbury area would have minimum occupancy for a large percentage of the year, however, they are required to comply with Divisions 1-8 so as to ensure amenities and facilities are of an acceptable standard during peak periods.

Council does not have discretionary powers regarding this Regulation and must not issue an approval to operate a camping ground unless Council is satisfied that all relevant requirements can be met. It is considered the proposed development is unlikely to be able to meet all these requirements.

Conclusion

It is considered the subject site is not suitable to accommodate up to one hundred and twenty (120) people for educational workshops due to:-

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- access to the site being unacceptable;
- the proposed means of effluent disposal being contrary to State Guidelines creating the potential to pollute Webbs Creek and Wetland No. 74 identified under SREP 20;
- the potential for the development to generate noise in excess of EPA Guidelines;
- the flood liability of the land and a limited evacuation route for large numbers of people; and
- the proposed development does not comply with the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995.

RECOMMENDATION:

That the proposal to hold educational workshops and operate a camping ground on land being Lot 32 DP753828 No. 718 Webbs Creek Road, Wisemans Ferry, be refused for the following reasons:-

1. Access to the site being unacceptable.
2. The proposed means of effluent disposal being contrary to State Guidelines creating the potential to pollute Webbs Creek and Wetland No. 74 identified under SREP 20.
3. The potential for the development to generate noise in excess of EPA Guidelines.
4. The flood liability of the land and a limited evacuation route for large numbers of people.
5. The proposed development does not comply with the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 91 Oooo

ITEM: 92 **Variation to 88B Instrument regarding effluent disposal - Lot 31 DP664633 No. 188 Tizzana Road, Ebenezer**

FILE NUMBER: SA127/97/EVD/ENC30NBX.V06

REPORT:

Introduction

Council has received two formal requests to vary the 88B Instrument which requires the installation of an "Ecomax" effluent disposal system on lots in Tizzana Road and Stones Road, Ebenezer as part of a new subdivision (Subdivision Application No. SA127/97).

The two lots in question are lots 5 and 12 Tizzana Road, Ebenezer. The proposed method of effluent disposal will be via an aerated septic tank into subsoil absorption trenches being located in a designated area on the property.

History

Consent was issued on 30 December, 1997 for a twenty one (21) lot subdivision. Condition 2.12 of the approval required that a covenant be placed on all lots requiring the installation of an "Ecomax" amended filter soil septic system in accordance with the Specification in the Geotechnical Assessment undertaken by Geotechnique Pty Ltd which accompanied the application. The linen plan for the first seven (7) lots of this subdivision was released on 17 November, 1998. The restriction was placed on each of these lots.

Council recently agreed to the same variation for Lot 1 in this subdivision.

Justification of Variation

Property owners are requesting that Council amend the 88B Instrument for the requirement to provide an "Ecomax" system for the following reasons:

1. There is only one supplier of "Ecomax" systems in NSW and the restriction has created a situation of restrictive practices forcing the price of the system up.
2. There is no need for this restriction to be placed on their lots as the geotechnical report submitted with the subdivision application indicated that some lots could accommodate an aerated septic system.

In support of their requests, property owners are submitting geotechnical reports with their septic tank application.

Assessment

An effluent disposal report was submitted with the subdivision application prepared by Geotechnique Pty Ltd. The report concluded that the preferred options for effluent disposal systems were either the mechanically aerated system or Ecomax system. The suitability of these two systems varied throughout the subdivision. The report made the following comments regarding the use of aerated systems:

1. The mechanical aerated system is suitable for lots in which ground surface is reasonably level, and an area suitable for irrigation of the effluent is available, taking into account the required buffer distances.
2. Based on the water balance computation, an irrigation area of about 600m² was found to be adequate.
3. The mechanically aerated system is suited to proposed Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 11, 12, 14, 16 and 18.
4. An "Ecomax" system is recommended for lots 15, 17, 19, 20 and 21.

The report also concluded that where the mechanical aerated/irrigation system is adopted, the following constraints would apply:

- i The irrigation area being located down slope from any building location.
- ii Pasture type grass, or similar, is to be planted over the irrigation area to promote evapotranspiration.
- iii All effluent is to be contained within the irrigation area by construction of cut-off drains on the uphill side, to divert stormwater run-off from the irrigation area and earth mounds on the downhill side of the irrigation area to prevent effluent run-off from the site area.
- iv In order to prevent aerosol spray from coming into contact with humans, adequate buffer zones is to be provided. A buffer distance of 3.0m may be adopted where the irrigation area is located down gradient of driveways, buildings and boundaries. The buffer distance should be increased to 6.0m if the irrigation area is located up gradient of these features.
- v The irrigation area is to be situated a minimum of 40m from any watercourse (creek).
- vi Suitable plants are to be planted in the buffer zones to minimise drift of aerosol spray. A medium salt tolerant crop/plant, with a reasonably high phosphorous absorption capacity, should be planted in the irrigation area.
- vii Irrigation of effluent is not to be carried out during wet weather. A temporary storage tank with a minimum capacity of 15m³ is to be provided to retain effluent during wet weather condition. A small moisture sensor is to be installed into the system to divert effluent into the storage tanks during wet weather.

Notwithstanding the above, recommendations made by the Geotechnical Engineers acting on behalf of the property owners, varies from the aforementioned recommendations, however, it appears that the engineering computations have taken the above matters into consideration. It is considered that the installation of the aerated septic systems be in accordance with the Geotechnical Engineers report that accompanies each application.

It is therefore considered reasonable that the existing covenant be varied to allow the installation of an aerated septic system on the subject lots should be supported.

Future requests relating to SA127/97

It can be expected that future requests will be received relating to the subdivision. It is suggested that Council resolve to support any further requests which relate to lots identified in Geotechnique's report as being suitable for the installation of an aerated system subject to the conditions specified in that report unless otherwise supported by a further report by a geotechnical engineering justifying any changes. An "aerated system" was considered suitable for Lots 1 to 12 and 14, 16 and 18.

For Lots 15, 17, 19, 20 and 21 where an "Ecomax system" was recommended solely it is considered that Council should not vary this requirement unless it can be demonstrated that an alternative system will achieve the same level of performance as the "Ecomax system".

It is considered this approach should be taken as at the time of the subdivision this site due to its proximity to the river was identified as a sensitive site in terms of effluent disposal and required the latest technology to dispose of effluent satisfactorily.

Future Requests in General

For the purpose of expediting future requests to vary 88B Instruments relating to effluent disposal requirements (i.e. relocation designated disposal areas) it is suggested delegation be given to the General Manager. Any variation would need to be accompanied by an acceptable effluent disposal report justifying any variation.

RECOMMENDATION:

That:

1. Council agree to the amendment of the 88B Instrument to allow the installation of mechanically aerated effluent disposal system to Lots 5 and 12 of Subdivision No. SA127/97 in accordance with the geotechnical engineers report submitted.
2. Council agree to support any future requests for a mechanically aerated effluent disposal system relating to Lots 2, 3, 4, 6, 7, 8, 9, 10, 11, 14, 16 and 18 in SA127/97 subject to:
 - i The irrigation area being located down slope from any building location.

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- ii Pasture type grass, or similar, is to be planted over the irrigation area to promote evapotranspiration.
 - iii All effluent is to be contained within the irrigation area by construction of cut-off drains on the uphill side, to divert stormwater run-off from the irrigation area and earth mounds on the downhill side of the irrigation area to prevent effluent run-off from the site area.
 - iv In order to prevent aerosol spray from coming into contact with humans, adequate buffer zones is to be provided. A buffer distance of 3.0m may be adopted where the irrigation area is located down gradient of driveways, buildings and boundaries. The buffer distance should be increased to 6.0m if the irrigation area is located up gradient of these features.
 - v The irrigation area is to be situated a minimum of 40m from any watercourse (creek).
 - vi Suitable plants are to be planted in the buffer zones to minimise drift of aerosol spray. A medium salt tolerant crop/plant, with a reasonably high phosphorous absorption capacity, should be planted in the irrigation area.
 - vii Irrigation of effluent is not to be carried out during wet weather. A temporary storage tank with a minimum capacity of 15m³ is to be provided to retain effluent during wet weather condition. A small moisture sensor is to be installed into the system to divert effluent into the storage tanks during wet weather.
3. Lots 15, 17, 19, 20 and 21 be required to install an "Ecomax system" unless it can be demonstrated that an alternative system will perform to at least an equivalent level to that of the "Ecomax System".
4. The General Manager have delegated authority to determine future applications to vary the existing Council imposed 88B Instruments to allow the installation of an alternative effluent disposal system, subject to an acceptable report being submitted from a geotechnical engineer justifying any variation.
5. The owners of each lot pay all legal costs associated with amending any Instrument.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 92 Oooo

ITEM: 93 **Follow up report on the environmental flows in the Hawkesbury-Nepean River**

FILE NUMBER: GR060/081/EVD/ENC30NBX.V14

PREVIOUS ITEM: 86, GPC Section 1 - Environment (24.02.1999)

REPORT:

Further to a report to Council's General Purpose Committee meeting held on 23 February 1999, regarding Trial Environmental Flows in the Hawkesbury-Nepean River at which the following questions were asked:

1. Where are the sampling sites along the River?
2. What are the experiments which will be undertaken?

A telephone conversation with Tony Paull from Sydney Water on the 10th March 1999 has provided a brief description of the environmental flows strategy for the Hawkesbury- Nepean River.

The following information has been provided:

The experimental Environmental flows Strategy for the Hawkesbury- Nepean River

The strategy comprises of three flow types. The three flow types which will be monitored are as follows:

Flow Type A: A high pulse release in summer

A large flow of water will be released from the dams on the Nepean river to replicate the effects of a summer peak flow in the river. Different parts of the river's ecology will be monitored along its length, looking at components such as fish breeding habitat, macroinvertebrates, clams and aquatic plants.

Flow Type B: Variable low flow releases

This focuses on riffle habitats (and macroinvertebrates) in the upper reaches of the Nepean River gauging the relationship between a range of low flows and the riffle habitats of the river.

Flow Type C: Pulsed releases from Warragamba Dam

This focuses on the river from Penrith to Wisemans Ferry and involves pulses of water released from Warragamba Dam to achieve an average daily flow of 250 megalitres per day at Penrith Weir for periods of 7 days. There were to be four such releases. The basis for assessment will include aquatic plants and cyanobacterial blooms.

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Experiments associated with each flow type for the experimental environmental flows strategy for the Hawkesbury- Nepean River are found in the table below:

Flow Type	Experiment	Characteristics of the experiment
A	Macquarie perch breeding habitat	• Flows required to 'clean' gravel bed materials associated with Macquarie perch habitat • Sites on the Nepean River between the Nepean Dam and Pheasants Nest weir. • Monitoring before, during and after the release
A	Macroinvertebrates and diatoms as indicators of ecosystem health	• Sampling macroinvertebrates and diatoms in response to water quality and flow variables. • Sites are upstream (6 sites) and downstream (6 site) of the dams and weirs of the Upper Nepean River as well as seven reference sites. • Pre-released sampling and in the Autumn and Spring following the release. Water quality sampling is monthly.
A	Macroinvertebrates diversity and abundance using the Rapid Assessment Method	• Sampling of macroinvertebrates in response to water quality and flow variables • Twenty-nine sites along the Hawkesbury- Nepean river and its tributaries. • Pre-release sampling and in the Autumn and Spring following the release. Water quality sampling is monthly.
A	Stratification of deep pools	• Flows which will destratify deep pools on the Nepean River. • Sites at Menangle, Cobbity and Penrith Weir pools, and Bents Basin. • Sampling will occur before and after the release.
A	Phytoplankton in deep pools	• Response of phytoplankton communities to flows. • Sites as for the stratification experiment. • Sampling will occur before and after the release.
A	Clam habitat and community dynamics	• Assess changes in growth and fertility. • Sites as for the stratification experiment. • Sampling will occur before and after the release.

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Flow Type	Experiment	Characteristics of the experiment
B	Physical characteristics of riffle habitats	• Assess changes to habitat caused by a series of low flows. • Experimental sites in the Nepean and Cataract rivers and control sites in the Avon and Cordeaux rivers. • Measurement will occur before and during the release.
C + A	Attached plants	• Physiological responses of native macrophytes (including abundance and growth). • Sites in the river between the Warragamba River and Wisemans Ferry and control sites unaffected by the release. • Sampling will occur before and after the release.
C + A	Floating plants	• Assess flushing of floating plants. • Sites in the river Penrith and Windsor. • Water surface coverage and species composition will be assessed before and after the release.
C + A	Fresh/ saline interface location and structure	• Effects on the location and structure of the freshwater and saline water interface zone. • Sites bounded by the fresh/saline interface zone. • Before and after surveys.
C + A	Cyanobacterial blooms	• Potential to suppress cyanobacteria blooms. • Sites in the Hawkesbury River around Sackville Ferry. • Sampling will occur before and after releases.

The questions raised by Council regarding possible adverse effects on the prawning industry downstream and river bank erosion as a result of the environmental flows have been referred to Tony Paull of Sydney Water.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 93 Oooo

ITEM: 94 **Sewage Management Facilities (Septic Tanks) - Licensing**

FILE NUMBER: GS080/008 PT05/EVD/ENC30NBX.V08

REPORT:

The first stage of implementing the legislation is about to commence, with the distribution of application forms to the land owners to register each of the septic tank units.

A notification will be posted in the next few weeks to the owners of each premises in areas that are serviced by septic tank systems, together with a registration form, which, if returned by the due date, will be registered free of charge. Those returned after the due date will incur a \$30.00 late registration processing fee.

The requirement to submit a registration application by the due date, will be publicly notified via radio and newspaper, so that those premises that for some reason do not receive their notification via the mail system, will have the same opportunity to submit the application for registration, free of charge.

Once the registration forms have been returned, the individual systems will be categorised into three different criteria, depending on their risk of affecting the environment. These criteria will be, high, medium and low risk, and these will be required to be inspected and intervals of one, three and five years respectively.

A fee of thirty dollars (\$30.00) per inspection is proposed, which will mean that a high risk system will cost thirty dollars (\$30.00) per year, and the low risk system will cost thirty dollars (\$30.00) every five years.

An example of the three categories are as follows:

(note:- these examples are not exhaustive and are only suggested to assist this report)

High Risk - Systems with their disposal area located within 50 metres of a water course, or significant and protected species of native vegetation. On site disposal systems that are on land with an area less than 1000 square metres.

Medium Risk - Pump-out systems on land with an area less than 2,000 square metres. On site disposal systems that are located on land that is at least 200m from a water course and has a land area between 2,000 and 6,000 square metres.

Low Risk - Systems located on land that has an area greater than 8,000 square metres and the on-site disposal area is at least 500m from a water course.

The fees gathered will offset the staff and administrative costs involved in carrying out the legislative requirements.

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There are approximately 6,000 sewage management facilities. The majority appears to fall into the medium risk category. The high risk category appear to be approximately 15-20% of the total number of systems. These figures can't be verified until the registration forms have been returned, but are indicative of what has been experienced in past surveys.

Funding in the form of a dollar for dollar grant (or equivalent in kind) has been offered by the Department of Local Government for implementation of the new legislation. Funds will be distributed in proportion to the number of sewage systems under each Councils control, to a maximum of \$10.00 per system. A submission for funding will be made after the applications are invited, which is expected to be late April 1999 and before 1 September 1999 when the registration forms will have been returned and all the necessary information to make the submission is to hand.

RECOMMENDATION:

That:

1. The category structure and charges contained in the report, be adopted by Council.
2. An application for funding be submitted to the Department of Local Government prior to 1 September 1999, requesting funding to make up the short fall between fees collected for inspections, and the actual cost of implementing the legislative requirements.
3. The fees collected for inspections and late registrations, fund the resources required to comply with the requirements of the Sewage Management Facility legislation.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 94 Oooo

ITEM: 95 Parking Restrictions**FILE NUMBER:** GC330/004 PT01/EVD/ENC30NBX.V09

REPORT:

This report will cover two aspects concerning car parking in the Hawkesbury City area. One being the creation of a new car parking area and applying the standard two hour parking limit, and the second matter being the use of Richmond Oval car park.

Creation of Baker Street Car Park

Notification has recently been received that the car park in Baker Street Windsor, located behind the Macquarie Arms Hotel is now under Council control.

Subsequently, it is now appropriate to have the restrictions that apply to all other Council controlled car parks, apply to this car park. However before this can take place it needs to be named so that it can be identified correctly on the parking signs. It is suggested that it be named the "Baker Street" car park and that the normal parking regulations, i.e. a two hour limit, be applied to it.

Parking in Richmond Oval Car Park

In the past few months, many complaints have been received regarding tow trucks, parking in the subject car park for long periods of time, waiting to respond to call outs.

This practice has prevented recreational users of the oval, having available parking spaces.

It is suggested that a sign be erected in the Richmond Oval car park preventing the parking of motor lorries and tow trucks for periods longer than ten minutes, with a maximum penalty of sixty dollars (\$60-00) for non compliance.

RECOMMENDATION:

That:

1. The car park owned by Council behind the Macquarie Arms Hotel in Baker Street be known as the "Baker Street" car park and it be included with other Council car parks in having the standard two hour limit for parking, and that the car park be patrolled on a routine basis.
2. A sign be erected in the Richmond Oval car park, giving notice that the car park is for recreational parking only, and that the use by motor lorries and tow trucks is restricted to a ten minute period.

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ATTACHMENTS:

There are no supporting documents for this report.

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ITEM: 96 **Draft Local Environmental Plan 2/99 Lot 1 DP515413, Pt Lot 4 DP207634 and Lot 30 DP136234 No's 6-10 Macquarie Street, Windsor**

FILE NUMBER: LEP2/99/EVD/ENC30NBX.V02

REPORT:

Council has received an application on behalf of Hawkesbury Valley Holden (Norob Pty Ltd) for Council support to prepare a draft local environmental plan to rezone 6-10 Macquarie Street, Windsor from Residential 2(c) to Special Business 3(b).

The total land area is approximately 1,900m² and adjoins the existing land occupied by Hawkesbury Valley Holden and the existing 3(b) zone along Macquarie Street. There are three (3) lots between the subject land and Bridge Street, one of which contains the Windsor Tavern which is an item of environmental heritage under HLEP 1989 (No. 151 in Schedule 1).

If the rezoning is supported and the lands rezoned, the applicant intends to conduct a car sales/display yard on Lot 30 and keep the other two (2) lots for future development. Future development of these lots would need to consider the heritage significance of the Windsor Tavern and its environs.

The land is flood liable having levels between approximately 10.0m AHD at the rear and 14.5m AHD at the front.

The application makes the following statements in respect of market demand, vehicular access, character amenity and visual impact, and land constraints and fill:

Market Demand

In more recent times, with the establishment of several real estate offices, refurbishment and creation of Brooks Tyre Centre and the nearly completed shopping development fronting George and Baker Streets, this part of Windsor has become more commercially appealing for small business.

Demand should not simply be identified through the number of office or commercial space available, but should encompass the components of other development applications lodged, rezoning proposals, demographic trends and the potential for growth both within and from adjoining local government areas.

The district will continue to grow in terms of population and this will result in an increase in the number of new and used cars that will be required. Hawkesbury Valley Holden has a long association with the area and as the market demand for new and used cars has grown in recent times, additional showroom and sales space is required.

The acquisition of the study area has only recently been completed and while the aim of the exercise was to increase the potential area of the car sales area by the inclusion of Lot 30, the acquisition could only occur if all three (3) lots were included.

Redevelopment of the remaining lots (Pt Lot 4 and Lot 1) may occur in the future and will be the subject of a further development application at that time.

Vehicular Access

It is understood that the existing vehicular access points to the residential allotments are dangerous and it is considered that any improvement in this situation would be beneficial in terms of road safety and vehicular movement on Macquarie Street. This issue was raised with our clients during preliminary discussions with Council staff.

It is proposed to utilise the existing driveway of Hawkesbury Valley Holden to provide vehicular access to the car sales area proposed on Lot 30, thus reducing the number of existing driveways by one.

In the long term any redevelopment proposal for Lot 1 and Pt Lot 4 will need to address the impact on vehicular movement / site access. In this regard, Council is advised that our client is amenable to restricting access to the study area to one driveway, thus eliminating two (2) of the current driveways. This would enable a reasonable development proposal to be submitted which could rely on its own site access rather than be combined with the existing access of Hawkesbury Valley Holden, which is located approximately 200 metres to the south of the study area.

Character amenity and visual impact

The proposed rezoning will have little or no effect on the character, amenity or visual qualities of the immediate area. The demolition of the existing dwelling (Lot 30) has been approved by Council and the only impact to the visual amenity in the short term will be the storage of motor vehicles for sale which will be identical to the adjoining land use.

Any future proposed development on Lot 1 and Pt Lot 4 will need to address the visual impact and amenity issues, particularly in light of the listed heritage item (Windsor Tavern) on the neighbouring allotment.

It is not proposed to provide any additional advertising as part of the proposed extension to the used car sales yard. Any future advertising proposals will require development consent. The existing flagpoles over the frontage of Hawkesbury Valley Holden are proposed to be spread along the entire Macquarie Street frontage, however no increase in the number of poles is proposed. The only additional structure proposed is a Colourbond metal fence across the centre of Lot 30 (see site plan - Figure 3).

The character of the proposed extension of the car sales area (Lot 30) will be consistent with other 3(b) zones adjoining and within Windsor. The likely future redevelopment of the remaining two lots is seen as an opportunity to improve the visual character and entrance to Macquarie Street and the township generally.

Land Constraints and Fill

The study area has a natural ground level which rises from approximately 11.0 metres AHD (rear portion of Lot 1) to 14.5 metres AHD (front portion of Lot 30). Reference to Council's flood mapping information reveals that the site is effected by flooding with the recently adopted floor height standard being 17.3 metres AHD.

To facilitate the proposed extension of the used car sales area it is proposed to fill Lot 30 to a height of 14.5 metres AHD as depicted in the accompanying plan (Figure 3). This would enable vehicles to be parked for sale on a reasonably level area. The depth of fill required to achieve this level ranges from approximately 1.3 metres (rear of Lot 30) to nil at the front boundary (abutting Lot 2).

All fill will be clean fill and subject to Council requirements regarding compaction and quality. Specific site drainage details can be provided as required, however it is proposed to provide drainage to hard stand areas to the rear (South Creek) via a stormwater system incorporating suitable gross pollutant controls. A retaining wall of limited height is proposed to be provided along part of the side boundary with Pt Lot 4.

The statements given in the application are generally supported other than maintaining vehicular access to Macquarie Street. It is considered that no vehicular access should be available to Macquarie Street or from the three lots with all access to the three lots being from the existing Hawkesbury Valley Holden site. It is also recommended the three lots be consolidated before the gazettal of the plan.

In regard to adjacent zonings under HLEP 1989, the lots to the west along Macquarie Street are zoned Special Business 3(b), the lots on the opposite side of Macquarie Street are zoned General Business 3(a), the subject site and the lots between the site and Bridge Street are zoned Residential 2(c) while land at the rear (hotel parking area) is zoned Rural 1(b).

The filling of these lots to 14.5m AHD will be visible from Windsor Road until the rear batters are vegetated. This matter will need to be addressed, if the rezoning is gazetted, when a development application is lodged for the use as a car sales yard.

Under Clause 25 of HLEP 1989, a building could be erected on the front part of Lot 30, however the other two lots are more than 3m below the 1 in 100 year flood frequency level (subclause (2)) and more than 3m below the (old) floor height standard of 16.0m (Subclause (8)). Under subclause (6) minor structures are permitted with Council's consent on any land.

Due to adjoining development and main road frontage a 3(b) zoning of the three lots is considered appropriate and can be supported by Council. The use of the land would largely be restricted to display purposes or parking due to its low nature.

Council can exercise its delegation in respect of the Section 65 Certificate and the Section 69 Report.

RECOMMENDATION:

That:

1. Council prepare a draft local environmental plan to change the Residential 2(a) zoning to Special Business 3(b) zoning under Hawkesbury Local Environmental Plan 1989 in respect of Lot 1 DP515413, Pt Lot 4 DP207634 and Lot 30 DP136234 No's 6-10 Macquarie Street, Windsor.
2. The three lots be consolidated into one lot before the draft plan is referred to the Department of Urban Affairs and Planning for gazettal.
3. The draft local environmental plan include a clause prohibiting vehicular access to Macquarie Street with the redevelopment of the lots.
4. An environmental study not be required.
5. Council exercise its delegation in respect of the Section 65 Certificate and Section 69 Report.
6. The Department of Urban Affairs and Planning be advised of Council's decision pursuant to Section 54(4) of the Environmental Planning and Assessment Act, 1979.

ATTACHMENTS:

AT-1 Locality Plan

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ITEM: 97 **Update of Legal Matter - Proposed Open Area Test Site for Electromagnetic Interference/Energy - Lot 2 DP751632, 714 Upper Colo Road, Upper Colo**

FILE NUMBER: DA90/98/EVD/ENC30NBX.V12

PREVIOUS ITEM: 15, GPC Section 1 - Environment (25.08.1998)

REPORT:

This development application relates to an open area test site (OATS) for the testing of electromagnetic emissions. The test site is used to measure emissions from electrical and electronic equipment. The applicant contented that the proposed use may be defined as a “generating works” which is permissible in the 7(d) zone under HLEP 1989, hence Council has the power to grant development consent.

At the General Purpose Committee meeting the applicant, ADI and two objectors Ms Sally Bongers and EMC Technologies addressed the Committee.

On 8 September 1998 Council resolved as follows:

That this matter be deferred until such time that all issues are addressed and Council seek independent legal and technical advice on the impacts to the area and further reported to Council.

Legal Advice

Advice from Council’s solicitor, Abbot Tout, has confirmed that the use may be defined as a “generating works”. Ms Sally Bongers, has provided alternate legal advice which argues that the use is an “industry” and is prohibited in the zone hence Council does not have the power to approve the application.

Council has received notification that Ms Bongers has lodged a Class 4 application with the Land and Environment Court requesting:

- (i) a declaration that Council has no power to grant consent to the development application by reason of the proposed use being prohibited;
- (ii) an order restraining Council from determining the development application other than by refusing consent; and
- (iii) an order for costs.

This matter is listed for Call Over on 22 April 1999.

Technical Advice

The three parties were requested to provide a list of experts. From the lists provided by ADI and EMC Technologies, Dr John Hunter from CSIRO was chosen. Ms Bongers' list arrive too late to be considered however her legal advisor has been notified of Dr Hunter's selection. Council is in the process of finalising contractual terms for Dr Hunter's advice.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 97 Oooo

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ITEM: 98 **Status Report - Wilberforce Abattoir**

FILE NUMBER: P1102/560Pt07/EVD/ENC30NCX.V10

REPORT:

There is an ongoing issue with the operation of the Wilberforce abattoir particularly concerning the conditions of the consent, hours of operation and types of activities being conducted at the abattoir.

Council, through its Solicitors, has had ongoing negotiations with the abattoir operators and their legal representatives regarding the use of the abattoir. There is currently an action in the Land and Environment Court for the prosecution of the operators of the abattoir and at the moment this is being stood over pending negotiation of suitable consent order provisions.

A list of draft conditions of operation have been forwarded to the Solicitors representing the abattoir owners and it would appear that, aside from the issue of hours for the boning room, agreement has been reached in all other matters including the sealing of the entrance area, truck movements in and out of the facility, hours of operation of the killing floor and matters to do with effluent disposal and management of the site in general.

It is the opinion of Council's Solicitors that the matter should be held over for a further two months in which time they are confident that a solution can be arrived at to enable appropriate consent orders to be issued by the Court in this matter.

Negotiations concerning the conditions of consent have also included the immediate adjacent owner who has first hand knowledge of many issues associated with the current operations of the abattoir.

RECOMMENDATION:

That the information be noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 98 Oooo