



**general
purpose
committee**

**1
section**

environment

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ENVIRONMENT

Meeting Date: 29 February, 2000

Item: 67

ITEM: 67 **Four (4) Lot Subdivision, No 111 Bells Line of Road and Redbank Road, North Richmond, Lot 2 DP870269, Lot 2, DP 546149**

FILE NUMBER: M1940/99/EVD/ENB29NAX.V15

Applicant: Northwestern Surveys
Applicants Rep: N/A
Owner: V A D K Torresan, P M Isaac and E G Mehic
Stat. Provisions: HLEP 1989, SREP20
Area: 35.7 hectares
Zone: Rural 1(b)
Advertising: Notified to adjoining owners and occupiers. Five (5) letters of objection received
Date Received: 8 December 1999

Key Issues: - Access
 - Flora and Fauna
 - Noise
 - Effluent Disposal

Action: Approval, subject to conditions

REPORT:

Introduction

An application has been received seeking consent to subdivide the existing two (2) properties into four (4) allotments.

The application is being reported to Council due to the submissions received. This report details the proposal, the current statutory situation, submissions received from the surrounding property owners and an assessment of the application in accordance with Section 79C of the Environmental Planning and Assessment Act (EP&A Act) 1979. Based on the assessment, the application is recommended for approval, subject to conditions.

The Proposal

The application proposes to subdivide two existing parcels of land comprising 35.7 hectares into 4 lots. Access to the lots is via a right of carriageway with the access point at Bells Line of Road.

The lot sizes proposed are as follows:

Lot 10	10 hectares
Lot 12	5.7 hectares
Lot 13	10 hectares
Lot 14	10 hectares

The proposed Lot 12 is an undersized lot as it has been created from a boundary adjustment of Lot 2 DP 546149 which is already an undersized lot at 2.5 hectares.

Statutory Situation

Hawkesbury Local Environmental Plan 1989

The subject property is zoned Rural 1(b) under Hawkesbury Local Environmental Plan (HLEP) 1989. The objectives of the 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.*

Reference should be made to Clause 9(3) under HLEP 1989 - Zone objectives and development control table:

9. (3) *Except as otherwise provided by this plan, the Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.*

Comment: The proposed subdivision generally complies with the relevant objectives of the zone in that the subdivision is creating lots within the minimum requirement of the zone and at a suitable size to provide for agricultural uses and animal establishments.

The subdivision will not create any unreasonable demands for the extension of public amenities infrastructure as only two additional lots are being created.

The proposal will generate traffic along Bells Line of Road but this traffic is not a significant increase considering the carrying capacity of the road.

The proposed subdivision will maintain the rural character of the area as minimal earthworks are required as the access road and building envelopes are mainly within grassed areas.

Reference should be made to Clause 11 (1), 2(b) under HLEP 1989 relating to Rural Subdivision:

11. (1) *In this clause, a reference to a satisfactory ratio of depth to frontage, in relation to an allotment of land, means the ratio between the depth of the allotment and the frontage of the allotment which, in the opinion of the Council, is satisfactory having regard to the purpose for which the allotment is to be used.*
- (2) *Except as provided by this clause and clause 13, the Council may consent to the subdivision of land if, in the case of land within*
- (b) *Zone No 1(b) or 7(d1), each separate allotment created has*
- (i) *an area of not less than 10 hectares; and*
- (ii) *a satisfactory ratio of depth to frontage.*

Comment: The proposed subdivision complies with Clause 11. Three (3) of the proposed lots are 10 hectare lots which is permissible with development consent within the zone. The fourth lot (proposed Lot 13) is created under the provisions of Clause 13.

Clause 13(1) and (6) states as follows:

13. (1) *Nothing in this plan prohibits consent being granted for a subdivision of land by adjustment or relocation of common boundaries provided that:*
- (a) *no additional allotments are created; and*
- (b) *no allotment becomes, as a consequence of the adjustment or relocation, capable of subdivision under this plan; and*
- (c) *the number of undersized allotments resulting from the subdivision does not exceed the number of undersized allotments before the subdivision; and*
- (d) *the number of dwelling-houses capable of being erected, as a consequence of the adjustment or relocation, does not exceed the total number permissible prior to that adjustment or relocation.*
- (6) *In determining an application for consent for a subdivision in accordance with this clause the Council must consider:*
- (a) *whether the size, shape, or topography of the land would restrict the erection of a dwelling on any of the lots created; and*
- (b) *whether the land is capable of on-site effluent disposal where no reticulated sewerage system is available.*

Comment: Proposed Lot 12 is an undersized lot and has been created from a boundary adjustment of existing Lot 2 which has an area of 2.5 hectares. Proposed Lot 12 complies with Clause 13 and is capable of providing a suitable building area and on-site effluent disposal.

Reference should be made to Clause 22 (1) and (3) relating to development fronting a main or arterial road:

22. (1) *In determining any application for consent to carry out development in any zone where the land has a frontage to a main or arterial road, the Council shall have regard, in addition to the matters specified in section 79C(1) of the Act, to the following principles:*
- (a) *Development should be of a type compatible with the maintenance and enhancement, as far as is practicable, of the existing scenic character of the locality.*
 - (b) *Development should not generate significant additional traffic or create or increase ribbon development directly along a main or arterial road, relative to the capacity and safety of the road.*
 - (c) *Any building should be sited and designed to be of an appropriate scale, so as to maintain the character of the area, to minimise disturbance to the landscape, not to intrude into the skyline and to maintain an overall pattern of building development that is consistent with the character of the area.*
 - (d) *Any building should be set back, from the nearest alignment of the main or arterial road, the distance to be determined by the Council having regard to:*
 - (i) *the nature, scale and function of the building;*
 - (ii) *the maximisation of sign distances for drivers, including visibility of points of access;*
 - (iii) *the minimisation of distractions to drivers; and*
 - (iv) *any possible need to alter the road alignment in the future.*
- (3) *Direct vehicular access from any land to a main or arterial road is prohibited. However, if, in the opinion of the Council, there is no reasonable alternative access to the land from another road, the Council may consent to access to a main or arterial road if such access will be located and designed so as to minimise potential traffic hazards.*

Comment: The proposed subdivision is maintaining the scenic quality of the area as minimal earthworks are required as part of the proposal.

The proposal will not generate a significant amount of traffic, the access point from Bells Line of Road will be capable of accepting the additional vehicles created from this development.

Any future dwellings will be situated on the land that will not be visible from Bells Line of Road. These buildings will be setback at a distance that enables the development to comply with Clause 22 (1)(d).

There is no other reasonable alternative access to the subdivision other than from Bells Line of Road.

Integrated Development

The subject application was identified as **Integrated Development** requiring referral to the Department of Land and Water Conservation (DLWC) due to works being carried out within 40m of a watercourse (Currency Creek).

The Department has provided comments in relation to the application and has indicated that a Part 3A permit is not required but recommends that Council include the following statement should the application be approved:

“Any earthworks or structures that are proposed within 40m of the top of the bank of Redbank Creek, whether as part of this application or any future application, may require from the Department of Land and Water Conservation a Part 3A permit under the Rivers and Foreshores Improvement Act. The Department recommends for any development and required for any Part 3A permit work, that a minimum riparian zone of 20m from the top of the bank of Redbank Creek be retained. Within this riparian zone no works or structures are to occur.”

Sydney Regional Environmental Plan No.20 (SREP20)- Hawkesbury-Nepean River No 2 (1997)

The aim of this plan is “to protect the environment of the Hawkesbury-Nepean River System by ensuring that the impacts of future land uses are considered in a regional context”. The subject property does not fall within a riverine scenic corridor.

Clause 11(17) - Sewerage Systems or Works under SREP20 requires development consent

The applicant proposes on-site effluent disposal for each lot. Development for the purpose of any sewerage system or work which stores, treats or disposes of sewage (including domestic on-site disposal systems that are ancillary to development which requires consent) but not including a public utility undertaking requires consent. The matters for consideration are:

- (a) *Whether the proposed development will be capable of connection to a Sydney Water Corporation Limited or Council sewerage system either now or in the future.*

Comment: The proposed subdivision is capable of being connected to the Sydney Water sewerage system, as the subject property is located adjacent to the North Richmond Sewerage Treatment Plant (STP). Sydney Water has advised that the STP has the capacity to cater for the additional four lots. There are significant environmental benefits in connecting the subdivision to reticulated sewer.

- (b) *The suitability of the site for the 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 effects on adjoining properties.*

Comment: An effluent disposal report was submitted with the application, this report indicated that the site was capable of providing on-site effluent disposal.

- (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 mapped wetlands, or*
- *any ground water, or*
- *the floodplain.*

Comment: The proposed on-site disposal area is in the vicinity of a watercourse. Due to the availability of reticulated sewer to the subject property, any approval will be conditioned to require connection to reticulated sewer.

- (d) *The scope for recycling and reusing effluent or sludge on the site.*

Comment: The system irrigates onto an irrigation area.

- (e) *The adequacy of wet weather storage and the wet weather treatment capacity (if relevant) of the proposed sewerage system or works.*

Comment: The water balance report indicates that wet weather storage is not required.

- (f) *Downstream effects of direct discharge of effluent to water courses.*

Comment: There is no direct discharge of effluent into watercourses.

- (g) *The need for ongoing monitoring of the system or works.*

Comment: Ongoing monitoring will not be required as the subdivision will be required to be connected to a reticulated sewer system. This is a better outcome in terms of environmental impact.

Community Consultation

The application was notified to adjoining owners and occupiers for a period of 14 days in accordance with the 'Public Notification of Development Proposals' development control plan.

At the conclusion of the exhibition period there were five (5) submissions received. Four (4) of the submissions were received from property owners that back onto Redbank Creek on the Southern side of the creek and development site. The other submission was received from Rural Press ltd which is located to the North of the development site. The main concerns expressed in the letter include:

- Retaining of vegetation along Redbank Creek
 - Stormwater run off
 - Buildings to be retained in restricted areas.
 - Traffic along Bells Line of Road
- That operations of adjoining land use (Rural Press) may affect future landowners of the subdivision.

The relevant issues are discussed in the assessment below.

Planning Assessment

The following are the relevant matters for consideration under Section 79C (b), (c), (d) and (e) of the EP&A Act 1979:

Character of the Area

The subject property is bounded by Redbank Creek to the South, Rural Press and Bells Line of Road to the North, St Phillips Anglican church and Cemetery (Heritage item) to the East.

The area to the west of the subject property is characterised as rural allotments that have a subdivision pattern similar to that proposed. The location of the four new building areas will not conflict with the existing land uses within the surrounding area.

Site Suitability

The topography of the land generally consists of south facing slopes and grades towards Redbank Creek. The approximate elevations of the site vary from 62 metres AHD to the north west to less than 20 metres AHD along Redbank Creek.

The site is predominately cleared, with areas of Woodlands/Forest occurring along flats of Redbank Creek, along drainage lines and on the north western slopes. The site is currently being used for grazing.

There are building areas proposed on each of the lots located adjacent to the northern boundary of each lot on the higher cleared areas.

The location of the proposed building areas to the north of the properties has prompted the northern adjoining property owner (Rural Press) to write a submission. The main concern is that future occupants may object to the operations of Rural Press on the adjoining land.

It is considered that the only ground for complaint could arise as a result of noise that the press facility may generate. The approval granted to Rural Press for the expansion of the facility required that noise levels not exceed 5d(b)A above any background noise levels at any boundary in accordance with the Noise Control Act which was applicable at the time. The nominated building areas range from approximately 36m to 70m from the northern boundary, this setback and the condition of consent relating to noise should overcome any reasons for future occupants of the proposed subdivision to object to the operation of the press facility.

The site is considered suitable for the proposed subdivision.

Flora and Fauna

A Flora and Fauna Assessment was undertaken by Conacher Travers over the subject properties. The Assessment includes an Eight Part Test to determine if there is likely to be a significant affect on threatened species, populations or ecological communities and their habitats.

The Assessment determined there were three threatened fauna species observed on the subject site and an Eight Part Test was carried out as the property provides for a suitable or sub-optimal habitat for those species.

The Assessment did not observe any threatened flora species except those which are part of an Ecological Community observed on the site. Those communities include Cumberland Plain Woodland, Shale Sandstone Transition Forest and Sydney Coastal River Flat Forest, these communities mainly form part of the vegetation corridor along Redbank Creek and proposed Lot 13. There is quite a large area of grassland suitable for dwellings on the other three lots.

The following conclusions were made as a result of the eight part test and Flora and Flora Assessment:

- That the proposed subdivision is unlikely to disrupt the life cycle of the species listed within the local area such that a viable local population of this species will not be placed at risk of extinction.
- That the proposed subdivision will not isolate any interconnecting or proximate areas of habitat for a threatened species, population or ecological community.
- The threatened species are known to occur in a number of conservation reserves throughout the Sydney Basin.
- As quoted *"Few if any trees will need to be removed for the dwelling"* (on proposed Lot 13).
- A Species Impact Statement is not required for this development.

Koala Habitat Assessment - According to SEPP44 the subject property comprises potential koala habitat which means that there are trees of types listed in Schedule 2 that constitute at least 15% of the total number of trees on the property. SEPP44 states that before Council can grant consent to an application it must satisfy itself whether or not the land is potential koala habitat on information obtained from a person who is qualified and experienced in tree identification.

The information provided by the consultant suggests that the area is potential koala habitat according to tree species coverage, but there were no signs of koala habitation observed, no vocalisations were heard and no records exist for koalas within the local area since 1956.

The consultants also stated that few if any trees require removal as part of the development, therefore Council can be satisfied that the development will not have an impact on koala habitation.

From the information provided in the Flora and Fauna Assessment undertaken by Conacher Travers, it is considered that the proposal will not have any significant impacts on any threatened or endangered species under Section 5A of the EP&A Act.

Should the application be supported an 88B restriction should be imposed stating the following:

1. That future dwellings and the right of carriageway are restricted to the areas nominated on the plan unless located in areas that require no tree removal.

The above condition, should the application be supported, should reassure those adjoining owners that were concerned about the retaining of vegetation along Redbank Creek and location of future dwellings.

Access and Traffic

Proposed Lot 10 has road frontage to Bells Line of Road while proposed Lots 11-13 have access via a right of carriageway. The access point for the right of carriageway is at Bells line of Road.

The right of carriageway for access to the subdivision is considered acceptable as the shape of the existing lot does not allow a subdivision pattern that provides frontage to Bells Line of Road for all four lots. Access handles would provide road frontage but this would create an undesirable subdivision pattern which may impact on the scenic quality of the area.

Although the proposed subdivision does not allow for road frontage for all lots, the right of carriageway for access is the best solution in relation to subdivision pattern, scenic quality and impact on the environment.

The access point via Bells Line of Road to the proposed subdivision is considered satisfactory and provides adequate sight distance, also the speed limit on this part of the road is 60kph which would allow for safe ingress and egress. The right of carriageway is proposed to be 9m wide to cater for the ingress and egress of vehicles from the site, this carriageway will also be crushed rock pavement which would not be out of character with the rural nature of the area. The access point to the subdivision off Bells Line of Road should be sealed to identify the access point for passing traffic and to prevent dust when vehicles enter and leave the property. This sealed area should extend for at least 10m from Bells Line of Road and should the application be supported this will be conditioned accordingly.

There were some concerns expressed relating to traffic along Bells Line of Road. The additional vehicles generated from the proposal is considered acceptable as Bells Line of Road has the carrying capacity to cater for the additional load. The proposed subdivision will only be creating an additional two lots.

Should the application be approved a condition should be imposed relating to providing a legal right of carriageway over the relevant lots.

Effluent Disposal

The subject property is adjacent to the North Richmond Sewerage Treatment Plant (STP). Under Clause 11(17) of SREP 20 one of the matters for consideration is the possibility of connecting to a reticulated sewer system. Sydney Water advises that the STP has the capacity to service the additional four lots, and a sewer main is available near the property.

An On-site Effluent Disposal Assessment was undertaken by Conacher Travers for the subject properties and it was concluded that an Aerated Wastewater Treatment System for effluent treatment is required for the site. Even though the site is capable of on-site disposal of effluent the subdivision should be connected to a reticulated sewer system. This will ensure there is no long term environmental impacts on the catchment created as a result of on-site disposal of effluent.

Should the application be supported a condition should be imposed that requires the subdivision to connect to reticulated sewer system.

Conclusion

The proposed subdivision is within the minimum allotment size for a Rural 1(b) zone, it generally complies with the objectives of that zone and has been designed to reduce any impact on the environment. The undersized allotment is permissible as it is merely a boundary adjustment and is actually increasing the size of the existing lot.

Access to the site allows for a suitable subdivision pattern which is consistent with the adjoining rural areas without creating an impact on the scenic quality of the area.

There is sufficient building areas on each lot so as to not cause a significant affect on the nearby watercourse, adjoining properties or any threatened species which may occupy the site.

It is recommended that the application be approved, subject to appropriate conditions.

RECOMMENDATION:

That the application for a four (4) lot subdivision be approved subject to the following conditions:

General

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 North Western Surveys Pty Ltd dated 20/08/99) submitted with Development Application No. M1940/99 dated 8/12/99 and any supportive documentation, except as otherwise provided by the conditions of this consent.
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. The subdivision is to be connected to a reticulated sewer system provided by Sydney Water Corporation Limited. Documentary evidence is to be provided in relation to this.

Prior to Issue of Construction Certificate

5. The submission of design plans and calculations for all works required by this consent.
6. A design checking and inspection fee of \$400.00 must be paid when submitting engineering plans for approval prior to construction. This amount is valid until 30 June 2000.

Prior to Commencement of Work

7. 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.
8. 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.
9. 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.

Prior to Issue of Subdivision Certificate

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

(a)	Open Space and Recreation	(\$3,388)
(b)	Community Facilities	(\$4,761)

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

Contributions are to be paid prior to issue of the construction certificate.

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

11. Submission of a Certificate from Integral Energy that satisfactory arrangements have been made for the provision of electricity to each of the resultant lots of the subdivision
12. Submission of a Certificate from Telstra that satisfactory arrangements have been made for the provision of cables for telephones through the subdivision.
13. The submission of a Compliance Certificate under Section 73 of the Water Board (Corporatisation) Act 1994 prior to the release of the subdivision certificate.
14. The submission of the plan of subdivision, together with 4 (four) exact copies thereof, suitable for lodgement with the Registrar General.
15. Payment of a linen release fee of \$300.00. This amount is valid until 30 June 2000.
16. Construction of a 3.5m wide compacted crushed rock pavement and any necessary drainage along the right of carriageway and across the footway to Lots 11, 12, 13. The construction of the right of carriageway is to be located to minimise the removal of substantial trees. The right of carriageway is to be of a bitumen seal which extends a minimum of 10m from Bells Line of Road.
17. A creation of a restriction on the use of the land pursuant to Section 88B of the Conveyancing Act including:
 - That future dwellings and the right of carriage way are restricted to areas nominated on the plan unless located in areas that require no tree removal.

ATTACHMENTS:

AT-1 Locality Plan and Location of Objectors

AT-2 Site Plan

LOCALITY PLAN / OBJECTORS

ENVIRONMENT

Meeting Date: 29 February, 2000

Item: 67

SITE PLAN

oooO END OF ITEM 67 Oooo

ITEM: 68 **Proposed Rodeo, Macquarie Park, Lot 1 DP 606535, 1 Wilberforce Road, Windsor**

FILE NUMBER: MA1996/99//ENB29NAX.V20

Applicant: K & G Johns
Applicants Rep: Mr Ted Lloyd
Owner: Hawkesbury City Council
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 14.47 ha
Zone: 6(a) Open Space (Existing Recreation)
Advertising: Surrounding owners/occupiers notified
Date Received: 17 December 1999

Key Issues - Noise
 - Traffic

Action: Approval

REPORT:

Introduction

The applicant seeks approval to conduct four (4) rodeos per annum at Macquarie Park, Windsor.

This matter is being reported to Council because Council is the land owner. This report will detail the current statutory situation and provide an assessment of the application in accordance with Section 79C (1) of the Environmental Planning and Assessment Act 1979.

The Proposal

The applicant proposes to stage four (4) rodeos per annum at Macquarie Park, Windsor. An existing cleared area of the Park, approximately 2.5ha in size, is to be used for the rodeo and associated car parking. This area is located to the west of the existing sealed parking area and restaurant.

Temporary structures required for the event include the rodeo arena and holding yards, constructed of steel tubing. A public address system will be also used throughout the event.

The first event is proposed to be held during March subsequent events will be spread out over the following 12 month period. All events are to be held during daylight hours, the first event is expected to be held between the hours of 2.00pm and 7.00pm. Subsequent event times will be varied to take into consideration changing seasons and daylight availability.

The applicant anticipates 2000 persons would attend each event and estimates that parking for approximately 800 vehicles will be required to cater for the expected crowd.

Statutory Position

Provisions of Hawkesbury Local Environmental Plan 1989

The property is zoned Open Space (Existing Recreation) 6(a) under Hawkesbury Local Environmental Plan 1989 (HLEP 1989). The proposed use falls within the definition of a “recreational area” under HLEP 1989. A “recreation area” is a permitted use within the 6(a) zone.

The relevant objectives of the 6(a) zone are:

- (a) *to identify existing publicly owned land that is used or is capable of being used for active or passive recreation purposes;*
- (b) *to encourage the development of public open spaces in a manner which maximises the satisfaction of the community’s diverse recreation needs;*
- (c) *to enable development associated with, ancillary to or supportive of public recreation use.*

The proposed rodeo is consistent with the objectives of the zone.

Wilberforce Road is defined as a main and arterial road under HLEP 1989.

The relevant provisions of Clause 22 “Development fronting a main or arterial road” are:

- 22. (1) *In determining any application for consent to carry out development in any zone where the land has frontage to a main or arterial road, the Council shall have regard, in addition to the matters specified in section 79C(1) of the Act, to the following principles:*
 - (a) *Development should be of a type compatible with the maintenance and enhancement, as far as practicable, of the existing scenic character of the locality.*
 - (b) *Development should not generate significant additional traffic or create or increase ribbon development directly along a main or arterial road, relative to the capacity and safety of the road.*
 - ...
 - (3) *Direct vehicular access from any land to a main or arterial road is prohibited. However, if, in the opinion of the Council, there is no reasonable alternative access to the land from another road, the Council may consent to access to a main or arterial road if such access will be located and designed so as to minimise potential traffic hazards.*

Land Classification and Plan of Management

The Park is defined as “community land” under the Local Government Act 1993.

The objectives of Macquarie Park’s Plan of Management are:

1. To provide a high quality facility for both structural and unstructured recreation”
2. To ensure equity of access to the reserve and its facilities.

The rodeo is consistent with the above objectives.

Draft Hawkesbury Local Environmental Plan 1989 - Amendment No. 110

Under this draft LEP the proposed activity falls into the definition of a “recreation area”. The draft LEP makes “recreation areas” permissible with development consent in the Open Space (Existing Recreation) 6(a) zone. The objectives of the 6(a) zone in the draft LEP are the same as in HLEP 1989. The proposed rodeo is consistent with the relevant provisions of draft LEP.

State Environmental Planning Policy No. 11 Traffic Generating Development

SEPP No. 11 aims to ensure that the Roads and Traffic Authority (RTA) is made aware of, and given opportunity to comment on, developments likely to generate significant traffic volumes.

The application proposes additional ancillary car parking for more than 200 vehicles hence Clause 7(3) of SEPP No. 11 requires that the application be forwarded to the RTA for comment.

The RTA’s comments are discussed in the following planning assessment.

Sydney Regional Environmental Plan No. 20 (No.2 -1997)

The subject site falls within the Middle Nepean and Hawkesbury River Catchment Area defined by SREP No. 20 (No. 2 - 1997). The site is within an area of regional scenic significance and is within the vicinity of the environmentally sensitive area of the Hawkesbury River. SREP No. 20 (No.2 - 1997) contains general and specific matters for consideration which are to be considered in the assessment of a development application. Relevant specific considerations relate to total catchment management, environmentally sensitive areas, water quality, flora and fauna, riverine scenic quality, recreation and tourism, and land uses in riverine scenic areas. It is considered that the proposed rodeo is consistent with the general and specific planning considerations, policies and recommendations of SREP No.20 (No. 2 -1997).

Community Consultation

Surrounding property owners and occupiers were notified of the development application. No submissions were received.

Planning Assessment

The following are the relevant matters for consideration under Section 79C (1) (b), (c), (d) &(e) of the EP & A Act 1979.

Context and Setting

The proposed site for the rodeo is a flat grassed portion of the Park measuring approximately 2.5ha. The Park presently contains a restaurant, amenities block, children's play area, picnic tables and car park. The rodeo is proposed to be located to the south-west of these facilities.

Surrounding development consists of single residences, market gardens and turf farms.

The proposed car parking area, rodeo arena and holding yards will be temporary and will not detract from the scenic quality of the landscape or character and amenity of the area.

The Park is presently used for special events, eg canoe classic, wedding photos and ceremonies. The proposed rodeo is not inconsistent with the existing use of the Park

Hours of Operation / Event Times

Events are proposed to be held on weekends during afternoon daylight hours eg 2pm to 7pm during daylight saving time.

The proposed event times are considered satisfactory

Proximity to Surrounding Neighbours

Surrounding residences are located to the north-east and to the south across the Hawkesbury River.

The car parking area and arena will be partially screened from residences to the north-west and south by existing vegetation and buildings on neighbouring properties. The sound system will be located such that sound emissions will be directed to the west away from surrounding residences.

Given the location of the parking area, arena and sound system and the limited number of events per year it is considered unlikely that the proposed rodeo will significantly effect the amenity presently enjoyed by the surrounding neighbours.

Traffic Generation and Safety

The applicant anticipates that up to 2000 persons will attend the event, requiring car parking for 800 vehicles. All car parking for the event is to be located on the proposed rodeo site. The existing parking within the Park will not be used for the rodeo.

A traffic study was submitted with the application and referred to the RTA for comment.

The study recommended, inter alia, that:

- up to 3 Police personnel be used to assist with directing traffic on Wilberforce Road before and after the event;
- traffic controllers be used inside the Park;
- appropriate signage be erected to stop patrons parking on Wilberforce Road; and,
- appropriate signage be erected to indicate entry and exit points to the rodeo parking area.

The RTA has not raised an objection to the proposal and has provided comments/conditions for inclusion in any consent. It is considered that the requirements of the RTA can be readily met by the applicant. The Police have advised that they would be available to undertake point duty for the event.

No reasonable alternative vehicular access to the site is possible. The measures to be employed by the Police and the applicant are satisfactory to satisfy the provisions of Clause 22 of the HLEP 1989.

Public Domain

The area to be used for the rodeo and associated parking is an unused section of Macquarie Park. Use of this area will not significantly impact upon the general public's use of the existing structured and passive recreation areas of Macquarie Park.

Heritage

A heritage listed cottage, under Schedule 1 of HLEP 1989, is located to the east of the Park on the corner of Wilberforce and Freemans Reach Roads. The proposed rodeo will not detrimentally effect the heritage significance of the heritage listed cottage or its setting.

Flooding

The site is below the 1 in 100 flood level for the area and is within the main floodway of the River. Given that the structures are temporary and rodeos will not be held during periods of flood inundation the proposal satisfies HLEP 1989 Clause 25 "Development of Flood Liable Land" subclauses (5) and (6) with respect to flood liability, potential flood damage, and access and evacuation.

Noise Generation

Main sources of noise are the rodeo caller, the crowd, and cars and patrons entering and exiting the site. Arguably the most intrusive noise will be that of the rodeo caller using a public address (P.A.) system. The PA system will be located such that the speakers are directed away from surrounding residences. It is not expected that noise from the PA system will significantly impact upon surrounding residences.

Keeping of Animals

All animals will be housed in purpose built portable holding yards. Public access will not be permitted to the holding yard area. All animals will be removed from the site at the completion of the event.

Waste Disposal / Collection of Garbage

All animal solid waste will be removed from the site at the completion of the event.

All garbage created by the event will be placed in a 4 cubic metre bin which is to be collected by private contractor.

The proposed waste and garbage collection measures are considered to be satisfactory.

Behaviour of Patrons/Security

Four security personnel will be on duty throughout the event to supervise crowd behaviour.

Site Design, Construction and Cumulative Impacts

The site has been designed and is proposed to be managed in a manner such that potential conflicts between pedestrian, vehicles and animals will be minimised.

Construction and dismantling of the temporary holding yards and rodeo arena will not significantly impact upon other uses of the Park or the amenity of surrounding residences.

The cumulative impact of staging four (4) rodeos per year is expected to be minimal and can be readily monitored by Council.

Suitability of the Site

The uses and existing amenity of surrounding land uses do not make this development prohibitive.

Access to the site combined with the proposed traffic management measures are satisfactory and it is expected that the proposed events will not lead to unmanageable transport demands.

Ambient noise levels are suitable for the development and noise generated can be controlled such that surrounding residences will not be significantly impacted upon.

The soil characteristics of the site are suitable for the proposed use. The proposed use will not prevent the site being used for other recreational pursuits.

The development will not significantly impact upon critical habitats and threatened species, populations, ecological communities and habitats as identified by the Threatened Species Conservation Act 1995. The site is not critical to the water cycle of the catchment.

It is therefore concluded that the site is suitable for the proposed development.

Public Interest

Approval of these events will assist to meet the local and regional demand for rodeo entertainment.

Conclusion

The proposed development is not inconsistent with objectives of the Open Space (Existing Recreation 6(a) zone. The development satisfies the relevant provisions of Clauses 22 and 25 of HLEP 1989, SEPP No.11 and SREP No.20 (No.2 -1997).

Matters such as traffic control, noise generation, waste disposal, collection and garbage, behaviour of patrons, hours of operation, and the keeping of animals have been adequately addressed by the applicant.

It is recommended that the application be approved.

RECOMMENDATION:

That the application to conduct four (4) rodeos per year at Macquarie Park be approved subject to the following conditions:

General

1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans (marked A and B) submitted with Development Application No. MA1996/99 and any supportive documentation, except as otherwise provided by the conditions of this consent.
2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
3. The organisers/operators of the rodeo are to hold Public Liability Insurance with a minimum indemnity of cover of \$10,000,000
4. A Structural Engineer's Certificate certifying the holding yards, rodeo arena and any other temporary structure as erected shall be submitted to Council prior to the first event.
5. Prior to each event the use of the Park and the payment of any bonds/fees is to be arranged with Council's Parks and Recreation Branch.

Use of the Site

6. Set up of the holding yard, rodeo arena, PA system and traffic management signs is to occur on the day of the event and are to be removed within 12 hours after the completion of the event.
7. Temporary fencing is to be erected to prevent cars and animals entering adjoining bushland and sand areas.
8. All litter and solid animal waste is to be removed from the site.
9. No glass bottles are to be taken into the area to be used for the rodeo and associated parking area.
10. The area to be used for the approved development being limited to the area shown on the submitted plans.
11. No signs shall be displayed on the footpaths, pedestrian ways, roadways or in the vicinity.
12. NSW Police Service point duty in the vicinity of the entrance off Wilberforce Road is required both prior to and at the conclusion of an event to ensure satisfactory traffic management with vehicles entering and leaving the site during event periods.
13. Internal “One Way / Keep Left” signposting of roads within Macquarie Park are to be provided to assist with internal traffic circulation. Internal 2 way traffic signs are to be provided to advise drivers when on a 2 - way section of internal road. Marshalling personnel are to be provided internally from the entrance and at strategic locations towards the car parking area to ensure cars are directed efficiently towards the parking area in order to minimise the possibility of vehicles queuing back out onto Wilberforce Road. Marshalling personnel are to be provided within the car parking area to ensure patrons make the maximum use of the parking area and that vehicles are parked in an orderly manner.
14. Sufficient off-street parking is to be provided to be able to accommodate the maximum number of vehicles likely to use the site at any one time.
15. Clear access is to be made available for emergency vehicles at all times during an event.
16. Temporary “No Stopping” signs are to be provided on event days on both sides of Wilberforce Road from the bridge covering the site entrance and then for a site distance of approximately 100m.
17. All driveways should be clearly signposted “Entry/Exit” as appropriate and controlled by staff in order to direct traffic movements to and from the site.
18. The loading / unloading of livestock from trailers should take place on-site within a designated area which is well clear of public patrons at all times.

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19. A constant supply of toilet paper, soap, and hand drying facilities is to be maintained in all toilets throughout the event, at all times.
20. Provision of four (4) portable toilets in close proximity to the arena. Additional toilets are to be provided at the rate of one toilet per 70 expected people exceeding 900 persons.
21. Effluent from the portable toilets is to be removed off the site and disposed of at a licensed depot.
22. Garbage bins, with the capacity to hold 240 Litres are to be located every fifty (50) metres around the main arena. Six 240 Litre bins are to be located around each food and drinks stall. Bins should also be provided between the existing shop and the toilet block; and the toilet block and the arena.
23. Garbage is to be stored, collected, and disposed of to the satisfaction of the Manager Environment and Waste.
24. The site is to be remediated to its original state following the event. All sand or fill brought onto the site should be removed where practicable without damaging grass coverage.
25. All activities as a result of the development are not to encroach on the boundaries of the plans attached to the application, the public toilet facilities, and the Macquarie Park Riverside Function Centre.
26. All barbeque facilities, temporary food stalls, food warming facilities and canteens are to comply with Councils' "Information for food stall holders" attached.
27. Noise levels are not to exceed 70dB(LA10) at any residential boundary as a result of the event.
28. Public Address speakers should be directed away from any residential properties and in accordance with the plans submitted. Where speakers are to be mounted on poles, they are to be angled downwards at approximately forty-five (45) degrees from the horizontal.
29. A sound limiting circuit should be included in the PA system to control the signal amplitude to a fixed level regardless of the loudness of the operator's voice, or the volume control on the amplifier. This level should achieve the limitations set of 70dB(A) at nearest residential boundary.

ATTACHMENTS:

AT-1 Locality Plan

AT-2 Site Plan

LOCALITY PLAN

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SITE PLAN

oooO END OF ITEM 68 Oooo

ITEM: 69 **Proposed Shed - Lot 1 DP 209551, Jordan Avenue, Glossodia**

FILE NUMBER: MA2001/99/EVD/ENB29NAX.V25

Applicant: William Attard
Applicants Rep: N/A
Owner: William Attard
Stat. Provisions: HLEP 1989, SREP No 20
Area: 5.06 hectares
Zone: 1(b) Rural 'B'
Advertising: Notified for 14 days
Date Received: 20 December 1999

Key Issue: - Size
 - Use
 - Noise
 - Traffic
 - Waste Disposal
 - Character of Area

Action: Approval

REPORT:

Introduction

An application has been received for the erection of a 460 m² shed. The shed is proposed to be used as a mechanical workshop in conjunction with the applicant's mobile mechanic business. The subject property is located at 61 Jordan Avenue Glossodia.

This application is referred to Council due to the size of the shed, the nature of the proposed activity, and the past history relating to this application. This report details the past history, statutory provisions relating to the proposal and provides a planning assessment in accordance with Section 79C of the Environmental Planning and assessment Act 1979.

The Proposal

The application proposes the construction of a 460 m² shed which is proposed to be used as a mechanical workshop for the repair of trucks, agricultural equipment (ie tractors) and some earthmoving equipment.

The applicant indicates that his main line of work is as a mobile mechanic, however, he needs a shed of this size to allow for the storage of parts and to carry out engine or transmission overhauls (four or five per year), welding and manufacture of new parts.

It is estimated that approximately two clients per day will visit the site as well as two delivery vehicles. Loading and unloading of heavy items will be carried out by a forklift which will be on the premises.

The hours of operation are proposed to be between 7.30 am to 5.00 pm Monday to Friday and 7.30 am to 12.00 noon Saturday.

Discussions with the applicant indicated that earthmoving equipment may be required to be brought in on a low-loader from time to time.

The applicant also proposes to clean out an existing dam at the rear of the property and the filling of a depression at the front of the property.

History

16/8/99	Development Application lodged for shed/workshop.
1/9/99	Development consent granted for shed/workshop.
1/9/99	Construction Certificate issued.
3/12/99	Audit of approvals identified that development consent issued incorrectly. Approval did not include commercial use of premises for mechanical workshop.
8/12/99	Applicant advised development consent not valid and directed that no work commence.
20/12/99	Meeting with applicant/owner and Manager Building and Development. Situation explained and applicant advised that new application could be lodged, however, having regard to the circumstances, it was unlikely that the same approval would result.
20/12/99	Current Development application lodged.

Statutory Situation

The subject land is zoned Rural 1(b) under the provisions of Hawkesbury Local Environmental Plan 1989. The objectives of the 1(b) zone are:

- (a) *to primarily provide for agricultural uses and animal establishment;*
- (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, and access roads.

Comment

- Objective a) the proposed use does not primarily provide for agricultural uses and animal establishments, however, the subject land is located in an area which contains a number of market gardens in close proximity and could be seen as servicing this industry and therefore contribute to the agricultural uses in the area.
- Objective b) The proposed development has the potential as a result of heavy vehicles using Jordan Avenue to contribute to the accelerated degradation of the road servicing this area.
- Objective c) The development is not located on a main or arterial road.
- Objective d) The development is more of an industrial nature and has the potential to impact on the rural character of this area as a result of noise and movement of heavy vehicles along Jordan Avenue.

Clause 9(3) states:

“Except as otherwise provided by this plan, the Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.”

For Council to be satisfied that the development is consistent with the objectives of the zone it is considered that any consent would need to prohibit the repair of vehicles larger than a small truck on-site and the manufacture of any parts on-site.

HLEP 1989 adopts the model provision definition of “car repair station” which means:

“a building or place used for the purpose of carrying out repairs to motor vehicles or agricultural machinery not being:

- a) body building;*
- b) panel beating which involves dismantling; or*
- c) spray painting other than of a touching-up character;”*

It is considered the proposed development falls within this definition. The manufacture of parts, provided they were for the repair of vehicles and not for sale, could be considered ancillary.

Under the Rural 1(b) zoning, car repair stations are permissible.

The proposed cleaning out of a dam and filling of the depression at the front of the land is considered to be maintenance works and is permissible.

Sydney Regional Environmental Plan No. 20 applies to the land. The proposed developments are not inconsistent with this plan subject to appropriate erosion and sediment controls being put in place to ensure the protection of waterways.

Draft LEP 6/98 is relevant to the proposed development. Car repair stations are proposed to be prohibited in rural zones under this plan.

Public Consultation

The application was notified to adjoining owners and occupiers for a period of fourteen (14) days in accordance with Council's Development Control Plan for Public Notification. At the conclusion of the exhibition period one (1) submission was received which raised no objection to the proposal provided that all details as stated in the application with regard to noise, clients visiting the site and number of deliveries are maintained.

Planning Assessment

Provided below is an assessment in accordance with Section 79C (b)(c)(d) and (e) and Section 5A of the EP& A Act 1979.

Context and Setting

The subject site has an area of 5.06 Ha and slopes gently from Jordan Avenue to Currency Creek at the rear. Surrounding development may be described as rural in character with market gardens located on both sides of the subject land and extending for a number of properties. Small rural holdings exist on the opposite side of Jordan Avenue to the north used for horse agistment and training. Properties further to the east towards the intersection of Jordan Avenue and Creek Ridge Road are more of a rural residential nature.

A number of large sheds associated with the market garden activities in the area are located along the southern side of Jordan Avenue in close proximity to the subject development. These sheds are estimated to range in size from 200 m² in area to over 500 m² in area. The scale of the proposed shed is not out of character with existing sheds in the area.

Siting

The proposed shed is proposed to be setback 100 metres from Jordan Avenue behind the existing small dwelling on the property, 15 m from the western boundary and 65 m from the eastern boundary.

The substantial setback from the front boundary will assist in minimizing the impact of the size of the shed when viewed from Jordan Avenue although the structure will be the most dominating feature on the land. However, the scale of the shed is considered acceptable having regard to existing sheds in the area and the rural character of the area.

Traffic

Traffic generated by the development is anticipated to be minimal with approximately two clients visiting the site daily and two deliveries being made to the site daily. This level of traffic generation is considered acceptable. However, what is of concern is the nature and types of vehicles which may use Jordan Avenue. The application is for the repair of agricultural machinery, trucks and earthmoving equipment. Earthmoving equipment may need to be trucked in on a low loader. Concern is raised regarding the possible impact these types of vehicles may have on the amenity of residents fronting Jordan Avenue, particularly towards the eastern end where a number of dwellings are located relatively close to the road. Large vehicles entering and exiting Jordan Avenue would also have an impact on residents in the area as a result of the size of vehicles and noise generated from vehicles accelerating and de-accelerating

Jordan Avenue is a standard rural road containing a 5.0 m sealed carriageway. The use of this road by heavy vehicles over time would also result in the life of the road being reduced.

It is suggested that should Council support the application, that a condition be placed on the consent restricting the servicing of trucks to a maximum size of 8 tonnes on the property. Works on larger vehicles should be done on the client's site as part of the mobile component of the business.

Noise

The application was referred to Council's Environment and Waste Branch, which raised significant concern about noise relating to any manufacturing on site.

Based on those comments it is considered the development cannot be supported in its current form and it is recommended that if Council supports the application it should be conditioned that no manufacturing of parts occur on-site and that noise levels be limited to 5dB(A) above background levels in the area.

Flora and Fauna

The proposed shed will occupy an area containing an old shed once used for a stable. The old building is approximately 261m² in area. No trees or native vegetation will be required to be cleared as a result of the development. After consideration of Section 5A of the EP&A Act 1979 it is considered the proposed development will have no significant impact on any endangered species, ecological communities or populations.

Cleaning Out of Dam and Filling at Front of Property

The existing dam at the rear of the property is proposed to be cleaned out with some of the material being used to fill a depression to the west of the driveway at the front of the property. The dam is not intended to be enlarged. The depression at the front is a legacy of an old dam which has been filled in the past. The depression is lower than the surrounding land which results in ponding during periods of extended rain.

No objection is raised to these works provided the dam is not extended beyond its original boundaries and the area to be filled does not exceed or change the natural ground levels in the surrounding areas. A condition of consent should be placed on any approval requiring the submission of plans detailing works to be carried out and proposed finished levels in relation to the level of land surrounding. These plans should be approved prior to any works commencing.

Conclusion

Having regard to the surrounding rural character of the area (market gardens) and the number of large sheds of a similar size or larger in the immediate vicinity it is considered the scale of the shed is acceptable. The proposed use as a mechanical workshop for large vehicles and the manufacture of parts has the potential to impact on the amenity of the area as a result of noise, nature of traffic generated and waste generated from the development. It is therefore recommended that the application be supported subject to repair of vehicles being limited to vehicles and plant not exceeding 8 tonnes in size, the floor of the building being concrete and the manufacture of parts on site being prohibited.

RECOMMENDATION:

That the application for the erection of a shed on Lot 1 DP 209551, 61 Jordan Avenue, for the purpose of a car repair station - mobile mechanic be approved subject to the following conditions:

General

1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans (numbered S99/92, S99/93, Drawing 3 and 4 dated 7 June 1999 and undated) submitted with Development Application No. MA2001/99 and any supportive documentation, except as otherwise provided by the conditions of this consent.
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 Issue of Construction Certificate

5. Submission of a detailed landscaping plan providing screening to adjoining properties, to the satisfaction of the Director Development and Environment.

6. Submission of a detailed plan showing all works associated with the cleaning out of the dam and filling of the depression at the front of the property. These plans are to include finished levels and are to be to the satisfaction of the Director of Development and Environment.
7. Details are to be provided regarding the waste water and all collection pits to be installed.

Prior to Commencement of Works

8. 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
9. 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.
10. 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

11. All building work must be carried out in accordance with provisions of the Building Code of Australia.
12. Inspections shall be carried out and compliance certificates issued by Council or an appropriately accredited person for the following components of construction:
 - (a) piers;
 - (b) steel reinforcement;
 - (c) framework, after the installation of all plumbing, drainage and electrical fixtures, and after the external cladding and roof covering has been fixed prior to fixing of internal linings and insulation;
 - (d) external drainage lines, prior to backfilling; and
 - (e) on completion of the structure.
13. The filled area, including batters, shall be grassed immediately after filling takes place.
14. All fill to be adequately compacted by track rolling or similar.
15. To avoid any unnecessary site disturbance, the excavated and filled areas shall not exceed 900mm (nine hundred) in depth and are to be graded and drained in a manner that will not be detrimental to adjoining properties or the environment.

16. All necessary works to be carried out to ensure that “any water” flow from adjoining properties is not impeded.
17. The floor in the shed is to be concrete and drainage lines are to be placed in the floor to enable waste liquids to be collected.
18. All demolition, construction and associated work necessary for the carrying out of the development being restricted to between the hours of 7.00 am and 6.00 pm on Mondays to Fridays and between 8.00 am and 4.00 pm on Saturdays.
19. No burning of demolition or construction material being carried out on the site.
20. No spoil, excavated or demolition material from the site being deposited on any public road, footpath, public place or Council owned property without the approval of this office.
21. The site shall be kept clean and tidy during the construction period and all rubbish shall be removed from the site upon completion of the project to the satisfaction of this office.
22. A sign is to be erected adjacent to the access point to the site for the duration of the site works stating the following:
 - (a) owner of site and address;
 - (b) person/company carrying out site works and phone number;
 - (c) consent number and date of approval; and
 - (d) approval duration of site works.

Prior to Issue of Occupation Certificate

23. 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.
24. An occupation certificate is to be obtained on completion of all works and prior to commencement of the approved use. The occupation certificate will not be issued if any conditions of this consent are outstanding.
25. 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 occupation certificate will not be granted on the application until the landscaping is complete.
26. A maintenance schedule is to be provided for waste disposal pits detailing cleaning method and regularity of disposal.

The Use of the Site

27. The repair of vehicles on-site is restricted to vehicles and farm implements not exceeding 8 tonnes in size.

28. The manufacture of parts onsite is prohibited
29. Vehicles and parts to be washed in a Council approved wash bay area.
30. Dust control measures, eg, water shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
31. The development shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood in respect to noise, vibration, odour, dust, wastewater, waste products or otherwise.
32. The development shall be conducted in such a manner that noise levels measured at any residential boundary so not exceed 5dB(A) above background noise levels.
33. All activities conducted on this site in relation to this approval are to be carried out inside the shed.
34. Any contaminated parts (eg, used oil filters) are to be stored inside or in a covered, sealed and bunded area, even after they have been drained, to prevent residual oil from escaping the property.
35. All waste materials to be stored under cover and appropriately bunded to avoid the escape of contaminated water. Waste is to be disposed of at regular intervals to prevent the waste overflowing and emanating odour from the receptacle.
36. Oil, lubricant, coolant, and hydraulic fluid spills or stains should be removed by an approved absorbent material and disposed of at an authorised waste depot. The absorbent material should be kept in good supply at all times.
37. In order to protect the amenity of the neighbourhood and the development, all work or the storage of goods or vehicles shall be confined within the building or approved areas. Separate development approval is required for external storage.
38. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
39. Operating hours shall be limited to 7.30 am to 5.00 pm Mondays to Fridays and 8.00 am to 12.00 noon Saturdays.
40. No advertising structures to be erected, displayed or affixed on any building or land without prior approval. Any unauthorised advertising structure will be removed at the expense of the advertiser.
41. No signs shall be displayed on the footpaths, pedestrian ways, roadways or in the vicinity.

ENVIRONMENT

Meeting Date: 29 February, 2000

Item: 69

ATTACHMENTS:

AT-1 Locality Plan

AT-2 Site Plan

LOCALITY PLAN

ENVIRONMENT

Meeting Date: 29 February, 2000

Item: 69

SITE PLAN

oooO END OF ITEM 69 Oooo

ITEM: 70 **Mobile Phone Telecommunications Facility - 81 Railway Road North, Mulgrave**

FILE NUMBER: MA31/00//ENB29NAX.V21

Applicant: Cable and Wireless - Optus
Applicants Rep: Connell Wagner Pty Ltd
Owner: W & G Lambiris & Sons
Stat. Provisions: Telecommunication Act 1997
 Telecommunications code of Practice 1997
 Hawkesbury Local Environmental Plan 1989
 Telecommunications Facilities DCP
Area: 2,024 ha
Zone: Part Industry General 4(a) and Part Business Special 3(b)
Advertising: Surrounding land owners and notice in Hawkesbury Gazette
Date Received: 13 January 2000

Key Issues - Character of the area
 - Visual appearance
 - EME emissions
 - Proximity to residences
 - Alternative locations

Action: Approval

REPORT:

Introduction

The applicant seeks approval to erect a mobile phone base station on 81 Railway Road North, Mulgrave.

This matter is being reported due to Council's recent resolution to amend the Telecommunications Facilities DCP and because it is an alternative site to a proposed mobile phone base station at 171 Old Stock Route Road, Oakville. This report will detail the background to the proposal, the current statutory situation and provide an assessment of the application in accordance with Section 79C (1) of the Environmental Planning and Assessment Act 1979.

Background

In June 1999 Council received a development application to erect a mobile phone base station on 171 Old Stock Route Road, Oakville. The application was placed on public exhibition and attracted a number of objections. The matter was report to Council, however prior to the matter being determined the applicant requested an opportunity to meet with the objectors and consider alternative sites.

The applicant has advised that the proposal for 81 Railway Road North, Mulgrave is a viable alternative to the Old Stock Route Road, Oakville site and that if the site at Mulgrave is approved they will no longer seek approval for the Oakville site.

The Proposal

The proposal consists of:

- a 45 metre steel lattice tower
- 3 panel antennae measuring 2.3m long mounted at a height of 43.9 metres
- a 600mm parabolic (dish) antenna mounted at a height of 18 metres
- a prefabricated external equipment shelter with an area of 7.5m²

The facility is to be enclosed by a 2.4m high cyclone wire mesh fence. The plans accompanying the application also show 3 panel antenna to be mounted at a height of 21.4m. These antenna are future antenna and are not part of this application.

The Site and Surrounding Land Uses

The subject property is presently used by Durostyle Kitchens and is located within the “general industrial” / “business special” area of Mulgrave/McGraths Hill. Approximately 40 % of the site is developed by way of a factory building and associated car parking area. The balance of the site consists of grass and a few scattered trees. A gas easement runs along the south-eastern boundary of the site. The proposed base station is to be located on the eastern (rear) corner of the property. Access to the base station will require the construction of a 3m wide access track to the facility from the existing car parking area.

Surrounding Land Uses consist of a landscape supplies business and Windsor Road to the north / north-east, vacant industrial land to the east, the Richmond - Blacktown railway line and rural lands to the south and a concrete recycling plant to the west.

The nearest residence is approximately 260m to the east.

Statutory Position

Telecommunications Act 1997

The Telecommunication Act 1997 and Telecommunications Code of Practice 1997 requires development consent be obtained for these types of facilities.

Hawkesbury Local Environmental Plan 1989

The property is zoned part Industrial General 4(a) and part Business Special 3(b) under HLEP 1989. The area in which the base station is to be erected is zoned Business Special 3(b). Access to the base station will be over that part of the property zoned Industry General 4(a).

“Telecommunication facilities” are not specifically defined in Hawkesbury Local Environmental Plan 1989 hence they are known as “innominate uses” which are permitted within both zones subject to development consent.

The relevant objectives of the 3(b) zone are:

...

- (b) *to permit non-commercial development within the zone where such development is compatible with the commercial character of the locality*

...

The existing character of the locality may be defined as a mix of commercial and industrial uses. The proposed base station would not be inconsistent with the character of the surrounding area.

The relevant objectives of the 4(a) zone are:

- (a) *to set aside certain land for the purposes of general industry within convenient distances of the urban centres of the City of Hawkesbury;*

...

- (c) *to ensure that industrial development creates areas which are pleasant to work in and safe and efficient in terms of transportation, land utilisation and services distribution.*

The proposed access track will not reduce the existing potential of the land to be further developed for industrial purposes. Hence the proposal is not inconsistent with objective (a).

The use of the proposed access track by Optus technicians (average of once per month) will not detract from the existing amenity of the area or effect the present transportation, land utilisation and service need of the current and future uses of the site. Hence the proposal is not inconsistent with objective (c).

Clause 18 Provision of water, sewerage etc. services

The applicant proposed to extend the existing overhead electricity supply to serve the base station. The proposed arrangement for electricity supply is satisfactory. The base station does not require services for the purposes of drainage, sewer or water.

Draft Hawkesbury Local Environmental Plan - Amendment 110

Draft HLEP 1989 - Amendment 110 defines this type of development as a “public utility installation”. Under Amendment 110 the proposed use would be classified as “development without consent” and not require development consent.

Telecommunications Facilities Development Control Plan

The relevant performance criteria contained within Council’s Telecommunications Facilities Development Control Plan are:

1. *Proposals for telecommunications facilities should utilise buildings, structures or other non-residential and non-community based features of the built environment for support of towers, antennae and ground based facilities, wherever possible;*

Due to the height of the antenna (43.9m) required to service the intended area no buildings, structures etc within the locality are available to be used.

2. *Proposals for towers, greater than 5 metres in height shall in the first instance be encouraged to locate in commercial/industrial zones and/or premises used for commercial premises;*

The base station is to be located on land zoned Industry Genera 4(a).

3. *Proposal for towers should consider and provide evidence of investigation into co-locating with other carriers, wherever possible;*

The applicant advises that no other carrier has a suitable facility in the area and that other carriers have no plans to establish such a facility in the immediate future.

4. *Proposal for towers in rural zones should avoid locations in close proximity from any residence;*

The proposed base station is not within a rural zone. Rural zoned land is located to the south of the subject site. The closest residence in a surrounding rural zoned land is approx 300 from the facility and separated from the site by the railway line, existing stands of mature vegetation (approx 10-20m in height) and existing factory buildings.

5. *Proposal for towers and/or other telecommunications work should avoid environmentally sensitive lands. Such environmentally sensitive lands would include wetlands, creeks and protected habitats of endangered flora and fauna;*

The proposed base station is not within or in close proximity to environmentally sensitive land.

6. *Proposals for towers should have regard to environmentally sensitive areas and should be located to have minimal visual impacts wherever possible;*

The base station has been located to maximise its distance from surrounding residences as well as maximising setbacks from the railway line / Railway road North and Windsor Road. Whilst the tower will be readily noticeable due to its height, the light weigh open lattice construction and setback from surrounding residences and roads is considered sufficient to minimise the visual impact of the tower.

7. . . . (Refers to proposals for aerial cabling only).
8. Any proposal for a tower needs to justify the location in terms of the servicing area.

The base station aims to provide coverage to Oakville, Scheyville, Box Hill and Pitt Town. This site is preferred to the proposed site at 171 Old Stock Route Road, Oakville as it is further away from surrounding residences and more readily satisfies the performance criteria of the Telecommunications Facilities DCP.

Relevant matters for consideration contained within the Telecommunications Facilities DCP are:

- 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 carriers 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 submission received from the public

These matters for consideration are discussed in the Planning Assessment.

Sydney Regional Environmental Plan No. 20 (No.2 -1997)

The subject site falls within the South Creek Catchment area defined by SREP No. 20. The site is not within an environmentally sensitive area or in an area of scenic significance.

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. SREP No. 20 contains general and specific matters for consideration, specific planning policies and recommended strategies which are to be considered in the assessment of a development application. The relevant specific planning policies and recommended strategies relate to total catchment management, water quality, water quantity, and flora and fauna.

It is considered that the proposed development will not significantly impact on the environment of the Hawkesbury - Nepean River either in a local and regional context and that the development is not inconsistent with the general or specific aims, planning considerations, planning policies and recommended strategies.

Community Consultation

The surrounding land owners were notified of the proposal and a notice was placed in the Council Notices section of the Hawkesbury Gazette.

No objections were received.

Planning Assessment

The following are the relevant matters for consideration under Section 79C (1) (b), (c), (d) &(e) of the EP & A Act 1979.

The location, design and siting of the facility;

The base station is located at the rear of the subject property, clear of the gas easement and surrounding vegetation. The design of the base station is typical of other base stations throughout the Sydney metropolitan area. The location, design and siting of the facility is considered to be satisfactory.

The existing and proposed use of the land and adjoining properties;

The base station will not interfere with the operation or future development of the property or surrounding lands.

The need for the proposal with respect to expansion of the carriers network and alternatives examined within the proposed area to be covered;

Connell Wagner have advised that the amount, level and quality of mobile phone coverage in the suburbs of Oakville, Scheyville, Box Hill and Pitt Town is poor and mobile phone users are consistently experiencing call drop -outs. The proposed base station will provide improved coverage to most main roads in the Oakville area, in particular along Old Pitt Town Road and Scheyville Road as well as improve hand held coverage in the suburbs of Oakville, McGraths Hill, Scheyville, Pitt Town and Box Hill.

In considering the site at 171 Old Stock Route Road, Oakville Connell Wagner examined three alternative sites. They were

- 268 Pitt Town Road, McGraths Hill
- Oakville Reserve. Oakville Road, Oakville
- Telegraph Pole, Pitt Town Road, McGraths Hill

Connell Wagner advise that 268 Pitt Town Road could not provide the required coverage. Oakville Reserve is Crown land and the Department of Land and Water conservation is unwilling to consider applications to establish telecommunications facilities on Crown land. The site on Pitt Town Road is in a highly visible location on the road verge and would require the replacement of the telegraph pole with a more visible structure.

The proposed site at Mulgrave is considered to be a superior site due to increased separation from surrounding residences, it is more compatible with the character of the area and more readily satisfies the performance criteria of the Telecommunications Facilities DCP.

The proximity of the proposed facility to residential and community facility land uses;

The base station is not within close proximity to surrounding residences or community facilities. The proposed separation distances are considered satisfactory.

Any guidelines, advice or supporting information submitted by the proponent or other authorities which may be relevant

The applicant has advised that if this site is approved then they will no longer need to pursue approval for the Old Stock Route Road site. As discussed above it is considered that this site is a superior site to that proposed in Old Stock Route Road.

The applicant also advises that the proposed base station at Mulgrave will not provide the required level of coverage to the northern portion of the proposed coverage area for the Old Stock Route Road site. As a result another base station further to the north of the Old Stock Route Road site will need to be erected. This will be subject to further investigation by Optus and approval by Council.

The visual impact of the proposal and measures to ameliorate this impact

As discussed above it is considered that the likely visual impact is satisfactory and the applicant has taken sufficient measures to minimise the impact.

Site access, security and landscaping proposals

The applicant proposes to use the existing driveway off Railway Road North in order to gain access to the property. The existing access is satisfactory. Access to the base station will be achieved by constructing a 3m access track from the end of the existing car park. This access track is satisfactory.

The base station is to be secured by wire mesh fencing and is to be in part surrounded by an existing stand of mature vegetation. No trees or shrubs will be required to be removed to construct the facility. The applicant has provided additional landscaping in front of the base station to screen the equipment hut and lower portion of the tower from Railway Road North.

The impact of electromagnetic radiation on public health, safety and other electronic communications

Forecast EME emissions have been submitted with the application showing that the annual average EME exposure at the nearest residence is 0.027 micro watts per square centimetre and the maximum EME exposure at the nearest residence is 0.068 micro watts per square centimetre.

Recently Council resolved to amend the Telecommunications Facilities DCP to include additional locational criteria for mobile phone base station. The proposed amendment requires that tower constructed in industrial zones be no closer than 100 metres or three times the height of the tower, whichever is the greater, to any residential dwelling.

The tower is 45 m high and approx 260m from the nearest residence. The proposal satisfies this locational criteria.

Any submission received from the public

Nil

Operation of base station

The facility is unmanned and does not generate any significant noise. The greatest noise generator is a small air conditioning unit located inside the proposed equipment hut. It is anticipated that the site would be visited for maintenance purposes once a month.

Flora and Fauna

No trees are required to be removed. Construction of the facility will not impact on any endangered or vulnerable flora or fauna.

Socio-Economic Impact

The proposed facility will provide enhanced digital mobile telephone coverage within the suburbs of McGraths Hill, Oakville, Box Hill, Scheyville and Pitt Town allowing for a more effective and greater use of mobile telephones.

Suitability of the Site

The proposal satisfies the locational performance criteria contained with Council's Telecommunications Facilities DCP.

The uses and existing amenity of surrounding Land Uses do not make this development prohibitive.

The proposed development will not lead to unmanageable transport demands. Access to the site is satisfactory for the intended use. Ambient noise levels are suitable for the development and noise generated will not significantly impact surrounding residences.

The subject property is located above the 1 in 100 flood level for the area, is not known to be subject to slip or subsidence and is in a moderate bushfire risk area. The soil characteristics are suitable for the proposed development.

The development will not significantly impact upon critical habitats and threatened species, populations, ecological communities and habitats as identified by the Threatened Species Conservation Act 1995. The site is not critical to the water cycle of the catchment. Adequate services and utilities are available to the site.

It is therefore concluded that the site is suitable for the proposed development.

Public Interest

The public interest will be served by the approval of this proposal via enhanced mobile telephone coverage in the subject area as ameliorating the concerns of the surrounding land owners/occupiers of the Old Stock Route Road site.

Conclusion

The proposed development is not inconsistent with the objectives of the 3(b) or 4(a) zones or the relevant provisions of SREP No. 20. The proposed development satisfies the performance criteria of Council's Telecommunications Facilities DCP.

The applicant has demonstrated the need for the facility and adequately examined alternative sites. It is recommended that the proposed development be approved.

RECOMMENDATION:

That the application for a mobile phone base station and associated equipment hut be approved subject to the following conditions:

General

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 Connell Wagner numbered S1273-P09B Rev 0 dated 1 February 2000, S1273-P09 Rev 1 dated 2 February 2000, S1273-P09A Rev 1 dated 21 December 1999) submitted with Development Application No. MA31/00 and any supportive documentation, except as otherwise provided by the conditions of this consent.
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. The applicant is advised to consult with:

(a) Natural Gas Company

regarding the location of existing services that may be affected by proposed works, either on site or on the adjacent public road(s).

Prior to Issue of Construction Certificate

5. Separate details of the proposed roof water and surface water drainage system shall be lodged in duplicate for approval. Such details shall be approved prior to issue of construction certificate.

6. Construction and engineering plans and specifications are to be submitted to the Principal Certifying Authority.

7. In accordance with Clause 47 of the Environmental Planning and Assessment Regulation 1994, Development Application MA847/99, being for a mobile phone base station at 171 Old Stock Route Road, Oakville, is to be withdrawn.

8. The following documentary evidence is to be obtained prior to the issue of any Construction Certificate, whether by Council or an accredited certifier:

(a) A written clearance from Integral Energy, stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

Separate documentary evidence from Integral Energy shall be provided stating that the requirements of that Authority have been met with regard to the nearby high voltage transmission line.

Prior to Commencement of Works

9. A sign must be erected in a prominent position on any work site on which the erection or demolition of a building is being carried out:

(a) stating that unauthorised entry to the work site is prohibited; and

(b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

10. 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
11. 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.
12. 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.
13. Sanitary accommodation shall be provided for workmen throughout the course of the building operations in accordance with the Local Government Act 1993 and the Environment Planning and Assessment Act.

During Construction

14. All building work must be carried out in accordance with provisions of the Building Code of Australia.
15. Inspections shall be carried out and compliance certificates issued by Council or an appropriately accredited person for the following components of construction:
 - (a) erosion controls, site works and site set out;
 - (b) piers;
 - (c) steel reinforcement;
 - (d) framework, after the installation of all plumbing, drainage and electrical fixtures, and after the external cladding and roof covering has been fixed prior to fixing of internal linings and insulation;
 - (e) external drainage lines, prior to backfilling; and
 - (f) on completion of the structure.
16. 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.
17. A sign is to be erected adjacent to the access point to the site for the duration of the site works stating the following:
 - (a) owner of site and address;
 - (b) person/company carrying out site works and phone number;
 - (c) consent number and date of approval; and
 - (d) approval duration of site works.

18. All sound producing plant, equipment, machinery, fittings, and the like shall be sound insulated and/or isolated so as to control noise emissions from the premises to within the limits prescribed by the Noise Control guidelines.
19. The proposed access track is to be constructed of compacted crushed rock or suitable alternative. Construction of the access track and any necessary drainage is not to commence until three (3) copies of the plans and specifications are submitted to and approved by the Principle Certifying Authority.
20. The base station shall be set out by a Registered Surveyor and Survey Certificate of the base station shall be lodged with the Principle Certifying Authority upon completion of the footings for the tower.

Prior to Issue of Occupation Certificate

21. An occupation certificate is to be obtained on completion of all works and prior to commencement of the approved use. The occupation certificate will not be issued if any conditions of this consent are outstanding.

Use of the Site

22. All landscaping shall be permanently maintained in a good condition and in accordance with the intent of the landscaping plan.

ATTACHMENTS:

AT-1 Locality Plan

AT-2 Site Plan

AT-3 Elevations

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ELEVATIONS

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ITEM: 71 **Proposed Rezoning at 324 Richmond Road, Clarendon - Lot 1 DP 827148**

FILE NUMBER: P731/1640/EVD/ENB29NAX.V24

Applicant: Lindsay Travena
Applicants Rep: Not advised
Owner: Hawkesbury Race Club Limited
Stat. Provisions: Hawkesbury Local environmental Plan 1989
Area: 1.435 hectares
Zone: Open space 6(c) (Private Recreation)
Advertising: N/A
Date Received: 15 November 1999

Key Issues: - Character of the area
 - Appropriate use of the site

Action: Not support the rezoning

REPORT:

Introduction

An application has been received requesting that Council amend Hawkesbury Local Environmental Plan 1989 (HLEP 1989) to facilitate a development proposal at 324 Richmond Road, Clarendon. The applicant has requested that the zone be amended to permit the sale, repair and servicing of rural orientated products associated with agriculture, as well as sporting and hobby activities of a rural nature.

The site is currently zoned Open Space 6(c)(Private Recreation) under the provisions of HLEP 1989. The proposed use is best described as both a shop and bulky goods sales room or showroom which are defined as follows:

"shop" means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this clause, a building or place used for a purpose elsewhere specifically defined in this clause;

***bulky goods sales room or showroom** means a building or place used for the sale by retail or auction, the hire or display of items (whether goods or materials) which are of such a size, shape or weight as to require*

(a) a large area for handling, storage or display; or

- (b) *direct vehicular access to the site of the building or place by members of the public for the purpose of loading items into their vehicles after purchase,*

but does not include a building or place used for the sale of foodstuffs or clothing;

These uses are currently prohibited within the Open Space 6(c) zone.

Proposal

The application requests the amendment to HLEP 1989 to allow for the consideration of a specialist rural service centre. The applicant has advised that the proposed development will comprise of the following:

- Repair and sale of swags, tents, tarpaulins, canopies, annexes, blinds, awnings, shades, marquees and umbrellas
- Workwear including hiking boots, outdoor clothing, felt hats, uniforms, work clothes and safety boots;
- Saddlery, stockman outfitters and horse care products;
- Irrigation, pumping supplies and equipment, agricultural industrial and domestic products required for farm/rural activities;
- Tanks and tank equipment, including vinyl/rubber tanks liners, roofing, fencing materials and troughs;
- Farm equipment and supplies including rural and veterinary supplies, stock and pet feeds;
- Sale and hire of agricultural machinery including slashers, mowers, posthole diggers, grader blades, rippers, pipe layers, row crop planters, tool bars etc;
- Horse racing products and equestrian equipment and supplies.

The indicative site layout is attached (attachment 1) and the approximate total floor and display area (including outdoor and indoor display) is 5800sqm. The outdoor recreation area adjacent to Richmond Road will be used for the display of new farm equipment, sporting or hobby products, as well as an area for children play equipment, animal farm nursery and a refreshment room (kiosk).

Applicant justification for the proposal

The applicant believes that the site has several advantages for the proposed development for the community and the local economy. These have been described by the applicant as the "*Community Interest*" and the "*Occupants Interest*" and are described briefly below:

1. Community Interest

- *Site refurbishment and Utilisation* - reinstatement of a now dormant site into an active and healthy site, contributing to community activities.
- *Additional Shopping Facilities* - facilities specialising in farm/rural products will be available in a readily identifiable and accessible location.
- *Tourism* - the facility will contribute to tourism within the locality which will be a benefit to local motels and shops as tourist needs to shop for their day to day needs.
- *Stable Tenants* - The principle anchor tenants on the site, being Richmond Horseland Saddlery and Richmond Irrigation and Pumping Supplies, already have stores in the locality and are well known to the community.
- *Social Contact* - The facility will provide an important gathering place for persons with similar interests.
- *Support facilities for Rural Recreation, Sporting and Hobby Venues* - The atmosphere generated by the facility will be complimentary to those activities conducted at the Hawkesbury Race Course and Hawkesbury Showground.
- *"Sydney to the Bush"* - The rural/colonial design concept envisaged for the proposed buildings will feature a strong emphasis on preserving and promoting a "Sydney to the Bush" atmosphere.
- *Local Employment*

2. Occupants Interest

- *Exposure* - to Richmond Road
- *Internal Economies of scale* - due to the size and intended occupants.
- *Car parking* - will be of sufficient size to accommodate cars with trailers and horse rigs.
- *Delivery Vehicles* - these will be able to load and unload entirely on the site.
- *Proximity to railway station* - this will provide access for both customers and staff.
- *Services* - all utility services are available to the land.
- *Proximity to Hawkesbury Race Course.*

Access to the site

Access to the site is proposed from Richmond Road, providing separate entry and exit points. A traffic assessment was provided by the applicant prepared by Transport Planning and Associates. The report provides limited details on the how traffic can be managed on the site.

Planning Assessment

Subject land

The subject site is roughly trapezoidal in shape and has road access to Richmond Road. The site has an area of 1.435 hectares and is currently vacant. The site is clear of all vegetation and is predominantly covered in grass.

The land is flood affected and the heights range from 15m Australian Height Datum (AHD) to 16AHD. An easement for the purpose of transmission line runs along the eastern boundary from Richmond Road to the racecourse.

The site is currently owned by the Hawkesbury Racing Club and is surplus to the needs of the Club.

Surrounding development

A variety of land uses occur around the subject site and in the Clarendon locality. Land uses to the north of Richmond Road consists predominantly of residential properties, incorporating one home activity and one cottage craft/coffee shop. The Richmond RAAF base is located behind these properties.

Adjacent to the subject site on the western boundary is the Mobile service station and tourist facility. This property has access off Richmond and Racecourse Roads and consists of a petrol station, car wash, carpark and 3 small shops (of which two are vacant). A hotel/restaurant and beer garden is approved for this site and is yet to be constructed.

The adjoining property on the eastern boundary is a veterinary clinic. Further east is residential development as well as Common Scents nursery.

Located directly behind the subject site is the Hawkesbury Race Club and the Richmond-Riverstone railway line. The Hawkesbury Showground is located to the south west, off Racecourse Road.

Ham Common provides an important link between Richmond and Clarendon and the main land use along this area is recreation and tourism. The Common contains a children's playground, a shared cycle/footpath, amenities block and tourist information centre.

Character of the area

As described the major land uses within Clarendon are residential, recreational/tourism and a smaller commercial component, all of which contribute to the character of the area. The recreational uses of the Hawkesbury Race Club, Hawkesbury Showgrounds and Ham Common provides a good basis for determining the most appropriate use for the subject site.

Ribbon development

The application describes the proposal as a series of retail outlets or shops. This in effect will create a new commercial centre along the Main Road at Clarendon. Development which stretches along roads as a continuous sprawl is usually referred to as ‘ribbon development’ and is typically not good town planning. It is more appropriate to create a distinct separation between the commercial centres of town and villages.

The proposed use can be facilitated within the existing commercial or industrial areas, or adjacent to these areas.

Proposed rural service centre.

The proposed rural service centre is not compatible with the character of the Clarendon area and does not compliment the surrounding land uses. Whilst the proposal may have benefits for both the community and the occupants, these benefits could be realised in a more appropriate location. Indeed, the main tenants proposed are located closer to Richmond on land zoned for that purpose.

The proposal may also set an undesirable precedence for further ribbon development along this section of Clarendon. Furthermore, it is not good planning practice to rezone additional commercial land when land and shops within existing commercial centres are vacant. Within Richmond and Windsor, there are approximately 70 vacant shops. Additional commercial space located outside existing commercial centres has the potential to further fragment and weaken existing centres.

Alternative sites

Large parcels of vacant commercial land within the Mulgrave area available for uses such as proposed by this application. These sites also offer good exposure to Windsor Road, are equally accessible to the greater Sydney Region and should be investigated by the applicant.

Vacant land within the Industrial 4(b) is also available at North Richmond and may be appropriate for the proposed use. This land is also located along the Main Road, being Bells Line of Road.

In 1993 Council also resolved to rezone a section of Windsor Street to Light Industrial 4(b). This is adjacent to the existing industrial area, off Lukis Avenue. Whilst the rezoning does not allow for direct vehicular access to Windsor Street, development may front the street and gain from the associated exposure. When finalised, this area will accommodate for the ‘bulky goods’ component of the proposed development.

Best use of the site.

It is considered that the most appropriate use of this site is for a tourist development incorporating a motel. This would allow for the further consolidation of the existing recreational uses, providing accommodation for the visitors utilising the Hawkesbury Showground for various functions.

The Hawkesbury Race Club has recently completed a large function room which is used for normal race day activities as well as weddings, parties and the like. Patrons using this facility would also benefit from a motel development.

A motel on the subject land would compliment the existing land uses in the locality. Whilst the site is not large enough for an extensive resort style of motel, the site can accommodate a smaller facility. Hawkesbury Tourism has advised that there is a shortage of budget accommodation (back packers) within the Richmond and Windsor areas. Cheaper hotel accommodation is also in demand, particularly when major events such as skiing or events at the Hawkesbury Showground.

The development should also incorporate facilities for day visitors such as a restaurant, cafe, garden or similar, further strengthening the recreational/tourist character of the area.

Conclusion

It is considered that the proposed rural service centre is not suitable for the subject site and it is therefore recommended that the proposed rezoning to allow a rural service centre not be supported.

The subject site provides an excellent opportunity to encourage a development that compliments the existing recreational and tourist development in the area. As the site is vacant and available for sale, there is likely to be several options presented by prospective purchasers. It would therefore be advantageous to guide developers to the best use of the site. Prospective purchases should be advised that any development on the site should incorporate a tourist facility comprising a possible motel.

A Development Control Plan (DCP) for the site should be prepared after a detailed study on the locality is carried out. The DCP should incorporate the other recreational/tourist facilities in the locality and be prepared as part of any future proposal for the site. This study should be prepared by the developer as part of any future rezoning application.

RECOMMENDATION:

That:

- 1 The proposed rezoning application not be supported.
- 2 Any future applicants/developers be advised that any proposal should incorporate a motel development/tourist development.

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- 3 Any future rezoning application for the subject land incorporate a detailed study of the surrounding recreational uses and a Development Control Plan prepared for the locality.

ATTACHMENTS:

AT-1 Site Plan

AT-2 Locality Map

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SITE PLAN

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LOCALITY MAP

oooO END OF ITEM 71 Oooo

ITEM: 72 **Appeal Against Refusal of Development Application for the Establishment of a Brothel at 15A Walker Street, South Windsor. Lot 281 DP827184**

FILE NUMBER: M1614/99/EVD/ENB29NAX.V14

PREVIOUS ITEM: 105, Ordinary (14.12.1999)

Applicant: Mr Howard Bird
Applicants Rep: Mr Howard Bird
Owner: Mr F & Mr W Hall
Stat. Provisions: HLEP 1989, SREP No 20
Area: 1029m2
Zone: 4(a) (Industry General)
Advertising: Notified adjoining owners and occupiers in accordance with Council Development Control Plan. Thirteen submissions received objecting to proposal.
Date Received: 14 October 1999

Key Issues: - Compliance with objectives of the 4(a) zone
 - Draft LEP (Amendment 110 - Exempt & Complying Development)
 - Hours of Operation
 - Security of Adjoining Premises
 - DCP for Brothels
 - Public Interest

Action: Defend appeal.

REPORT:

Introduction

An application for a brothel was refused under delegated authority on the 2 November 1999 based on the premise that the development fell within the definition of a "commercial premises" and was therefore prohibited development within the 4(a) General Industrial Zone. The applicant appealed the refusal and the matter relating to prohibition was considered by the Land and Environment Court. Justice Talbot found that upon the proper construction of the definition of "Commercial Premises" it does not include a brothel. He found, therefore, that for the purpose of Hawkesbury Local Environmental Plan, 1989, a brothel is an innominate use and therefore is permissible with consent in Zone 4(a).

This Judgement now permits the Court to consider the application based on merit. A date for this hearing has been set for 29 and 30 May 2000.

The purpose of this report is to allow Council to consider the merits of the application so as to be able to advise the Court of Council's position.

The Proposal

On 14 October 1999, Council received an application for the establishment of a brothel at 15A Walker Street, South Windsor in an existing industrial building. The development involves the use of the ground floor factory building for car parking, office and storeroom and the conversion of the second storey mezzanine area into a reception/waiting area and four rooms each containing a shower.

The hours of operation of the brothel are proposed to be 10am to 12pm Monday to Wednesday, 10am to 2am Thursday to Saturday and 10am to 10pm Sundays. The applicant estimates that 20 clients per day will visit the premises.

The application proposes the erection of a relatively small sign above the foyer door stating the business name of "Windsor Willows", no other signage is proposed.

The subject premises adjoins industrial development on all sides and fronts Walker Street.

Background

14 October 1999	Development application lodged for establishment of a brothel
2 November 1999	Application refused
17 November 1999	Appeal lodged in Land and Environment Court
19 January 2000	Preliminary hearing by Land and Environment Court regarding Point of Law
24 January 2000	Court handed down its decision regarding point of law ruling that under HLEP 1989, brothels are an innominate use and are permissible within the 4(a) zone.

Statutory Situation

The subject land is zoned 4(a) General Industrial under Hawkesbury LEP 1989. The application was originally refused under delegated authority as it was considered to be within the definition of "commercial premises" and therefore prohibited development under the 4(a) zoning. This decision was based on written advice from the Department of Urban Affairs and Planning.

The court has subsequently ruled that when you consider the proper construction of the definition of "commercial premises" as adopted by HLEP 1989, brothel does not fall within it and nor any other definition contained in the LEP and is therefore an innominate use resulting in the use being permissible in the 4(a) General Industrial Zone.

It should be noted that HLEP 1989 does not adopt the definition contained in the Environmental Planning and Assessment Act Model Provisions but rather adopts its own definition. This Judgement by the Court has significant implications for a number of other uses which would not be captured by the current definition of "Commercial Premises" and would therefore be classified as innominate uses and permissible in all zones.

Draft LEP 6/98 - Exempt and Complying Development proposes to adopt the model provision definition of "Commercial Premises" which will rectify this problem.

In considering the merits of the proposal, Council must consider the application in terms of the zone objectives. Clause 9(3) of the LEP states:

"Except as otherwise provided by this plan, the Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out."

The objectives of the 4(a) General Industrial Zone are as follows:

1. *Objectives of zone*

The objectives of this zone are -

- (a) to set aside certain land for the purposes of general industry within convenient distances of the urban centres of the City of Hawkesbury;*
- (b) to allow commercial and retail development for*
 - (i) uses ancillary to the main use of land within the zone;*
 - (ii) the display and sale of bulky goods; and*
 - (iii) the day-to-day needs of the occupants and employees of the surrounding industrial area; and*
- (c) to ensure that industrial development creates areas which are pleasant to work in and safe and efficient in terms of transportation, land utilisation and services distribution.*

Comment

It is considered that a "brothel" is not consistent with the objectives of the 4(a) zone as:

- a) The development does not fall within the category of general industry. If anything, the proposal is restricting the use of the subject land for general industry and is therefore not consistent with objective (a).

- b) The development does not provide commercial and retail development ancillary to the main use of the land, nor does it involve the display and sale of bulky goods or provide day to day needs to the general occupants and employees of the surrounding industrial area. This is reflected by the large number of hours of operation being outside normal business hours of 9am to 5pm. Therefore, the development is not considered to be consistent with objective (b).
- c) The development does not fall within the definition of Industrial Development and is therefore not consistent with objective (c).

Correspondence from Council's solicitors has indicated that a proper argument can be made in relation to whether or not the proposal for a brothel sits comfortably with clause 9(3) of the LEP. That is, whether or not Council is of the opinion that the carrying out of development is consistent with the objectives of the zone.

Draft LEP 6/98

Draft LEP 6/98 which will introduce exempt and complying development will also amend a number of definitions under the existing LEP, including the definition of "commercial premises". The definition of "commercial premises" will be amended by the adoption of the model provision definition. A brothel will clearly fall within this definition and therefore will become prohibited development in the 4(a) General Industrial zone.

The draft LEP has been through public exhibition and adopted by Council. The provisions of this plan are a valid consideration under section 79C(a)(ii) of the EP&A Act 1979.

Should the plan be gazetted prior to the appeal being determined by the Land and Environment Court, the Court would have no option but to dismiss the appeal as the development would be clearly prohibited development.

Development Control Plan - Brothels

Hawkesbury Development Control Plan for Brothels applies to the 4(a) General Industrial zone. The provisions of Hawkesbury LEP 1989 were originally considered to prevail over this DCP relating to permissibility. The Court has since ruled that a "brothel" is an innominate use and can be considered in the 4(a) zone or for that matter any zone.

An assessment of the performance requirements outlined in the DCP is provided below.

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Criteria	Compliance
* Not located at street level.	Complies
* Number of brothels not be located in the one area.	Complies - no other brothels in the area
* Not located within 100m of detached dwellings, churches, schools, hospitals and child care centres	Complies
* Must not adjoin a residential flat, religious institution, restaurant, supermarket, video or amusement parlour.	Complies
* Access to brothels to be discreet.	Complies
* Access not to be common to other commercial premises.	Complies
* Must be discreetly illuminated.	Complies
* Must not contain more than six (6) separate rooms for the purpose of prostitution.	Complies - 4 rooms proposed
* Must contain 20m ² waiting room.	Complies - approx 40m ²
* Must be fitted with services for class 5 building (office or commercial premises).	Court ruled not office or commercial premises. (Note: Highlights inconsistency between DCP and LEP).
* All windows to be covered by blinds or curtains.	Could be conditioned
* 2 parking spaces per room to be provided - 8 required.	Complies - 8 outside 6 inside factory
* No chain bulb or flashing sign.	Complies
* Sign located on the entrance door or wall adjacent. Not to exceed 0.9m ² in area.	Complies
* Sign to detail name of premises, street address and telephone number only.	Complies - only small wall sign will contain name of premises.

The development complies or is capable of complying with the requirements of Council's Development Control Plan.

Council's Development Control Plan for brothels was clearly drafted to provide guidelines for the location of brothels within industrial zones and the subject application meets these requirements.

It is also evident that no review of HLEP 1989 was carried out to ensure that brothels were clearly defined and their permissibility in the appropriate zones accommodated. The DCP implies that brothels fall within the category of "commercial premises" or "office" which would have been prohibited development in the 4(a) zone until the Court ruled that brothels were an innominate use.

These inconsistencies and lack of clarity create difficulties when assessing applications and advising applicants. The pending LEP for Exempt and Complying Development will introduce the model provision definition of "commercial premise" in which brothels would clearly fall within, resulting in a clear prohibition in industrial zones. Due to the pending LEP coming into force and the inconsistencies in the document, it is recommended the DCP for brothels be repealed with a view of reviewing these provisions in the Hawkesbury wide DCP currently being prepared.

Community Consultation

In accordance with Council's development control plan for public notification, the subject proposal and pending appeal was notified to adjacent and affected owners and occupiers in the area. At the conclusion of the exhibition period, 13 submissions were received objecting strongly to the proposal. The majority of submissions endorsed the refusal of the application.

A summary of concerns are listed below:

- Negative social impact both morally and physically.
- Increased security problems as a result of proposed hours of operation.
- Contrary to religious beliefs.
- Located near a number of recreation facilities frequented by children.
- Development may result in mistaken identity for the occupants of 15B Walker Street as 15A and 15B appear to be the one building.
- Impact on corporate image of businesses in the area.
- Reduced property values.
- Impact on the amenity of the area.
- Inconsistent with the objectives of the zone.
- Request that Council adopt model provision definition of "commercial premise".
- Request that should the Court approve the application, that Council appeal the decision.

Comment

A number of issues are not valid planning grounds under section 79C of the EP&A Act. Issues relating to moral, religious and property values, fall into this category and cannot be given much weight, although no doubt important to many people in the community, when considering the planning merits of the proposal.

Issues raised regarding consistency with zone objectives and security in the area are considered valid and support previous statements outlined in this report.

The issue regarding commercial premises and the adoption of the model provision definition is currently being done through draft LEP6/98. The issue of appealing any Court decision should be considered by Council at the appropriate time.

The subject premises are located in excess of 500m from any recreation facility, school etc and complies with Council's DCP.

The development will not change the appearance of the building, generate significant traffic and have a relatively small sign. It is considered the proposal would not have any significant impact on the amenity of the area apart from perceived impact based on moral and religious beliefs.

Planning Assessment

The following are the relevant matters for consideration under section 79C(b), (c), (d) and (e) of the EP&A Act 1979.

Character of Area

Development in the area comprises industrial units and factory buildings. The proposed brothel will not have any impact on the physical character of the area.

Traffic

Approximately 26 cars are anticipated to visit the site daily. This is acceptable.

Hours of Operation

Hours of operation are proposed to be 10am to 12pm Monday to Wednesday, 10am to 2am Thursday to Saturday and 10am to 10pm Sundays. A number of hours of operation are outside normal business hours and this has the potential to create increased security problems for surrounding businesses.

Suitability of the Site

The subject premises are suitable for the proposed use with undercover parking and internal access to the premises.

Social and Economic Impact

The proposed use is a legal business operation and it is considered that the social and economic impacts of the development will be no different to any other brothel.

Conclusion

The application for a brothel at 15A Walker Street was refused as it was considered to be "commercial premises" and prohibited. The applicant has appealed this decision where a preliminary hearing before the Land and Environment Court ruled that the development was an

innominate use and could be considered in the 4(a) zone. The draft LEP for exempt and complying development will introduce a new definition of "commercial premise" which will capture brothels and thus result in the development being prohibited in the 4(a) zone. This Draft LEP is imminent and valid grounds for not supporting this proposal.

Brothels are also considered not to be consistent with the objectives of the 4(a) zone. There have been a number of submissions received strongly objecting to the proposal.

It is recommended that Council defend the appeal for the reasons outlined above. Should Council consider the proposal acceptable, mediation could be pursued through the Court with a view of negotiating suitable conditions of consent and having the Court grant consent orders.

RECOMMENDATION:

That:

1. Council instruct its solicitors to defend the merits appeal.
2. Council repeal Hawkesbury Development Control Plan - Brothels.

ATTACHMENTS:

AT-1 Locality plan

ENVIRONMENT

Meeting Date: 29 February, 2000

Item: 72

LOCALITY PLAN

oooO END OF ITEM 72 Oooo

ITEM: 73 **Proposed Open Area Test Site for Electromagnetic Interference Energy, Lot 2 DP 751632, 714 Upper Colo Road, Upper Colo**

FILE NUMBER: DA90/98 PT 02/EVD/ENB29NAX.V23

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

PREVIOUS ITEM: 97, GPC Section 1 - Environment (30.03.1999)

PREVIOUS ITEM: 28, GPC Section 1 - Environment (28.09.1999)

Applicant: ADI Limited
Applicants Rep: Mr Bob Everett
Owner: Mr G & Mrs L Baczocha
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 24 hectares
Zone: Environmental Protection (Scenic) 7(d)
Advertising: Adjoining owners. Three objections
Date Received: 16 April 1998

Key Issues: - Permissibility of use
 - Emission of electromagnetic energy
 - Electromagnetic interference
 - Character of the area
 - Scenic quality/visual amenity
 - Noise

Action: Approval subject to conditions

REPORT:

Introduction

The applicant, Australian Defence Industries (ADI) seeks development consent to use 714 Upper Colo Road, Upper Colo, for the purposes of an outdoor testing site for electromagnetic energy.

This application has previously been reported to the General Purpose Committee meeting on 25 August 1998, 30 March 1999, and 28 September 1999. Determination of this matter has been deferred until legal and technical advice in relation to the proposed activity was obtained. This advice has now been obtained.

On 1 July 1998 the development assessment provisions of the Environmental Planning and Assessment Act 1979 were amended. This application was received prior to 1 July 1998 hence Council must consider the application with respect to Section 90 of the unamended Act as in force prior to 1 July 1998.

Background

On 25 August 1998 the General Purpose Committee considered a report on this matter. The Committee recommended that determination of 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.

Since this meeting Council has received legal and technical advice as well as successfully defending an appeal by an objector relating to Council's ability to determine the application.

This report will provide an assessment of the development application in accordance with Section 90 of the Act (unamended) as well as providing a summary of the legal and technical advice.

Proposal

The application is for an open area test site (OATS) for the testing of electromagnetic emissions from electrical and electronic equipment.

The test site comprises a large flat surface (concrete slab) with a metal ground plane, a turntable and antenna, and an adjacent site office. The proposed testing area is approximately 250m from Upper Colo Road. The concrete slab is tee-shaped and measures 35m long by 5 - 10m wide. The antenna is 4m high. Exact details of the site office have not been supplied, however, the applicant has advised that the site office will be a caravan approximately 6m long X 3m wide X 3m high and fitted with a tank toilet which will be pumped out by private contractor as required.

The test site works by placing a device on the turntable at one end of the concrete slab and turning it on. The antenna, placed at the other end of the concrete slab, picks up signals radiated from the device. The signals are then sent to a receiver to measure the levels of electromagnetic emissions

The items proposed to be tested cover a wide range of commercial, industrial, medical and domestic equipment and appliances. Typically these are TV's, VCR's, PC's, telephone, microwaves, washing machines, tumble dryers, electric drills, scientific and medical equipment and spark ignited engine driven devices.

One person is proposed to be employed with the hours of operation being 9am to 5pm Monday to Friday. The applicant anticipates one sedan or light truck will make a delivery to the site per day.

An open area test site is designed to test electromagnetic interference emissions from electrical and electronic equipment. Put simply, Commonwealth Government regulations require such equipment to pass Electromagnetic Compatibility tests demonstrating that the product is safe to the general population and that a range of products/equipment may operate side by side without interference.

The applicant has advised that because the levels of electromagnetic emissions are so low a very quiet site in terms of electrical interference in a remote location is required to accurately measure the emission.

Subject Site

The subject property is located on Upper Colo Road, approximately 7km from Singleton/Putty Road. The property is located either side of Upper Colo Road and consists of low flat pasture lands towards the road and river, with bushland behind rising to approximately 160m AHD. A small intermittent watercourse runs through the property separating the lowlands and bushland. The proposed development is approximately 30m to the north of the watercourse.

A large green metal rural shed has been erected within the bushland in the south - eastern corner of the property.

Parts of the property are flood effected and the property is within a high bush fire risk area.

Surrounding land uses include a residence, cleared grazing paddocks, the road and the Colo River to the north and east, bushland to the west and the Wollemi National Park to the south. A similar outdoor electromagnetic testing site operated by EMC Technologies Pty Ltd, is located at 1247 Upper Colo Road, approximately 4km to the west of the proposed test site. The existing test site was approved by Council in 1994.

The nearest residence from the proposed testing ground is approximately 250m to the north - east.

Statutory SituationRelevant environmental planning instruments

The following EPI's are of relevance to this application:

Hawkesbury Local Environmental Plan 1989 (as in force on 15 April 1998)

Sydney Regional Environmental Plan No. 20 (No2 -1997)

Soil Erosion Sediment Control Development Control Plan

Definition of Proposed Activity

The subject site is zoned Environmental Protection (Scenic) 7(d) under HLEP 1989. The threshold question Council must satisfy itself is whether or not the proposed activity is a "generating works" or "innominate use" which are not prohibited in the 7(d) zone, or an "industry" or "light industry" which are prohibited in the 7(d) zone.

Considerable examination as to the activity's land use classification has occurred since the matter was initially reported to the General Purpose Committee. Prior to this initial report, Council staff had received and concurred with legal advice from the applicant claiming that the proposed activity fell within the definition of a "generating works". "Generating works" are defined by the Environmental Planning and Assessment Model Provisions 1980 as:

a building or place used for the purpose of making or generating gas, electricity or other forms of energy.

Subsequent to this initial meeting Ms Bongers, an objector to the proposed development, provided legal advice arguing that Council had incorrectly categorised the activity as a “generating works” and that the proposed activity was an “industry”.

Advice was sought from Council’s solicitors, Abbott Tout, as to the definition of the proposed activity. Abbott Tout advised that it was their opinion that the activity was not an “industry” or ‘light industry’ and that it was open to Council to define the activity as a “generating works” or “innominate use”.

Ms Bongers lodged an appeal with the Land and Environment Court requesting, inter alia, a declaration that Council had no power to grant consent to the development application by reason of the proposed use being prohibited. The appeal was dismissed, however, as the finding of the Court was silent on the definition of the activity additional legal advice was sought from Mr Peter McClelland, QC. Mr McClelland argues that it is not open to categorise the activity as “industry” and that it is possible that it be properly defined as a “generating works”. Mr McClelland adds that it is not essential to determine whether or not the proposed activity is a “generating works” but it is essential to determine that it is not an “industry” and accordingly it will be an “innominate use” if not a “generating works” and hence permissible with consent.

Public Notification

The application was on public exhibition from 30 June to 15 July 1998. Council received three letters of objection. A summary of these objections is provided below:

- the proposed activities by ADI may result in unacceptable levels of electromagnetic interference which may prevent EMC Technologies from carrying out their business;
- it is unclear what devices will be tested. Will the testing be restricted to typical consumer items (TV, VCR, PC etc) or will it also include testing of other devices such as high power industrial machinery, scientific and radio transmitting equipment, defence or military systems?;
- the domestic devices nominated in the application are usually tested indoors. The size of the concrete slab and requirement for three phase power suggests that high emission commercial/industrial/defence devices will be tested at the site;
- what will be the strength of emissions produced at the test site and what are the health effects of these emissions?;
- for how long is a particular item/device tested?; and,
- the proposed development will create significant visual degradation in an area renowned for its visual beauty.

Planning Assessment

Hawkesbury Local Environmental Plan 1989

The subject land is zoned 7(d) Environmental Protection (Scenic) under HLEP 1989.

As outlined above, the proposed activity is considered not to be an “industry” and may be defined as “generating works” or “innominate use”, both or which are permissible with development consent in the 7(d) zone.

Objectives of the 7(d) zone

Clause 9(3) of HLEP 1989 states, inter alia, that Council shall not grant consent to the carrying out of development in the City unless it is of the opinion that the development is consistent with the objectives of the zone within which the development is to be carried out.

The relevant objectives of the Environmental Protection Scenic 7(d) zone are:

- (a) *to preserve the existing wooded ridges and escarpments;*
- (b) *to protect hilltops, ridge lines, 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;*
- ...
- (e) *to protect the low density, broad-acre character of the rural areas;*

The proposed development is located on the low flat cleared portion of the site and hence will not effect the adjacent existing wooded ridges and escarpments.

The proposed development requires two small dead trees to be removed around the test site area.

The development will be setback approximately 250m from Upper Colo Road and will be substantially screened from Upper Colo Road by an existing stand of approximately 35 mature casuarinas.

An existing unsealed access road serves the lower part of the property. The road is proposed to be extended along the northern boundary by 180m to service the test area.

The appearance of the concrete slab can be softened by providing additional screening vegetation and by colouring the concrete a dark tone or similar colour to the existing vegetation.

It is considered that the proposed development is of such a sufficiently small scale that it will not significantly impact upon the scenic quality or low density/broad acre character of the area.

It is therefore considered that the proposal is consistent with the objectives of the zone.

Clause 18 Provision of water, sewerage etc. services

The applicant proposes to use a caravan for a site office. The caravan will have its own potable water supply and sealed waste water tank. 3 phase electricity supply can be supplied to the site. The arrangements for these services are satisfactory. The increased water runoff from the caravan and concrete testing pad would be insignificant given the area of the property and surrounding drainage catchment. Other than erosion and sedimentation controls no provisions to control runoff from the test pad and caravan are considered necessary.

Clause 24 Development within Zone No. 7(d) or 7(d1)

The height and siting of the test pad and caravan is considered to be satisfactory. It is proposed that any consent issued be conditional upon the colour of the test pad and caravan blending with the surrounding landscape such that it does not adversely affect the scenic quality of the area.

Draft Hawkesbury Local Environmental Plan 1989 - Amendment No. 110

Under draft HLEP 1989 - Amendment No 110 “generating works” are permissible with development consent in the 7(d) zone.

Sydney Regional Environmental Plan No. 20 (No. 2 -1997)

The property is within the Colo River Catchment Area defined by SREP No. 20. The property is not within an area of scenic significance defined by SREP No. 20.

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. SREP No. 20 contains general and specific matters for considerations, specific planning policies and recommended strategies which are to be considered in the assessment of a development application. The relevant specific planning policies and recommended strategies relate to total catchment management, environmentally sensitive areas, water quality, water quantity, flora and fauna, riverine scenic quality. Relevant matters for consideration relate to buildings, works or land uses within conservation area sub-catchments, land uses in or near the river, and land uses in riverine scenic areas.

The impacts of this development as they relate to SREP No. 20 are considered not be significant enough to warrant refusal of the application and may be controlled by way of condition of consent. It is considered that the proposed development will not significantly impact on the environment of the Hawkesbury - Nepean River either in a local and regional context and that the development is not inconsistent with the general or specific aims, planning considerations, planning policies and recommended strategies.

Electronic Emissions and Radiation

Upon the recommendation and agreement of ADI and EMC Technologies, Council sought independent advice from Dr John Hunter of the CSIRO relating to electronic radiation impacts of the proposed development.

Dr Hunter attended a meeting at Council Offices with Council staff, and representatives from EMC Technologies Ltd and ADI present. Ms Bongers was unable to attend the meeting however a letter expressing her concerns was tabled. Dr Hunter also visited the subject site and EMC Technologies' site.

After this meeting and site visit Dr Hunter provided Council with written comment. In providing this comment Dr Hunter states that his comments are based on approximations and assumptions which are, in his opinion, reasonable and that the conclusions should be regarded as indicative only, but if anything, as erring on the side of pessimism regarding the extent of likely interference.

Dr Hunter's advice is based on ADI's undertaking that they will:

1. Use the site only for compliance measurements of radiated disturbances from devices covered by the following civilian standards or their regional or international equivalents:
 - a. AS/NZS4251.1 Generic emission standard - residential, commercial and light industry
 - b. AS/NZS4251.2 Generic emission standard - industrial environments
 - c. AS/NZS1053 Sound and television broadcast receivers and associated equipment
 - d. AS/NZS2064 Industrial scientific and medical (ISM) equipment
 - e. AS/NZS2557 Vehicles, motorboats and spark - ignited engine - driven devices
 - f. AS/NZS3548 Information technology equipment.
 - g. AS/NZS4051 Electrical lighting and similar equipment.
 - h. AS/NZS4052 Microwave ovens.
2. Pretest all devices before taking them to the site for compliance testing (pretesting is the early identification of potentially non-compliant disturbances and will enable early remedial modifications to be made to the device thus giving a higher likelihood that it will comply with the relevant standard before being tested at the subject site).
3. Test only between the hours of 9am to 5pm Monday to Friday.
4. Test no defence or military systems.

Dr Hunter concluded:

1. *With ADI proposing to confine testing to the hours of 9am to 5pm Mondays to Fridays outside those hours there is no possibility of testing operations causing electromagnetic interference to any party.*
2. *The nearest offsite dwelling may experience occasional interference to FM radio or television reception. The degree of inconvenience is difficult to quantify as it depends on the device being tested, the frequencies and radiation patterns of any disturbances from it, the*

broadcasting field strengths available to the dwelling, and the listening and viewing habits of the residents. There are likely to be few occasions when there is a simultaneous conjunction of all the factors necessary to cause interference.

3. *The likelihood that other existing offsite dwellings will experience interference is small.*
4. *The likelihood that electromagnetic exposure will exceed internationally accepted limits is very small.*
5. *The likelihood that the EMC Technologies site will experience degradation is very small, except within an ISM (Industrial, Scientific and Medical) frequency band when ADI is testing an ISM device, when the likelihood of degradation is small.*

Dr Hunter has provided Council with recommended conditions of consent.

Impact on the Environment

The test site area is generally flat and will require a minimum of cut and fill to construct the testing pad and access track. It is considered that subject to erosion and sedimentation control devices being installed and suitable revegetation of disturbed areas the impact of the construction works and use of the site on the environment would not be significant.

Effluent generated by the employee will be held in the storage tank of the site office. The storage tank will be periodically pumped out and disposed of at a sewerage treatment works. No effect on the immediate environment is expected to occur from this method of disposal.

It is considered that the proposed activity will not have a significant impact on the surrounding National Park or any wilderness area within the vicinity. The development will not significantly impact upon critical habitats and threatened species, populations, ecological communities and habitats as identified by the Threatened Species Conservation Act 1995, that may be present on the site or in the locality.

Effect on landscape or scenic quality of the locality

The proposed development is setback approx 250m from Upper Colo Road and will be substantially screened by an existing stand of mature casuarinas. The external colour of the concrete slab and site office can be conditioned such that they are compatible with the surrounding vegetation.

The development's impact on the landscape and scenic quality of the locality will not be significant and therefore is satisfactory.

Social and economic effect

It is considered that the proposed activity will not have a significant negative social or economic effect.

Appearance, location, and design of the development

The character, location, shape, scale and siting of the proposed test pad and site office is considered to be satisfactory because there is sufficient and adequate separation distances to surrounding residences. The anticipated bulk, scale, shape, size, height, design and appearance of the site office and test pad is satisfactory.

Size and shape of land

The proposed test pad and site office is located wholly within the subject property and is a satisfactory distance from surrounding residences.

The size and shape of the land is sufficient to accommodate the proposed use of the land.

Suitability of site

The subject property is within a high bush fire risk area. The test area and site office is located within a cleared area which is of sufficient size and depth to reduce bushfire threat from the nearby bushland/National Park. The likelihood of bushfire does not make the site unsuitable given the intended use.

The test area is subject to flood inundation. The 1 in 100 flood level for the area is approximately 18.3m AHD. Topographical maps of the area are not of sufficient detail to accurately determine the height of the test area and site office. It is considered however that the area is lower than 18.3m AHD. The likelihood of flooding does not make the site unsuitable given the intended use. The proposed mobile site office may be moved to higher ground on the property in times of flood inundation.

The site is not known to be subject to land slip, tidal inundation or subsidence.

Relationship of subject development to development on adjoining land and land in the locality

Surrounding land uses include a residence, cleared grazing paddocks, the road and the Colo River to the north and east, bushland to the west and the Wollemi National Park to the south. A similar outdoor electromagnetic testing site operated by EMC Technologies Pty Ltd, is located at 1247 Upper Colo Road, approximately 4km to the west of the proposed test site.

The valley in which the site is located is quiet and isolated with the only known significant noise source in the area being Singleton Road (approx 1 km to the north / north-west). As a result it is expected that ambient noise level of the area would be relatively low. Based on information provided by the applicant it is anticipated that the majority of the products tested would create small amounts of noise. Some products tested however do have the potential to generate significant noise emissions, ie spark ignited engine driven devices. Prolonged testing of these devices could have the potential to create significant noise disturbance. The applicant advises that products could be tested for up to 4 - 8 hours depending on the type of testing procedure, set up time etc. In order to limit noise created by the testing the spark ignited engine driven devices it is recommended that any

consent be conditioned such that noise as a result of the activity shall not exceed 5dB(LA 10) above background when measured at the nearest point of intrusiveness (ie the nearest point of intrusiveness may be a surrounding residence or associated outdoor entertaining area).

As outlined previously Dr Hunter has provided advice on the proposed development's likely impact on EMC Technologies site 4km to the west. DR Hunter concluded that the likelihood that the EMC Technologies site will experience degradation is very small, except within an ISN frequency band when ADI is testing an ISM device, when the likelihood of degradation is small.

Subject to the above mentioned noise emission control being achieved it is considered that the proposed development will not significantly impact upon surrounding development on adjoining land or in the locality.

Access to the site and traffic generation

Access to the test area will be provided by an unsealed driveway along the northern boundary of the property. This driveway is proposed to be extended by 180m to service the test area. An all weather surface of compacted crushed rock or similar is considered adequate to provide access to the site.

The applicant states that one person will be employed at the site and that one sedan or light truck will make a delivery to the site per day. The small amount of traffic to be generated by the development will not detract from the amenity of the area or cause traffic congestion or nuisance.

Provision of landscaping

No additional landscaping has been proposed by ADI. It is recommended that additional landscaping, in the form of trees and shrubs endemic to the area be provided within the vicinity of the test area and site office.

Soil erosion

The potential for soil erosion as a result of the construction of the test pad and access road can be minimised by appropriate erosion and sedimentation devices being installed and by revegetating any disturbed area.

Existing and likely future amenity

The existing and likely future amenity of the area may be defined as a quiet rural setting bounded by bushland to the south and west and the Colo River to the east and north.

The proposed development has the potential to impact upon the amenity of the area via the emission of noise. To a lesser extent, the emission of electromagnetic radiation and the visual appearance of the test pad and site office could impact upon the amenity of the area.

Subject to suitable conditions controlling noise, operation, and the colour of the site office and concrete slab etc, it is considered that the construction and operation of the test site will not significantly effect the amenity of the area.

Drawing comparison with the EMC Technologies site it is worth noting that they have operated since 1995 without any known complaint to Council.

Public Interest

The concerns of the resident objectors and EMC Technologies Ltd are recognised and have been considered in the assessment of the application. It is anticipated that the where relevant their concerns can be ameliorated by way of condition of consent governing construction, appearance and operation of the development.

A greater public interest exists in that the proposed activity will test and enable certification of products which are used by the general population everyday.

Circumstances of the case

The applicant advises that the proposed site was selected because, in order to accurately test emissions, an area around the test site needs to have an extremely low electromagnetic signature. The Upper Colo region is one of a few areas in and around Sydney with this characteristic.

The unique electronic quietness of the area is an important factor which should be taken into consideration in determining this application.

Conclusion

The proposed development is permissible within the Environmental Protection (Scenic) zone 7(d). The proposed development satisfies the objectives of the zone and other relevant provision of HLEP 1989 as well as the relevant provisions of SREP No. 20 (No.2 -1997). It is considered that subject to suitable conditions of consent the proposed activity will not cause harm to the scenic quality or amenity of the area and surrounding environment.

The proposed development is recommended for approval.

RECOMMENDATION:

That the application for an open area test site for electromagnetic emission testing being approved subject to the following conditions.

General

1. The development being carried out in accordance with the plan titled "Location of Proposed Open Area Test Site" and accompanying documentation submitted with the development application, except where modified by way of condition of consent.

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.

Prior to Issue of Construction Certificate

4. The submission of any licences/approvals required by the Department of Land and Water Conservation.
5. A plan of landscaping shall be submitted and approved by the Principle Certifying Authority. The plan shall provide for revegetation of areas disturbed by the construction of the access road and concrete slab and is to provide for additional vegetative screening of the test pad and site area when viewed from Upper Colo Road.
6. The following documentary evidence is to be obtained prior to the issue of any Construction Certificate, whether by Council or an accredited certifier:
 - (a) A written clearance from Integral Energy, stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.
7. Separate practising Structural Engineer's details of all structural concrete and steelwork shall be lodged with the Principle Certifying Authority.

Prior to Commencement of Works

8. A sign must be erected in a prominent position on any work site on which the erection or demolition of a building is being carried out:
 - (a) stating that unauthorised entry to the work site is prohibited; and
 - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

This condition does not apply to:

- (a) building work carried out inside an existing building; or
 - (b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
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.
12. Sanitary accommodation shall be provided for workmen throughout the course of the building operations in accordance with the Local Government Act 1993 and the Environment Planning and Assessment Act.
13. The name and licence number of the licensed contractor/builder who has been contracted to do or intends to do the work must be submitted to Council in writing by the owner prior to the commencement of any work relevant to this approval.

During Construction

14. All building work must be carried out in accordance with provisions of the Building Code of Australia.
15. Inspections shall be carried out and compliance certificates issued by Council or an appropriately accredited person for the following components of construction:
 - (a) erosion controls, site works and site set out;
 - (b) piers;
 - (c) steel reinforcement; and
 - (d) on completion of the structure,
16. 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.
17. A sign is to be erected adjacent to the access point to the site for the duration of the site works stating the following:
 - (a) owner of site and address;
 - (b) person/company carrying out site works and phone number;
 - (c) consent number and date of approval; and
 - (d) approval duration of site works.
18. The proposed access track and parking area is to be constructed of compacted crushed rock or suitable alternative. Construction of the access track, parking area and any necessary drainage is not to commence until three (3) copies of the plans and specifications are submitted to and approved by the Principle Certifying Authority.

19. Details of the proposed site office are to be submitted and approved by the Principle Certifying Authority prior to installation.
20. Exterior surfaces of the concrete slab and site office being painted or treated with a dark toned non-reflective material in such a manner so as to cause the structure to blend with the landscape of the site and its surroundings. Such painting or treatment is to be completed prior to use of the site

Use of the Site

21. Testing is to be confined to devices covered by AS/NZS4251.1 Generic emission standard - residential, commercial and light industry; AS/NZS4251.2 Generic emission standard - industrial environments; AS/NZS1053 Sound and television broadcast receivers and associated equipment; AS/NZS2064 Industrial scientific and medical (ISM) equipment; AS/NZS2557 Vehicles, motorboats and spark - ignited engine - driven devices; AS/NZS3548 Information technology equipment; AS/NZS4051 Electrical lighting and similar equipment; AS/NZS4052 Microwave ovens, and their regional and international equivalents.
22. In order to maximise the likelihood that a device will comply with the relevant standard all devices are to be pre-tested off-site before being tested at the subject site.
23. No defence or military systems are to be tested at the site.
24. In the event that EMC Technologies or subsequent operators at the existing site at 1247 Upper Colo Road, Upper Colo experience a temporary degradation of its electromagnetic environment to within 10dB of the limit to which it is currently testing, the operator shall, upon request and appropriate evidence from EMC Technologies, switch off any ISM device being tested in order to determine whether or not that is the cause of degradation. If the source of degradation emanates from the subject site, the operator shall leave that device switched off until such time as it will not interference with the measurements of EMC Technologies.
25. Noise as a result of the activity shall not exceed 5dB(LA10) above background when measured at the nearest point of intrusiveness. Reports from an appropriately qualified acoustic consultant are to be submitted to Council upon request.
26. Operating hours shall be limited to between the hours of 9.00am and 5.00pm Mondays to Fridays.
27. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
28. All landscaping shall be permanently maintained in a good condition and in accordance with the intent of the landscaping plan.

29. No advertising structures to be erected, displayed or affixed on any building or land without prior approval. Any unauthorised advertising structure will be removed at the expense of the advertiser.

ATTACHMENTS:

AT-1 Locality Plan

AT-2 Site Plan

AT-3 Plan of Test Area

LOCALITY PLAN

ENVIRONMENT

Meeting Date: 29 February, 2000

Item: 73

SITE PLAN

ENVIRONMENT

Meeting Date: 29 February, 2000

Item: 73

TEST SITE

oooO END OF ITEM 73 Oooo

ITEM: 74 **Horse Training and Coaching Facility, No 371 Spinks Road,
Glossodia, Lot 8 DP251248**

FILE NUMBER: M823/99/EVD/ENB29NAX.V13

Applicant: JW Constructions Pty Ltd
Applicants Rep:
Owner: R Stewart, A Stewart, C Eaton and W Pike
Stat. Provisions: HLEP 1989, SREP 20
Area: 10.6 hectares
Zone: Rural 1(b)
Advertising: Notified to adjoining owners and occupiers. Two (2) letters
Date Received: 9 June 1999

Key Issues: - Character of the area
 - Access
 - Amenity of neighbours
 - Visual Impact

Action: Approval, subject to conditions

REPORT:

Introduction

An application has been received seeking consent to erect a horse training and coaching facility on the subject property. The application comprises an indoor riding arena, dressage arena, stable block, car and truck parking area and the construction of an access to the facility.

The application is being reported to Council due to the size of the development and the submissions received. A conciliation meeting was held between the objectors and applicant which did not reach agreement. This report details the proposal, the current statutory situation, submissions received from the surrounding property owners and an assessment of the application in accordance with Section 79C of the Environmental Planning and Assessment Act (EP&A Act) 1979. Based on the assessment the application is recommended for approval, subject to conditions.

The Proposal

The proposal is for a covered riding arena and stables which are to be used for purposes of horse training/ coaching. There is also a proposed open dressage arena.

The development consists of a riding arena which is a covered area of 2541sq.m and has no side walls on the northern and southern elevations. Adjoining the arena are 12 stables, a feed room, vet area, hay room, tack room, saddling area, isolation area, hose bay, laundry, kitchen, viewing room, mezzanine viewing platform and 5 toilets and one shower, this area occupies 857sq.m. This facility

will provide a total covered area of 3416sq.m, and is a total length of 125m on the northern and southern elevations. The open dressage arena is 60m x 20m which is the same size as other private arenas in the area.

The development also provides an area for 22 car parking spaces and a truck and tractor parking area within the stable complex.

The subject property is irregular in shape and has a total site area of 10.6 hectares. The property is bounded by Currency Creek to the South, Spinks Road to the West and two rural properties to the North and East.

Statutory Situation

Hawkesbury Local Environmental Plan 1989

The subject property is zoned Rural 1(b) under Hawkesbury Local Environmental Plan (HLEP) 1989. The objectives of the 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.*

Under HLEP 1989 the proposed development is defined as a 'Recreational Establishment' which means:

"building or place used for health farms, religious retreat houses, rest homes, youth camps, outdoor recreational activities, sporting activities and the like, but does not include a building or place elsewhere specifically defined in this clause or a building or place used or intended for use for a purpose elsewhere specifically defined in this clause;"

Recreational Establishments are permissible within the zone with consent.

Reference should be made to Clause 9(3) under HLEP 1989- Zone objectives and development control table:

- 9. (3) *Except as otherwise provided by this plan, the Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.*

The proposal is considered to be consistent with the relevant objectives of the zone.

The proposed use can be seen as compatible with the rural character of the area as the surrounding land uses are predominately equine related.

The development will not place any pressure for the provision and extension of public amenities infrastructure as all requirements of the development are contained within the site.

The proposed development will generate some traffic but Spinks Road is capable of accommodating the additional vehicles. Traffic issues are discussed further later in the report.

There are some works proposed for the development but it is considered any impacts that arise from the works is acceptable, there is no tree clearing proposed and the land is considered to be suitable for this type of development.

Integrated Development

The subject application was identified as **Integrated Development** requiring a referral to the Department of Land and Water Conservation (DLWC) due to works being carried out within 40m of a watercourse (Currency Creek).

The Department of Land and Water Conservation considered the proposed works unlikely to have an effect on the nearby waterbody. A part 3A permit under the Rivers and Foreshores Improvement Act 1948 is not required and the Department is satisfied with the work proceeding. DLWC recommends erosion and sediment control measures to be addressed. The Department also recommends that a minimum native vegetation buffer of 20m be maintained between any development and the top of the creek bank.

DLWC was also contacted in regards to the location of the irrigation area being located 36m from Currency Creek. The response given was that the irrigation area should be moved so is greater than 40m from the creek. This should be required as a condition of consent if the application is supported.

The proposal was also referred to the EPA for comment to confirm that the application was not Integrated Development. The EPA reviewed the application and considered the development not an "Integrated Development" application. The EPA did comment that the developer should ensure that the works are undertaken in a manner that will not result in the pollution of waters within the meaning of the Protection of the Environment Operations Act 1997.

Sydney Regional Environmental Plan- Hawkesbury-Nepean River No.2 (1997)

The aim of this plan is *"to protect the environment of the Hawkesbury-Nepean River System by ensuring that the impacts of future land uses are considered in a regional context."* The subject property is part of the Middle Nepean & Hawkesbury River Catchment Area and does not fall within a riverine scenic corridor.

Relevant Clauses:

Clause 11(14) - Recreational Facilities - requires development consent

Clause 11(17) - Sewerage Systems or Works:

Development for the purpose of any sewerage system or work which stores, treats or disposes of sewage (including domestic on-site disposal systems that are ancillary to development which requires consent) but not including a public utility undertaking. The matters for consideration are:

- a) *Whether the proposed development will be capable of connection to a Sydney Water Corporation Limited or council sewerage system either now or in the future.*

Comment: It is unlikely that the development will be connected to a reticulated sewer system in the future. However, the development is capable of providing on-site effluent disposal with acceptable impacts on the environment.

- b) *The suitability of the site for the 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 effects on adjoining properties.*

Comment: An effluent disposal report was submitted with the application, this report indicated that the site was capable of providing on-site effluent disposal with enough site area to allow for rotated disposal areas. The sewerage system should operate without causing a significant affect on adjoining properties.

- 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 mapped wetlands, or*
 - *any ground water, or*
 - *the floodplain.*

Comment: The on-site disposal area is in close vicinity to a dam and a watercourse. The Department of Land and Water Conservation has commented that the proposed development is unlikely to have any affects on the nearby watercourse and surrounding areas.

- d) *The scope for recycling and reusing effluent or sludge on the site.*

Comment: The system irrigates onto an irrigation area.

- e) *The adequacy of wet weather storage and the wet weather treatment capacity (if relevant) of the proposed sewerage system or works.*

Comment: The water balance report indicates that wet weather storage is not required.

f) *Downstream effects of direct discharge of effluent to watercourses.*

Comment: There is no direct discharge of effluent into watercourses.

g) *The need for ongoing monitoring of the system or works.*

Comment: The onus is on the applicant to undertake regular maintenance and monitoring of the installed system, however, recent State government legislation changes require Council to inspect all systems within the LGA.

Community Consultation

The application was notified to adjoining owners and occupiers for a period of 14 days in accordance with 'Public Notification of Development Proposals' development control plan.

At the conclusion of the exhibition period there were two (2) letters received objecting to the proposal. The objectors are located south and west of the development site. The main concerns expressed in the letters include:

- Not consistent with the objectives of the zone
- Out of character with the area
- Traffic problems
- Problem of permanent occupancy of the caretaker's residence.
- Access not sealed and cause dust problems
- Non-existent landscaping
- External lighting / loudspeaker not been addressed
- Noise generated from the development
- Zincalume roof will have visual impact
- Adjoining owner's house is opposite the proposed access and feels problem with privacy and noise

Evening training will add to noise and traffic

The relevant issues will be discussed in the planning assessment below.

Applicant's Response

The applicant responded to some of the concerns above and indicated the following:

- The development is not intended for public entertainment but for an equestrian education facility.
- That the proposal will not generate a traffic hazard as the gateway to the development is within 500m of unobstructed vision to the right and 1km to the left. The view is considered safe. There are shrubs and trees on the boundary between the road and the adjoining house.

- It is proposed to light only the working arenas, lighting is expensive and do not wish to illuminate any areas not in use.
- There is no caretakers residence proposed.
- The internal roadway and car park and the access will need to be all weather and will be sealed in bitumen.
- The roof is to be colorbond not zincalume.

Planning Assessment

The following are the relevant matters for consideration under Section 79C (b),(c),(d) and (e) of the EP&A Act 1979:

Character of the Area

The subject property is located in a predominantly rural area. The primary use of the surrounding properties is for agricultural purposes and animal establishments, in particular equestrian related activities.

The proposed development is consistent with the character of the area as it is providing for a facility that can be utilised by the surrounding area where equestrian activities are already being carried out.

Site Design

The subject property is already occupied by a dwelling and horse yards. The existing dwelling is located on the northern side of the property. There are two dams already existing in the centre of the property.

The proposed development consists of riding arena which is a covered area and has no side walls on the northern and southern elevations. Adjoining the covered arena are 12 stables, a feed room, vet area, hay room, tack room, saddling area, isolation area, hose bay, laundry, kitchen, viewing room, mezzanine viewing platform to be used also for storage of horse jumping equipment and 5 toilets and one shower. Adjacent to the carpark is a proposed open dressage area which is 60m x 20m, similar in size to private dressage arenas approved in the area.

The laundry is provided to wash saddle cloths, leg bandages, towels and horse rugs to prevent using the personal laundry. The kitchen facility is for everyday use by the staff and customers of the arena. There were concerns by objectors that due to the complex having a kitchen and a laundry then it will be used for dual occupancy purposes, detached dual occupancies are prohibited in a rural zoning. The application mentioned that the complex will not be occupied by a caretaker, a condition will be imposed though to ensure that permanent residency is not undertaken within the complex.

Concern is raised about the development which relates to the size of the building and its potential use for some form of public entertainment. The covered arena which is 78m x 30m is only slightly larger than private open arenas approved in the area. The size is considered reasonable given that 5 riders and trainers will be using the arena simultaneously.

The plans indicate 5 toilets will be provided for the subject development, this seems excessive considering that a maximum of 10 people will be using the arena at any one time. The Building Code of Australia requires one closet pan for 20 females and 1 closet pan for 10 males, this means that the development only requires two (2) toilets. If the application is approved the plans should be amended to include only two (2) toilet facilities for the development, with one of those toilets providing for disabled access.

Visual Impact

Due to the scale of the development some concerns were expressed in relation to the visual impact the development may have on adjoining properties.

The development provides for a 3416sq.m covered area. The northern and southern elevations extend 125m in length and the western elevation (Spinks Road) is 33m in width with the eastern elevation at 13.2m in width. The height of the covered area is 5.5m to the top of the side walls. The size of the development comparable to the use of the facility and the size of land is not considered large, the facility will only occupy 2.9% of the total site area. The size of the development is considered acceptable. The construction of the facility will require cut and fill to achieve a level building platform and riding arena. The only fill to be imported to the site is the top dressing (mainly sand) to cover the arena area. A contribution is payable for this importation should the application be approved.

The development site is visible from both the objectors properties while passing traffic will be able to view the facility from Spinks Road. When entering Spinks Road from Kurmond Road the facility will be seen by passing traffic from about 500m in from Kurmond Road. When driving south the facility will not be seen by traffic until reaching the subject property boundary.

The land owned by the objector to the South is higher than the development and is located approximately 500m away. They will have full views of the roof elevation which extends for 125m, while the objector to the west will have a blank wall for 33m at a height of 5.5m to the top of the wall. The development is also setback 79m from Spinks Road. It is considered that the size of the development is acceptable, but to ensure the development is more aesthetically appealing for those surrounding some changes should be imposed.

The applicant should be required to submit a more detailed landscaping plan at a scale appropriate to the development which will minimise the visual impact to the adjoining properties. Also, the proposed facility will be in Colorbond 'Mist Green' to blend in with the surrounding area. The elevation to Spinks Road which is the western elevation of the covered riding arena should provide for open walls to minimise the visual impact to the adjoining owner to the west should the application be approved.

Flora and Fauna

From the information provided by the applicant there is no proposal to remove trees for the proposed works, the site is mostly cleared of any vegetation. Consideration of matters under Section 5A of the EP&A Act 1979 it is considered that the proposal will not have any significant impact on any endangered Fauna and Flora.

Landscaping indicated on the plan shows three plant species being Liquid Amber, Camilia Sasanqua, and Tristania Conferta. Due to the nature of the development a more detailed landscape plan should be required, this plan needs to introduce more mature trees, shrubs and ground covers, planting of native shrubs between the irrigation area and Currency Creek, maintenance and be at an appropriate scale to the development. Also more dense planting should be provided along the front boundary and around the covered arena to assist in reducing the visual impact of the development from the surrounding area.

Neighbour Amenity

The applicant intends to undertake training within the hours of 7am until 7pm for 7 days per week. These hours of operation will require lighting to be used within the covered riding arena and stable areas during winter months. It is unreasonable to suggest no lighting in the stable area due to the keeping of the horses overnight.

The lighting over the covered riding arena, however, poses a problem. The arena area required to be lit and the fact that all the side walls of the arena are open will generate a lit area that is not in keeping with the rural character in the evenings. To overcome this problem the use of riding arena in the evening should not be permitted. Therefore, hours of operation should be limited to daylight hours if the application is supported.

The restriction on the hours of operation should overcome concerns relating to noise carrying in the evening. Noise generated during the day will not be significant to cause an impact on the surrounding area. Under the Protection of the Environment Operations Act the development cannot exceed 5(d)BA above background noise at any boundary. This should be enforced also as a condition of consent should the application be supported.

Access, Transport and Traffic

The subject property is accessed via Spinks Road. There are two entrances to the site, one for the residence and the other to access the existing horse arena and holding yards. A new access is proposed to be constructed as part of the development, which is to be located in between the two existing access points.

The proposed access to the development site is directly opposite an objector, this adjoining property is setback approximately 20m from Spinks Road with some vegetation within that setback. Due to a restriction on evening classes there should be no problems with car lights affecting this property using this entrance.

Notwithstanding the above, the access to the development site should be from the existing access to the south which is located directly in front of the dams, this is due to the entrance already being constructed and located away from the adjoining residence. The access is then directly opposite grazing land which will reduce any impacts the objector may have in relation to the access impinging on privacy. It doesn't appear necessary to create a third access point to the development site.

The site plan indicates that there is the provision of 22 parking spaces and an area next to the stables for truck and tractor parking. The aisle width in between the parking spaces are 7.5m for manoeuvrability and to allow for a forward direction when leaving the site. The truck and parking area is 12.6m by 10m which is sufficient room to park at least two small trucks or cars with horse trailers.

According to Councils' Parking Development Control Plan a recreational establishment or horse training/coaching facility is not specifically mentioned so therefore the parking requirements for the development have to be determined on the merits of the application. It is anticipated that there will be 5 students and between 2 to 5 staff at one time, it can be considered that one car per student and staff member would require a total of 10 spaces which is the minimum. The parking spaces for 22 spaces is sufficient because any excess parking can be utilised by excess students and their spectators.

Traffic generated is considered acceptable for the development and the area. Spinks Road is capable of accepting the additional traffic. The internal access road is 3.25m wide is located at the front boundary and has an 80m frontage each side of the access entry which is straight and provides for good sight distances.

If the proposal is supported the access point to the development should be moved to the existing southern access point.

Effluent Disposal

A Water Balance Report was undertaken by Lochbar Holdings Pty Ltd. The report concluded that the development has an expected wastewater quantity of 1000 litres per day. The system is over 40m from permanent waters, 10 metres from the boundary of the property and 130m from buildings on the site. There is sufficient land area available on the site and the total irrigation area should be 7500 sq.m. The irrigation area is located 36m from Currency Creek, there is sufficient site area for this irrigation area to be out of the 40m area from the creek as requested by DLWC. Should the application be supported a condition should be enforced to ensure the disposal area is greater than 40m away from Currency Creek.

The report also indicates that the perimeter of the site will be planted with native hedges to facilitate uptake of effluent. This is consistent with comments made by DLWC in regards to buffer zones, a 20m buffer of native vegetation should be enforced along Currency Creek and covered in the required detailed landscaping plan.

The water collected from the wash bay for washing horses will be collected via a dry basket arrestor pit at points of use prior to being discharged via piped system to the dams. Any horse manure will be removed from the site by a qualified waste disposal company.

Clause 11(17) under SREP 20 has been taken into consideration (see above) and it is considered that the system will have minimal impacts on the nearby waterbody.

Conclusion

The proposed development is generally consistent with the objectives of the zone, is permissible within the zone and is compatible with the predominant land use relating to equestrian activities in the vicinity of the area.

The proposed development, although large, has sufficient site area to undertake the development. Notwithstanding this, restrictions have been placed on the development to address some of the concerns by the objectors. Such restrictions consist of hours of operation, generation of noise, landscaping, changes in construction and colours.

It is considered that the proposed development is suitable for the site, it provides for a major equestrian facility in a rural area known for its equine related land uses. The impacts to the environment and surrounding area are considered acceptable.

It is recommended that the application be approved, subject to appropriate conditions.

RECOMMENDATION:

- A.** That the application for riding arena and stable complex for the purposes of training and coaching be approved subject to the following conditions:-

General

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 J W Building Systems numbered AR01, AR02 dated March 1999 and McKinlay Morgan & Associates Pty Ltd numbered 89978:D:2 dated 12 February 1999) submitted with Development Application No. M823/99, as amended in red, and any supportive documentation, except as otherwise provided by the conditions of this consent.
2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
3. To ensure the external appearance of the development is not intrusive or offensive, and does not degrade the visual quality of the surrounding area, the building shall be clad in Colorbond 'Mist Green'.
4. Prior to construction of the approved development it is necessary to obtain a Construction Certificate.
5. The applicant is advised to consult with:

(a) Integral Energy

regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public road(s).

6. No excavation or site works shall be commenced prior to the issue of the construction certificate.
7. Access to the development shall be from the existing southern access point on the property, no new access point from Spinks Road is to be constructed.

Prior to Issue of Construction Certificate

8. The submission of a Certificate from Telstra Australia that satisfactory arrangements have been made for the provision of cables for telephones to the development.
9. The following documentary evidence is to be obtained prior to the issue of any Construction Certificate, whether by Council or an accredited certifier:
 - (a) A written clearance from Integral Energy, stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.
10. A septic drainage system shall be provided and a separate application shall be lodged with Council for approval of the septic tank installation.
11. A landscape plan is required to be submitted for approval. This plan needs to introduce more mature trees, shrubs and ground covers, planting of native shrubs between the irrigation area and Currency Creek, maintenance and be at an appropriate scale to the development.
12. A plan is to be submitted to the Principle Certifying Authority showing the western elevation being open. The plans are to also include the provision for two (2) toilet facilities. The development is to be constructed in accordance with this plan.

Prior to Issue of Construction Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. **The Construction Certificate shall be obtained prior to the commencement of any earth works or building works.**

13. Details of the amount and origin of top dressing for the arena being imported to the site for the construction of the arena. Payment to Council at a rate of 3 cents per tonne per kilometre transported on local roads within the Hawkesbury City Council boundaries will be charged pursuant to Section 94 of the Environmental Planning and Assessment Act 1979.

The above contributions have been determined in accordance with Hawkesbury Section 94

Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Offices, George Street, Windsor.

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

Prior to Commencement of Works

13. To ensure that site works do not cause soil erosion, site works involving construction of batters, embankments, cuts, mounds, and the like, shall incorporate measures for their restraint and stabilisation, with the use of physical barriers and planting of suitable vegetative cover.
14. 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
15. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of 1 toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- (a) must be a standard flushing toilet; and
- (b) must be connected to a sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

16. 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.
17. A sign must be erected in a prominent position on any work site on which the erection or demolition of a building is being carried out:
 - (a) stating that unauthorised entry to the work site is prohibited; and
 - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

This condition does not apply to:

- (a) building work carried out inside an existing building; or
 - (b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
18. 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.
19. Engineering details on all structural steel and concrete shall be provided to the Principal certifying Authority prior to work commencing.
20. The name and licence number of the licensed contractor/builder who has been contracted to do or intends to do the work must be submitted to Council in writing by the owner prior to the commencement of any work relevant to this approval.

During Construction

21. Inspections shall be carried out and compliance certificates issued by Council or an appropriately accredited person for the following components of construction:
- (a) piers;
 - (b) the second storey floor joists, prior to the fixing of any flooring material;
 - (c) framework, after the installation of all plumbing, drainage and electrical fixtures, and after the external cladding and roof covering has been fixed prior to fixing of internal linings and insulation;
 - (d) wet area flashing, after the installation any bath and shower fixtures;
 - (e) internal drainage lines prior to covering;
 - (f) external drainage lines, prior to backfilling; and
 - (g) on completion of the structure.
22. All fill to be adequately compacted by track rolling or similar.
23. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by running water to be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or road surface.
24. The construction of the building, including the roof, shall be in materials of a low reflective quality and be of colour Colorbond 'Mist Green'.
25. No excavated material, including soil, shall be removed from the site.
26. The fill shall be battered at a slope not exceeding 1 (one) vertical to 4 (four) horizontal.
27. 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.

28. All building work must be carried out in accordance with provisions of the Building Code of Australia.
29. The filled area, including batters, shall be grassed immediately after filling takes place.
30. Dust control measures, eg vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
31. The construction of a 3m wide bitumen seal access from the existing edge of Spinks Road to the proposed car park.

Prior to Issue of Occupation Certificate

32. An occupation certificate is to be obtained on completion of all works and prior to commencement of the approved use. The occupation certificate will not be issued if any conditions of this consent are outstanding.
33. Submission of Form 15 Certificate certifying that all the required essential services have been initiated in accordance with relevant standards.
34. A 20m vegetation buffer as requested by the Department of Land and Water Conservation along Currency Creek is to be planted. The vegetation barrier is to be of native tree species.

Use of the Site

35. All landscaping shall be permanently maintained in a good condition and in accordance with the intent of the landscaping plan.
36. No advertising structures to be erected, displayed or affixed on any building or land without prior approval. Any unauthorised advertising structure will be removed at the expense of the advertiser.
37. No signs shall be displayed on the footpaths, pedestrianways, roadways or in the vicinity.
38. The development shall be conducted in such a manner that noise levels measured at any boundary do not exceed 5dB(A) above background noise levels.
39. The riding arena and stable complex is not be used for residential purposes.
40. No lighting or public address system is permitted within the riding arena.
41. The place shall not be used as a place for public entertainment (eg Carnivals and the like).
42. The development shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood in respect of noise, vibration, odour, dust, waste water, waste products or otherwise.

43. Hours of operation are restricted to daylight hours only.

ATTACHMENTS:

AT-1 Locality plan and location of objectors

AT-2 Site Plan

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SITE PLAN

oooO END OF ITEM 74 Oooo

ITEM: 75**Heritage Funding Allocation in Forthcoming Budget****FILE NUMBER:**GH020/041 PT04/EVD/ENB29NAX.V26

REPORT:**Introduction**

Council will be aware that the 2000/2001 budget will soon be prepared. To assist in the preparation of the budget the Heritage Advisory Committee of Council has requested that Council's present and future heritage funding allocation be reported to Council for consideration.

Current Heritage Funding

For a number of years Council has made allocation within the budget to fund a heritage advisor position and the local heritage assistance fund. More recently, in the 1999/2000 budget, Council has made provision to part fund a review of Council's heritage study. Each of these are outlined below:

Heritage Advisor Position

The heritage advisor position has been jointly funded for a number of years by Council and the NSW Heritage Office. The position has an allocated annual budget of \$10,000, being \$5000 from Council and \$5000 from the Heritage Office. The sum of \$10,000 has been fixed for at least the last six years. Initially, this amount comfortably allowed for 1 visit per month with associated follow up reports/advice in between each visit. However, on present consultancy rates, this amount provides for approximately 1 visit per 6 weeks and follow up reports/advice in between. The Heritage Office usually only provides funding for 3 years as a token amount to help establish an advisory service. Council has been very fortunate that the Heritage Office has provided ongoing funding to Council for many years, however, it would be not unexpected if the Heritage Office was to stop funding this position.

The heritage advisor position is considered to be a key position within the Environment and Development section of Council as well as by the NSW Heritage Office as an important tool in promoting heritage conservation. The primary goal of a heritage advisor is to assist Council, the community, and owners and developers of heritage items in implementing appropriate measures to best conserve the heritage of an area. Over the past 2 years Council's advisor has been booked out each visit and it has not been uncommon for persons seeking advice to have to wait up to 2 months for an appointment. From a customer service perspective this is clearly unacceptable.

With increased development pressure on the unique heritage of the Hawkesbury area it is considered that Council funding of the advisor position be increased to allow for 1 visit per fortnight and associated follow up report/advice. To achieve this an amount of \$25,000 would need to be allocated.

Local Heritage Assistance Fund

The aim of the Local Heritage Assistance fund is to encourage the retention and conservation of the heritage of the Hawkesbury through the provision of funds for conservation works to property owners. The fund provides grants to property owners on a dollar for dollar grant basis.

In past two years Council has allocated \$5000 per year and applied for a \$5000 grant from the NSW Heritage Office. Due to Council being unsuccessful in obtaining funds in 1998 and 1999 from the Heritage Office the Local Heritage Assistance Fund has operated every second year. This has been achieved by Council rolling over the unspent \$5000 from one financial year to the next in order to make \$10,000.

In the most recent round of offers Council received 14 applications for funding with 7 application obtaining a grant. The amount of funding requested exceeded \$36,000.

The number of applications was significantly less then previous years. This is believed to be due to the limited amount of funding available. For example in 1996 Council had an allocation of \$20,000 and received 43 applications with total funding requested being in the order of \$100,000. In 1996 12 applications were approved for funding. In 1997 Council again had an allocation of \$20,000 and received 38 applications with total funding requested being in the order of \$86,000. In 1997 12 applications were approved for funding.

It is recommended that Council make an allocation of \$15,000 to fund the Local Heritage Assistance Fund.

Heritage Study

Council has resolved to undertake a review of Council's Heritage Study. The purpose of the review is to:

- a. Identify and analyse the environmental heritage of the Hawkesbury City Council Local Government Area.
- b. Make practical recommendations for its conservation and management.

This project is to be jointly funded by Council and the NSW Heritage Office.

The review is required because Council's existing study was undertaken in 1987 and was never completed.

It is anticipated that to undertake a comprehensive review of the entire City it would cost in the order of \$100,000. Council applied to the NSW Heritage Office for a dollar for dollar grant to undertake such a review however was only offered \$20,000 spread out over two years (ie \$10,000 per year). Upon receipt of this offer Council resolved to match the \$20,000 grant bringing the total budget for the review to \$40,000. As a result, the consultant's brief for the study has had to be

dramatically reduced so that the focus of the review will be on the City' urban areas only thus leaving the important and heritage rich rural areas unexamined. Council is in the process of finalising the consultant's brief with the NSW Heritage Office.

It is recommended that Council proceed with the proposed review and upon its completion consider budgeting for an ongoing amount in the order of \$20,000 per year to continue reviewing the study and providing up to date recommendations for the conservation and management of the entire City's heritage.

RECOMMENDATION:

That the heritage funding requests be considered in the preparation of the forthcoming budget.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 75 Oooo

ITEM: 76 **Collection of Domestic Sullage**

FILE NUMBER: GC270/094/EVD/ENB29NBX.V02

REPORT:

The current contract for the collection and disposal of sullage is due to expire at the end of June this year. New contract documents are currently being drafted and will be available for tendering by the end of March 2000.

There is currently an arrangement whereby the contractor, when servicing residential premises, collects a maximum of 6,000 litres each fortnight which is approximately 1,500 litres in excess of the average collected throughout the City. The limit was set, as it was found that some properties had installed extra tanks, or had enlarged the capacity of their holding tanks, and in some cases the holding capacity was around 10,000 litres.

The standard sized holding tank approved for installation as part of the septic tank approval system is 4,500 litres. Prior to the limit being set at 6,000 litres, collection times at those properties who had the enlarged tanks would exceed 40 minutes per site. The standard time to pump out a tank is approximately 20 minutes.

Subsequently, standard services were not able to be provided to some properties on their designated days, which meant that they risked an overflow situation, as a result of the additional time having to be spent at the sites with non standard holding tanks.

It is suggested that those property owners who wished to have more than 6,000 litres collected each fortnight, would be charged the commercial rate per 1,000 litres in excess of the 6,000 litre limit, which is currently \$15.33/1000 litres.

It is now appropriate to have this arrangement adopted by Council as a policy, so that it can be incorporated into the new contract, prior to the contract being let to the successful tenderer.

RECOMMENDATION:

That:

1. Council adopt as policy, that the maximum volume of sullage collected from a residential property each fortnight, be 6,000 litres as part of the annual charge system.
2. Volumes in excess of 6,000 litres collected from residential premises, will be collected if requested by the owner of the property in writing, and be charged at the commercial rate per 1,000 litres which is current at that time.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 76 Oooo

ITEM: 77 **Lachlan Court - Lot 3 DP858002 No. 25 Macquarie Street, Windsor - Two Storey Retail Centre containing 14 shops and 62 car parking spaces (53 in basement car park)**

FILE NUMBER: BA869/97, DA63/96/EVD/ENB29NBX.V10

REPORT:

Introduction

Concerns have been raised by Council's Access Committee about progress of works/occupation of shops at the subject development and access arrangements to individual shops for persons with disabilities.

Background

Construction work on the development was commenced in November 1997 by Hopewood Partners Pty Ltd. Prior to completion of the development, the relationship between Hopewood Partners and the property owners terminated. Another company, CMI Pty Ltd, was subsequently appointed by the owners agent to complete outstanding works on the development. A substantial amount of work remained to be completed at this stage. After a preliminary final inspection of the development on 8 June, 1999 Hopewood Partners were notified that 48 defect items were required to be addressed.

Status of Works and Occupation of Shops

To date the majority of outstanding works have been completed. However during the final phases of completing the outstanding works a number of development applications were received by Council to fit out/occupy shops within the development. Interim occupation certificates have been issued for a real estate office, photography studio and gift shop (these certificates relate to adequate fire safety measures being provided to parts of a building). Deferred commencement consents have been issued for a cafe and a pizza restaurant. These shops cannot be occupied until the building is completed.

The major outstanding issue currently being addressed has involved an application from CMI Pty Ltd for an alternative solution to a fire safety measure (a sprinkler system to the basement car park) required under the original approval for the development. The process for assessing an application for an alternative solution involves forwarding details of the proposal to the New South Wales Fire Brigades for comment and this has been done. It is understood, following discussions with CMI Pty Ltd on 14 February 2000, that the Brigades' comments are due to be returned to Council within 14 days. It is also anticipated that other outstanding works on the development will be completed within the same time frame.

Access for People with Disabilities

There is some difference in level from the mall to the colonnade in front of the shops. This matter was resolved by lifting some of the paving bricks and re-laying to create a slight ramp effect for approximately half the frontage. The floor level of the shops is lower than the colonnade level to allow for false floors and/or tiling.

The shops which have been fitted out to date have not raised the internal floor height sufficiently.

Negotiations are now under way to reinforce the requirements for access by persons with disabilities to ensure compliance with Disabled Discrimination Act provisions. A final occupation certificate will not be issued until all outstanding works are completed, the fire safety measures are resolved and the occupied shops have provided stepless entry. Council's Building and Development Manager attended the Access Committee meeting on 17 February, 2000 to discuss the issue.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 77 Oooo

ITEM: 78 **Removal of scrap metal, motor vehicles, drums - Lot 423 DP751665
No. 38 Vollers Lane, Freemans Reach**

FILE NUMBER: P2204/20/EVD/ENB29NBX.V09

PREVIOUS ITEM: 22, GPC Section 1 - Environment (28.09.1999)

REPORT:

Introduction

The purpose of this report is to advise of the outcome of clearing scrap metal, motor vehicles and drums from the property, in accordance with Council's resolution of 12 October 1999.

Background

Orders were issued under Section 121 of the Environmental Planning and Assessment Act to Mr Grant Douglas for the removal of the above material. Mr Douglas failed to comply with the order and the matter was reported to Council.

Council at its Ordinary Meeting of 12 October 1999 resolved:

"That failing compliance with the Orders already issued, the provisions of Section 121ZJ of the EP & A Act be enforced and the works carried out by Council under the following schedule.

- 1. Mr Douglas and Mr & Mrs Galea be advised in writing that they are to comply with the Order and that if the works are not completed by 14 November 1999, Council will carry out the works.*
- 2. That any cost incurred by Council in performing the works be directed to Mr Douglas and Mr and Mrs Galea for payment.*
- 3. That tenders be sought for the works to be carried out.*
- 4. That the work be performed by Council if the requirements directed in correspondence to Mr Douglass and Mr & Mrs Galea are not performed in the manner required or in the specified period."*

The works were not carried out within the time allowed as required and tenders were called.

D & P M Bodell of Windsor submitted a tender in the amount of \$7,500.00, which was accepted. The work was later carried out by D & P M Bodell in accordance with the specifications of the tender.

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The work was carried out during the last week of January 2000 and the area is now clear of all scrap metal, motor vehicles, drums and is a clean and tidy state.

\$1,900 was recovered from the sale of scrap metal, leaving a net cost of \$5,600. The debtor process has now commenced to recover the amount.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 78 Oooo

ITEM: 79**Accumulation of Waste Timber - Lot 103 DP 615135 No 34
Woodlands Road, Wilberforce****FILE NUMBER:** P2319/88/EVD/ENB29NBX.V11

REPORT:**Introduction**

The subject property has been used for the purposes of storage of scrap timber and wood mulch without approval. A grinder/chipper has also been used on site. This report recommends further action should the operation not comply with orders to remove the material.

Background

The subject property consists of 4287 sq metres of land, which is located within the industrial area at Woodlands Park Estate. The property contains an industrial shed that is approved for use as storage, fuelling facility and pipework fabrication.

During 1999 the premises were leased to Aussie Timber Shredders Pty Limited who uses the land for the storage of waste timber and for the grinding/chipping of timber products. Approval had not been sought or gained for this type of land use.

Waste timber was stored within the industrial shed that was eventually filled. Timber was then stored outside the building, heaped into a large mound and with the use of a tub grinder, reduced into wood chip. A stockpile of waste timber pallets then grew to a height equal to that of the industrial shed. A large excavator was placed on top of this mound continually heaping the stack. The property became cluttered with waste timber and it eventually spread out onto Woodlands Road.

The use of land for the grinding or chipping of waste timber is designated development where it has an intended processing capacity of more than 30,000 tonnes per annum; or is located within 250 metres of a dwelling not associated with the development. Irrespective of the quantity of material there are dwellings located within 250 metres of the development.

On 20 December 1999, an order was issued under the provisions of Section 121 of the Environmental Planning and Assessment Act 1979. The order required the cessation of the premises and road reserve being used for the purpose of wood chipping, mulching, crushing, grinding or for the storage of timber products. It was also ordered to remove the stockpiles of timber from both the road reserve and the property. As a result of the order, the roadway has been cleared of timber products. However, the property still contains a large quantity of material, which is considered to be a high fire risk.

The term on the order for the removal of the material expired on 19 January 2000. The material placed on Woodlands Road has been removed. However, the bulk of material located within the property remains and is considered to be a high fire risk.

The Company requested an additional 14 (fourteen) days in which to remove the remainder of the material which was granted. This gave an expiry date of 2 February 2000 for the works to be completed.

Advice from occupant

It is now advised that he is having difficulties with the removal of the remaining material. He has provided the following advice regarding the removal of material.

"I have an agreement with the landscaper to remove the balance of wood shred from the yard at 34 Woodlands Road; the same contractor that cleared the vacant lot and removed half of the yard's shred last week. This will be done by Monday 21st February.

I am negotiating with the following to remove the timber from the yard.

- A. Two landscape supply companies. The agreement will basically be,
 - 1. I supply the timber free of charge,
 - 2. I supply the use of my tub grinder on their premises or area designated by them,
 - 3. I supply an operator,
 - 4. They keep the shred,
 - 5. They would be required to remove the timber from the yard.
- B. Mr David Banford from Rotary International is organising interest from local Rotary Clubs to collect timber from the yard for pensioners' firewood for winter, and,
- C. I am continuing to supply free firewood to my existing customers (14 to 20 ton a day)

I am sure once all this is done, and I am sure this would be within the time, my exposure to the danger of fire would be a far lot less than most of the other businesses within the Industrial Estate.

Once again I thank you for your time that you have afforded me and I assure you of my sincerity and efforts in conforming with Council's wishes."

Conclusion

The stockpile of waste timber on the land and within the shed is considered to be a fire risk. The continued use of the land for this purpose and in the manner in which the material is stockpiled has the potential to cause damage to property and the environment or persons in the locality.

RECOMMENDATION:

That the owner be directed to carry out the following:

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1. To remove all stockpiles of wood chip, mulch, timber residue, pallets and timber from the property.
2. To carry out and complete the works within a period of 14 (fourteen) days and prior to the 15 March, 2000.
3. The owner be advised that failure to carry out the works in the specified period will lead to Council causing the works to be conducted by a private contractor and any expense incurred will be sought from him.
4. Tenders be called for the removal of the stockpiles of timber if the material is not removed from the land in the required period.
5. A tender be accepted and the works undertaken by a private contractor.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 79 Oooo

ITEM: 80 **Excavation of Wetlands and Wheeny Creek - Lot 1 DP834193, No. 181 Upper Colo Road, Colo**

FILE NUMBER: P2408/422/EVD/ENB29NBX.V08

REPORT:

Introduction

This report has been prepared for information on the unauthorised excavation of land situated at 181 Upper Colo Road, Colo.

Background

The subject property is located off Upper Colo Road at Colo. It consists of 38.220 hectares of land, which is primarily used for grazing. The property contains wetlands, which are listed under the Sydney Regional Environmental Plan No 20 (SREP 20). Wheeny Creek, a recognised stream and known locally as containing an abundance of bass, also traverses the property.

On Saturday 29 January 2000 the owner of the land caused excavation works to be undertaken within the mapped wetland and within Wheeny Creek.

The excavation work consisted of the removal of soil and vegetation from Wheeny Creek and also from drainage channels within the wetland area.

The area of the excavation works is identified on the acid sulfate soil maps as having the potential to contain acid sulfate soils, two metres below natural ground level. The excavation work has been conducted to a depth in the vicinity of two metres in some locations.

On Sunday 30 January, 2000 and issued a stop work notice was issued.

The owner of the land advises that he was not aware that he required approval to conduct the works nor was he aware that the area may contain acid sulfate soils. He further stated that he only wanted to make the water flow freely.

Inspections and Sampling:

Inspections of the site have since been conducted by members of the Department of Land and Water Conservation and the NSW Fisheries Department, in company with Council staff.

Initial water samples did not indicate the presence of sulphides, however, initial testing of soil samples suggests the presence of acid sulfate soil. If further testing proves this to be correct, there is a definite possibility that acid will be released into the water system and the environment. The result of which can lead to the destruction of fish, their habitat and vegetation in the area.

Action taken to date

A notice has been issued to the owners of the land to take clean up action under the provisions of the Protection of the Environment Operations Act 1997.

The notice requires the owners to conduct remedial works in accordance with the recommendations provided by the Department of Land and Water Conservation. The remedial works are designed to act as an initial method to combat any acid released from the exposed soils. Once the final results of the soil analysis are obtained, further rehabilitation methods will be required and directed to the owner. The site and surrounding area is to be monitored by an environmental consultant, with samples of water and soil analysed on a regular basis. The consultant is to be engaged by the owner and at his expense.

The maximum penalty for non-compliance of the order by an individual is \$120,000.00 with a further penalty of \$60,000 for each day the offence continues.

New South Wales Fisheries have indicated that Wheeny Creek in this location is a prime habitat for the breeding of bass and mullet. The release of sulphides into the creek system has the potential to destroy that habitat and the fish species in the area.

Conclusion

The action taken by the owner of the land in clearing drainage channels within the wetland and Wheeny Creek of silt and vegetation requires the consent of Council and the approval of the Department of Land and Water Conservation. Further, licensing is required from the NSW Department of Fisheries with respect to any works undertaken within a fish habitat area.

Approval had not been sought or obtained from Council or the above departments.

Prosecution is available under the Environmental Planning and Assessment Act 1979 for the works undertaken. However, penalties should not influence or determine a course of action. Therefore, it is considered that the Protection of the Environment Operations Act 1997 is a much more efficient and speedy method to have the area secured from the potential discharge of acid and later rehabilitated. Prosecution is always available under this act and with a similar penalty to the EP&A Act.

Further progress reports on the clean-up will be provided.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 80 Oooo

ITEM: 81 Sewage Management Facility (Septic Tank) - Draft Development Control Plan for Sewage Management Facilities**FILE NUMBER:** GS080/008/EVD/ENB29NBX.V12

REPORT:

Further to previous reports regarding the Sewage Management Facility legislation, a draft Development Control Plan has now been developed to implement the functions associated with complying with this legislation.

The strategy incorporates such things as, site requirements for the installation and maintenance of sewage management facilities (SMF), categories of sensitivities and impacts on the environment, procedures to be undertaken by Council staff in carrying out the required inspections, frequency of inspections based on risks to the environment, system design criteria, performance standards and monitoring procedures, community consultation and education.

RECOMMENDATION:

That the Sewage Management Facility draft Development Control Plan be placed on public exhibition for twenty-eight days in accordance with the requirements of the Environment Planning and Assessment Act.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 81 Oooo

ITEM: 82 **State Environmental Planning Policy No. 10 - Retention of Low Cost Rental Accommodation**

FILE NUMBER: GT190/032/EVD/ENB29NBX.V19

REPORT:

Introduction

State Environmental Planning Policy No 10 (SEPP10) - Retention of Low Cost Rental Accommodation was amended on 28 January 2000 to apply to all Council areas in the greater metropolitan region, which includes Hawkesbury. The purpose of the policy is to ensure that people on low incomes have affordable places to rent. The policy was first gazetted in 1984 at a time when many inner city buildings in Sydney, Newcastle and Wollongong were being remodelled to serve other markets and long term renters were losing places to live.

How the Policy Works

The policy applies to applications to subdivide, demolish, alter or change the use of the boarding house, hostel or residential flat building containing a low rental dwelling. Low rental dwellings are defined in the Policy as a dwelling which at any time in the 24 months period prior to lodging the DA was let at a rental not exceeding the median rental for that time. The median rental is established using the Rent Report or Rent and Sales Report NSW published by the Department of Urban Affairs and Planning or Department of Housing, for a dwelling of the same type, number of bedrooms and located in the same local government area.

There is a set of criteria which Council must apply to an application, as follows:

- (a) whether there is likely to be a major reduction in the number of households or units of low rental accommodation on the land to which the application relates;
- (b) whether there is available sufficient comparable accommodation in the locality to satisfy the demand for such accommodation in that locality;
- (c) whether the development, if carried out, is likely to cause adverse social and economic effects on the general community;
- (d) whether adequate arrangements have been made to assist the residents (if any) of the building likely to be displaced to find alternative comparable accommodation in the locality;
- (e) whether the cumulative impact of the loss of low rental residential accommodation in the Council's area will result in a significant reduction in the stock of that accommodation, and if the structural standards of the building, the extent to which the building complies with any relevant fire safety requirements and the estimated cost of carrying out work necessary to ensure the structural soundness of the building and the compliance of the building with the fire safety requirements.

In most cases consent cannot be issued for development caught by the Policy except with the concurrence of the Director General of the Department of Urban Affairs and Planning.

The policy does not apply to single dwellings, back packers' accommodation, motels, strata title properties, SEPP5 housing. It also does not apply to residential flat buildings owned or managed by the Department of Housing.

Information to be Provided by Applicants

In addition to the usual plans, specifications and statements, an applicant for development caught by SEPP10 will also need to provide the following information:

- Other development options considered, and why they were rejected.
- Details of the likely impact of the development, in terms of sufficient comparable accommodation, whether there is likely to be a major reduction in the number of households or units of low rental accommodation, and in the case of a boarding house financial liability of the continued use of the boarding house.
- Details of how any adverse impacts are to be lessened or prevented.

Assistance for Owners of Low Rent Housing

Financial assistance is available in a number of forms for owners of low cost rental accommodation as follows:

Tax relief - the office of State Revenue offers land tax exemption for boarding houses that provide affordable accommodation for permanent residents statewide and exemption for low rental accommodation within five kilometres of the GPO Sydney.

Fire upgrading - the Department of Urban Affairs and Planning offers financial assistance to owners and operators of boarding houses to undertake essential fire upgrading work. The program offers cash grants based on the cost of essential fire safety upgrading.

Council rates - the Local Government Act was amended so that Section 516 requires boarding houses to be rated residential rather than business/commercial, where the dominant use of the building is residential.

Conclusion

The details of this policy have been provided for information. As required under the Environmental Planning and Assessment Act, an appropriate notation will be included on Section 149 Zoning Certificates.

RECOMMENDATION:

That the information be noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 82 Oooo

ITEM: 83 **Two Storey Duplex - Cnr Lot 1, DP662568No. 32 Cox Street, Windsor**

FILE NUMBER: M1766/99/EVD/ENB29NBX.V17

PREVIOUS ITEM: 51, GPC Section 1 - Environment (25.02.1999)

REPORT:

Introduction

Council at its Ordinary Meeting on 8th February 2000 resolved the following:

1. Further discussions be held with the applicant prior to the General Purpose Committee meeting in relation to the possibilities of a single storey dwelling.
2. This matter be deferred to the next Ordinary Meeting to allow for discussions between the applicant and the affected neighbours.
3. A site inspection be carried out at the next General Purpose Committee meeting.

A conciliation meeting was held between the objectors and the applicant to address the above resolution. This matter is now being reported to advise of the outcome from the conciliation, which resulted in amended plans for a single storey development, and to assess the amended plans.

Amended Plans for a Single Storey Development

As a result of the conciliation the plans were amended by the applicant to change the development from a two storey duplex to a single storey duplex in favour of the objectors. The objectors were not opposed to a duplex type development but were opposed to the fact that it was two storeys. A letter has been provided by the owners of No.30 Cox Street and No.2 Bell Street after perusal of the amended plans stating they have no objections to the single storey duplex now proposed.

The plans indicate a dual frontage, with Unit 1 having vehicular access from Cox Street and Unit 2 having vehicular access from Bell Street. This provides for a design which is consistent with the single storey dwellings adjoining the development site.

The single storey development also provides for adequate open space, setbacks, landscaping and off street parking which generally comply the Development Control Plan for Dual Occupancy.

Development Control Plan for Dual Occupancy Development

The following table summarises the numerical requirements of the DCP:

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ITEM	REQUIRED	PROVIDED	COMPLIES
Minimum Allotment Size	Minimum of 400sq.m	518sq.m	Yes
Floor Space Ratio	Maximum of 0:5:1	0.45:1	Yes
Private Open Space / Landscaping	Minimum courtyard area of 50sqm	Unit 1 courtyard 56sq.m with a 26sq.m service yard and Unit 2 courtyard 52sq.m	Yes
	At least half of each courtyard must receive sunlight between 9am and 3pm midwinter.	Each courtyard will receive more than 50% sunlight	Yes
	Landscaping must be compatible with the scale of the building	Landscaping is of an appropriate scale	Yes
Car Parking/ Access	Minimum two off street covered spaces	Two covered spaces are provided	Yes
	Covered spaces setback 5.5m from property boundary	Garages are setback are 5.5m and 6m	Yes
	Driveways to be a minimum of 3m wide	Driveway width is 6m	Yes
	Design of garages must be integrated with the dwelling	Garages are incorporated into the design of the duplex	Yes
Setbacks	Generally 7.5m, however reductions can be supported on merit. Side setbacks are generally less.	The duplex is setback 5.4m from Cox Street and 2.6m and 3.4m from Bell Street. The Bell Street setback is staggered with a minimum of 2.6m and a maximum of 3.6m. This is considered acceptable	see note*
Building Height	Not to exceed two storeys or levels at any one point	Single Storey development	Yes

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ITEM	REQUIRED	PROVIDED	COMPLIES
Design Considerations	Where ever possible living areas are to be oriented to north	All main living areas face north	Yes
	Roof of garages shall reflect roof form of dwelling	Roof of garage has been incorporated into design of main dwelling	Yes
	New construction should where possible incorporate materials used in the surrounding developments	The proposed materials are brick veneer, tile roof and aluminium windows. This is compatible with the mix of construction materials used throughout the area.	Yes

Note * - The amended plans indicate building setbacks which generally do not comply with the development standards in the DCP. The development standard also states that a reduction in the setback can be assessed on the merits of the application.

The objectives within the DCP for the setback for buildings are as follows:

- (a) *To ensure that character and amenity of existing streetscape is not diminished whilst providing for a variety of setback designs.*

Comment: The amended design of the single storey duplex indicates a staggered setback to provide for variety in setback design. The building setback from Cox Street is 5.4m and from Bell Street is 2.6 to 3.6m. These setbacks are considered suitable for the development.

- (b) *To ensure there is adequate sight distance at intersections.*

Comment: There is adequate site distance as the duplex is setback at a suitable distance from the road and the fencing for Unit 1 provides for a splayed corner.

- (c) *To maximise the amount of “useable” private open space for each dwelling.*

Comment: The design of the duplex allows for brick masonry fencing at zero lot line to maximise private open space but this does not affect the streetscape or sight distances.

- (d) *To provide privacy for each dwelling.*

Comment: The setbacks do allow for privacy for each dwelling.

The amended plans generally satisfy the objectives for setbacks within the DCP, and overall the development generally complies with the numerical standards of the DCP.

Conclusion

The amended plans are consistent with the objectives of the zone and satisfies Councils development control plan for dual occupancy development.

The development is consistent with adjoining single storey dwellings, and provides for private open space, landscaping and off street parking within a suitable design. The previous objectors do not object to the revised proposal.

It is recommended that the application should be approved, subject to appropriate conditions.

Note: Following the report to the January General Purpose Committee meeting a petition was received with 44 signatures of residents in the locality who are “opposed to the construction of any two storey duplexes in our neighbourhood”.

RECOMMENDATION:

That:

- A. Approval be granted for a single storey duplex at 32 Cox Street, Windsor, Cnr Lot 1, DP662568, subject to the following conditions:

General

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 RE & PA Collis Design numbered 56299/2 (3 sheets) dated 17/2/99) submitted with Development Application No. M 1766/99 dated 8 November, 1999 and any supportive documentation, except as otherwise provided by the conditions of this consent.
2. This consent covers the removal of trees and other vegetation from the site of approved buildings, structures, permanent accessways and car parks. This consent also covers the removal or lopping of trees within 6m (six) of approved buildings. No other trees or vegetation shall be removed or lopped except with prior written approval of the this office.
3. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
4. Prior to construction of the approved development it is necessary to obtain a Construction

Certificate.

5. The applicant is advised to consult with:
 - (a) Sydney Water Corporation Limited
 - (b) Integral Energy
 - (c) Natural Gas Company
 - (d) a local telecommunications carrier

regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public road(s).

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

Prior to Issue of Construction Certificate

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

- | | |
|-------------------------------|-----------|
| (a) Open Space and Recreation | (\$1,023) |
| (b) Community Facilities | (\$1,115) |

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

Contributions are to be paid prior to issue of the construction certificate.

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

8. The submission of a Certificate from Telstra Australia that satisfactory arrangements have been made for the provision of cables for telephones to the development.
9. The following documentary evidence is to be obtained prior to the issue of any Construction Certificate, whether by Council or an accredited certifier:
 - (a) A Section 73 Certificate issued by the Sydney Water Corporation Limited or other evidence of Sydney Water's non-objection to the commencement of work on the basis of service availability.
 - (b) A written clearance from Integral Energy, stating that electrical services have been

made available to the development or that arrangements have been entered into for the provision of services to the development.

10. A schedule of external finishes are to be submitted to Council for assessment.
11. Separate details of the proposed roofwater and surface water drainage system shall be lodged in duplicate for approval. Such details shall be approved prior to issue of construction certificate.
12. A detailed diagram shall be submitted indicating existing ground levels, proposed cut and fill levels and proposed floor level (levels to datum or AHD).
13. Payment of a sewer headworks contribution to Council of \$4,820 (four thousand eight hundred and twenty dollars). This contribution shall remain fixed for a period of 3 (three) months after which time it will be recalculated at the rate applicable at the time of payment.
14. Design and construction of site drainage shall be carried out in accordance with Council's Guidelines for Stormwater Drainage Requirements for Commercial, Industrial and Medium Density Developments. Full details of works shall be submitted for approval with the building application.

Prior to Commencing Works

15. Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be commenced unless the principal certifying authority for the development to which the work relates:
 - (a) in the case of work to be done by a licensee under that Act:
 - (i) has been informed in writing of the licensee's name and contractor licence number, and
 - (ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act, or
 - (b) in the case of work to be done by any other person:
 - (i) has been informed in writing of the person's name and owner-builder permit number, or
 - (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of that Act

and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this condition sufficient evidence that the person has complied with the requirements of that Part.

16. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of 1 toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- (a) must be a standard flushing toilet; and
- (b) must be connected:
 - (i) to a public sewer, or
 - (ii) if connection to a public sewer to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

17. A sign must be erected in a prominent position on any work site on which the erection or demolition of a building is being carried out:
- (a) stating that unauthorised entry to the work site is prohibited; and
 - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
18. 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
19. 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.

20. 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

21. All building work must be carried out in accordance with provisions of the Building Code of Australia.
22. Inspections shall be carried out and compliance certificates issued by Council or an appropriately accredited person for the following components of construction:
- (a) erosion controls, site works and site set out;
 - (b) piers;
 - (c) steel reinforcement;
 - (d) framework, after the installation of all plumbing, drainage and electrical fixtures, and after the external cladding and roof covering has been fixed prior to fixing of internal linings and insulation;
 - (e) wet area flashing, after the installation any bath and shower fixtures;
 - (f) internal drainage lines prior to covering;
 - (g) external drainage lines, prior to backfilling; and
 - (h) on completion of the structure.
23. 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.
24. No burning of demolition or construction material being carried out on the site.
25. The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
26. The development is to be constructed in accordance with the noise report prepared by Murphy Pastoral and Technical Company Pty Ltd dated 4th December 1999.
27. The building shall be set out by a Registered Surveyor and the Survey Certificate of the building shall be lodged with the Principal Certifying Authority upon completion of the footings and prior to the external wall construction proceeding above floor level.
28. Construction of Council's standard residential footway and layback vehicular crossing to suit the access to the site.
29. Removal of the existing redundant layback crossing and replacement with concrete kerb and gutter and the restoration of the footway area.

Prior to Issue of Occupation Certificate

30. An occupation certificate is to be obtained on completion of all works and prior to commencement of the approved use. The occupation certificate will not be issued if any conditions of this consent are outstanding.
31. 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.
32. In order to enhance the amenity of the development, new boundary fences shall be provided at the applicant's expense. Such fencing behind the building line shall be to a height of 1.8m and at least lapped and capped. (D264).
33. In order to enhance the amenity of the area, all fencing fronting the street shall be a feature fence incorporating masonry piers with decorative infill panels.

The Use of the Site

34. All landscaping shall be permanently maintained in a good condition and in accordance with the intent of the landscaping plan.

ATTACHMENTS:

AT-1 Site Plan

AT-2 Elevations

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SITE PLAN

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ELEVATIONS

oooO END OF ITEM 83 Oooo

ITEM: 84 **Hawkesbury Local Environmental Plan 1989 Boundary Adjustment Clauses**

FILE NUMBER: GT160/002 PT2, GT160/001 PT2/EVD/ENB29NBX.V16

REPORT:

Clause 13 of Hawkesbury Local Environmental Plan 1989 deals with subdivision by adjustment of boundaries. Concern has been raised from several parties concerning the application of this clause, and in particular how it affects the arrangements of lots and whether or not this clause is being abused to create additional allotments that would not otherwise be obtainable under the provisions of the plan.

The clause deals with four major events, it says in essence, that subdivision for boundary adjustment can take place provided that:

- a) No additional allotments are created.
- b) No lot becomes capable of subdivision as a result of the adjustment.
- c) The number of small lots is not changed.
- d) The number of dwelling houses capable of being constructed before and after the subdivision remains the same.

There are other clauses that deal with smaller lots, less than 450 m², lots that were created as part of road closures and some other matters concerning environmental protection zones.

Major areas of concern are that lots that are generally consistent with the zone objectives, for instance, a four hectare lot in a 1(c) zone, are being boundary adjusted to relatively small lots or that moderately sized lots are being increased in size that may make them capable of subdivision. There is also general concern about the use of this clause to rearrange the boundaries of existing allotments of land which may have environmental affects with the relocation of proposed house sites.

It is considered there may be some areas of concern with the operation of Clause 13 that require a detailed analysis of its application in the past and the affect of the recent amendments to this clause and how that has changed the operation and applications.

It is considered a detailed review will need to be carried out and reported back to Council's General Purpose Committee as soon as possible on the operation of this clause and whether it requires amendments.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

Oooo END OF ITEM 84 Oooo

ITEM: 85**Proposal - Establishment of Yarramundi Park
Applicant P S Graham & Associates****FILE NUMBER:** DA0144/93 PT4; P825/530; P825/515/EVD/ENB29NBX.V22**REPORT:**

A letter has been received from P S Graham and Associates on behalf of the Tilmunda Pastoral Company Pty Ltd for the establishment of Yarramundi Park. This park is proposed to be established on privately owned land owned by the Tilmunda Pastoral Company and Crown Land upstream of the junction of the Grose and Nepean Rivers. This matter was last dealt with by Council at its meeting on 14 July 1998 where it resolved among other things to support in principle the establishment of private park on land owned by Tilmunda Pastoral Company subject to normal environmental conditions.

This proposal submitted to Council consists of:

- 1 Establishment of public access to Nepean River over land owned by the Tilmunda Pastoral Company.
- 2 The extraction of material from the lake on the Crown Land to provide a suitable public profile to allow access to the lake.
- 3 The removal of excess material from land downstream of the low-level Yarramundi Bridge to restore a gentle profile to allow the land to be established as a park.

The extraction of material from the lake bed on the Crown Land between the Nepean River and the land owned by Tilmunda Pastoral Company will be extractive industry as defined under the Environmental Plan and Assessment Act. Tilmunda Pastoral Company currently carries out extractive industry on their land for the removal of soil, the approval for which has now been extended by Council till November 2000. The overall thrust of the submission is to use the earnings from the extraction of the material to establish a park on the Crown Land as well as land owned by Tilmunda Pastoral Company which has access to the Nepean River and the area known as the broadwater.

The applicant concludes that the land has been used for extractive materials since 1925 and the current lake was in fact constructed by Boral as part of an excavation and extractive industry in the past and the lake is now currently being refilled with material from the river and is rapidly being overtaken by many weeds.

The applicant contends that if no further extraction is carried out on the lake the lake will fill and will be non existent within five years. He goes on to contend that prolific dense scrub and weed growth have overrun the strip, ie the land between the lake and the river and prevents access to the lake from the west and from the east. He goes on to say that the area downstream of the

Yarramundi Bridge is a desolate area criss-crossed with four wheel drive tracks and subject to dumping of wastes. He contends that this area could be restored to a most attractive appearance, the park would have frontages to both the Nepean and Grose Rivers.

The land is currently zoned Part 7(d1) in the Hawkesbury Local Environmental Plan, ie the Crown Land immediately upstream of the Yarramundi Bridge and to the east of Tilmunda Pastoral Company's land, within which extractive industries are a prohibited use. Downstream of the Yarramundi Bridge, however, the land is unzoned under the Hawkesbury Local Environmental Plan in which case consent of Council is required for any activity in this area and extractive industries would be permissible with the consent of Council. Sydney Regional Environmental Plan No 20 Hawkesbury-Nepean would apply to the Nepean River adjacent to the property and will prohibit extractive industries for a distance of 10 metres from the top of the bank of the river. The applicant has provided legal advice that this only affects the land immediately adjacent to the current stream of the Hawkesbury River whereas the Hawkesbury Nepean Catchment Management Trust contend that the whole area of the Crown Land is part of the bed of the river and extractive industries would therefore be prohibited from this land.

In order for the proposal to proceed it would seem that there are at least four major steps involved, these are:

- 1 Determine whether the Department of Land and Water Conservation, who are the owners of the land, would countenance this proposal, bearing in mind that they seek to transfer this land to Council as a public reserve.
- 2 For Council to amend the Hawkesbury Local Environmental Plan 1989 to make extractive industries permissible on the Crown Land.
- 3 Determine whether the provisions of Sydney Regional Environmental Plan 20 apply to this land and if so whether they need to be amended.
- 4 Prepare normal Environmental Impact Statement and Development Application for Council to determine whether or not it wishes to approve the extractive industry.

It can be seen from the above list that on several occasions government departments are required to support this proposal for it to proceed. Council in the past has expressed a desire to support the proposal provided that normal environmental safeguards are met. It could be concluded from these resolutions that Council may be prepared to amend the zoning on this land to allow an extractive industry if it was for the purpose of the establishment of this community park. It must be pointed out that the dredging of the lake may need to continue if accretion of material occurs again next time the lake is inundated with floods which appear at this level to be a regular occurrence. Therefore it may be concluded that the extractive industry could continue for some period of time although at a lower rate than originally established.

In light of Council's previous support for the proposal it would seem now appropriate to approach the Department of Land & Water Conservation, determine their attitude on this proposal and

whether or not they wish to proceed further with it. It may be of assistance to Council to also obtain the opinion of the Hawkesbury Nepean Catchment Management Trust in light of their recent advocacy position on extractive industries, particularly under banks or within the banks or near the banks of the Hawkesbury-Nepean River system.

RECOMMENDATION:

That:

- 1 Council contact the Department of Land & Water Conservation to determine whether or not they as the owner of this land would support the proposal as outlined by Tilmunda Pastoral Company;
- 2 The Hawkesbury Nepean Catchment Management Trust be approached to determine their position on the proposal; and
- 3 If the above two organisations are supportive of the proposal in principle Council then approach the Department of Urban Affairs and Planning for their opinion on this proposal.

ATTACHMENTS:

There are no supporting documents for this report.

Oooo END OF ITEM 85 Oooo

ITEM: 86 **Hawkesbury City Waste Management Facility - South Windsor**

FILE NUMBER: P2018/55/EVD/ENB29NBX.V18

REPORT:

The new licencing requirements for Hawkesbury City Waste Management Facility at South Windsor have recently been received from the Environment Protection Authority (E P A). The impacts of the conditions on the budget provisions are quite extensive, and for this reason, it has been brought to Council's attention.

The major components of the conditions that will require additional capital expenditure will be listed, with the expected approximate costs to comply with such conditions. Together with these items of capital expenditure, there will be other future financial demands that will need to be addressed, in relation to the need to better manage the facility on a daily basis, and to ensure compliance with the conditions of licencing. These costs will become evident during the tendering processes for a new contract to operate the Waste Management Facility, which needs to be finalised by 1 July 2000.

The construction of the new cell (cell no.3) is nearing completion and is expected to be operational by the end of March 2000. It is envisaged that with the extra space of the new cell, the stricter standards of operation on the new contract, and less material going to landfill, there will be considerable cost savings gained in the future.

The proposed introduction of a "Pre Treatment System" for waste management, will also have considerable cost advantages to Council in the next 3-5 years if constructed, as the life of each cell would be increased dramatically and the need to construct new cells would reduce in proportion.

Items requiring capital expenditure to comply with E P A licence conditions:-

1. Design and install irrigation system from storm water retention dam to control retained water level.
 Expected capital costs = \$5,000.00 approximately for stage 1 and \$2,500 for stage 2.
2. Implement fire protection measures and ensure update of data base. Install fire fighting equipment and provide adequate training of facility staff.
 Expected capital costs = \$10,000.00 approx.
3. Provide additional environmental monitoring sites and test for pollutants in accordance with the submitted schedule.
 Expected capital costs = \$8,000.00 approx. (Annual cost)
4. Inject leachate pipe into either cell 1 or cell 2. The design and implementation shall be included in the Local Environmental Management Plan (LEMP).
 Expected capital costs = \$5,000.00 approx.

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5. Implementation of the Remediation Plan for area 1. To commence by 30 July 2000.
Expected capital costs = \$100,000.00 approx.
6. Gas monitoring is to be implemented by 1 April 2000 to demonstrate that landfill gas is not migrating from the premises, or, provide justification that a gas monitoring program is not necessary at the premises and gain the relevant written approval from the E P A for exemption. If gas is detected over the threshold limits, a collection system is to be supplied.

Expected capital cost = Monitoring \$15,000.00 or Gas Collection System \$100,000.00 approx.
7. Install an approved weighbridge at the facility by 30 September 2000.
Expected capital costs = \$55,000.00 approx.
8. Adequately maintain security around the facility, ie., cyclone fence entire premises.
Expected capital expenditure costs = \$30,000.00 plus \$75,000.00 approximately for new electronic gate system including video surveillance to comply with ICAC direction for security at waste depot facilities.
9. Repair and extend wash bay drainage system to sedimentation pond for primary settlement and treatment.
Expected capital costs = \$6,000.00 approx.

All these items except for item three (3) will be a once off charge. The total capital expenditure for these items will be approximately \$396,500.00 if the gas extraction system is required, or reduced by approximately \$100,000.00 if no gas is detected that would warrant the extraction system.

Working expenses for the waste management facility are currently exceeding budget due to an increase in maintenance and repairs as a result of vandalism, damage to roads and excavation work from adverse weather conditions, and an increase in the amount of material that is requiring reprocessing, rather than placing it in the landfill. Examples of these materials are, green waste, metal collection, concrete/ masonry and timber products. The budget is currently 17% or approx. \$40,000.00 over the estimate.

Savings are being experienced in the current budget. The expected expenditure to supply additional 120 litre waste carts will not now be required, as the waste carts taken up by the public did not exhaust the number available, giving a saving of approx. \$30,000.00.

Savings have been made due to the replacement of a garbage vehicle each financial year, reducing the expenditure on repairs and maintenance by 12.5% or approx. \$55,000.00 per year.

As a result of improved recycling both at kerbside and at the waste management facility, E P A contribution expenses have been reduced by 20.5% or approx. \$113,900.00

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Waste disposal fees (income) are expected to exceed the annual budget by 45%, which may be as a result of more intense surveillance of illegal dumping by Council staff, and a more responsible attitude by the public towards preserving the environment. An amount of around \$100,000.00 in excess of the expected income is predicted, that will help offset the aforementioned expenses.

In summary the expected expenditure will be approx. \$436,500 or \$336,500 if a gas extraction system is not required. Approximately \$298,900 is expected in savings and additional income, to offset these expenses, leaving a deficit of between approx. \$37,600 or \$137,600 depending on the requirement for a gas extraction system.

Summary Table

	Expenditure (Approx.)	Exp. With Gas Extraction System	Savings (Approx.)	TOTAL Budget Deficit
To meet ENVIRONME NT PROTECTION AUTHORITY Requirements	\$296,500	\$396,000		
Working Expenses	\$40,000	\$40,000		
120 waste carts			\$30,000	
Garbage Vehicles			\$55,000	
Sec. 88 Savings			\$113,900	
Waste Disposal Savings			\$100,000	
TOTAL	\$336,500	\$436,500	\$298,900	-\$37,600 or -\$137,600 (gas)

Reserves, which are an amount of money set aside in the annual budget, where permitted under the Local Government Act 1993, for specific expenses, have been accrued to a total of \$200,000 for remediation expenses of the waste management sites.

Subsequently, the amount of \$100,000 included in the “to meet ENVIRONMENT PROTECTION AUTHORITY requirements” section of expenditure, can be taken from this reserve to offset the previously stated deficit. Therefore, the worst case scenario which would include the provision of gas extraction equipment, would be \$37,600 approx. in deficit.

All adjustments that will be required to the waste budget as a result of these changes, will be reviewed and adjusted where necessary, in the next quarterly review process.

There are expected to be increases in the annual waste budget next financial year, as a result of the new waste management facility operating contract. These cost could be quite significant due to the increase in earth moving operation costs, the additional requirements to separate and process recyclable materials, and the ever increasing processes required to ensure safe environmental outcomes from the running of the facility. Until the tender process has been undertaken and completed, the actual cost are unknown.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

Oooo END OF ITEM 86 Oooo

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ITEM: 87 **Lot 12 DP736138 and Lot 4 DP610341 Mulgrave Road, Mulgrave (Elf Mushrooms)**

FILE NUMBER: P1362/445/EVD/ENB29NBX.V07

PREVIOUS ITEM: 9, Ordinary (07.09.1999)

REPORT:**Introduction**

Consent was issued in 1979 by the then Windsor Municipal Council to erect a "mushroom composting shed for manufacture of compost and storage of ingredients with rail siding and weigh bridge". Subsequent consents were issued in 1980, 1981, 1988, 1990 and 1993 for various additions.

Concerns have recently been raised about odours allegedly produced by the mushroom substrate production and about appropriate action to protect the amenity of the surrounding area. The purpose of this report is to provide Council with details of the development consents issued, a recent history of the matter and actions taken in relation to complaints received.

Details of Development Consents

The following table summarises the consents issued in relation to the current use of the property.

DA Number	Date of Consent	Description of Development	Comment	Relevant Amenity Conditions
DA58/79	13/6/79	Erect a mushroom composting shed for manufacture of compost and storage of ingredients with rail siding and weigh bridge.	Original consent for mushroom composting on the site. Fourteen (14) conditions in total.	3. The development being conducted in such a manner so as not to interfere with the amenity of the neighbourhood in respect of noise, vibration, smell, dust, waste water, waste products or otherwise. 12. Hours of operation to be restricted to 7.00am to 5.00pm Monday to Friday, 7.00am to 12 noon Saturday with no work on Sunday. 13. All ingredients used for manufacture of the mushroom compost to be stored in the building or pre-wetting area.
DA8/80	14/10/80	Erect a mushroom composting shed for manufacture of compost and storage of ingredients with rail siding and weighbridge.	New application which essentially amended DA58/79. Changes to orientation, size and location of buildings.	Identical conditions to DA58/79.

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DA Number	Date of Consent	Description of Development	Comment	Relevant Amenity Conditions
DA544/81	9/9/81	Erect two storage sheds.	Three (3) conditions in total plus compliance with previous conditions relating to construction and sealing of access roads and parking areas.	2. The development being conducted in such a manner so as not to interfere with the amenity of the neighbourhood in respect of noise, vibration, smell, dust, waste water, waste products or otherwise.
DA58/79	Approved 13/7/92	Request to vary hours of operation.	Approval granted.	Hours of operation now from 6.00am to 6.00pm Monday to Saturday and 6.00am to 2.00pm on Sundays.
DA662/88	19/12/88	Additions to pre-wetting area.	Open area 36 metres x 10 metres adjacent to existing building comprising concrete floor, retaining wall and collection sump. Four conditions in total.	2. All composting shall be carried out within the composting shed. 3. Hours of operation to be 6.00am to 6.00pm Monday to Saturday and 6.00am to 2.00pm Sundays.

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DA Number	Date of Consent	Description of Development	Comment	Relevant Amenity Conditions
DA218/90	11/9/90	Extensions to existing mushroom composting operation in two stages. Extensions consists of 21 tunnels, material storage shed, extension to mushroom composting shed, dam and the filling of land for building platforms.	Two tunnels have been built. Land filling has been carried out. Extensions to shed have not commenced. Eight conditions in total.	8. Development shall be carried out in accordance with the Statement of Environmental Effects including all plans and specifications attached thereto, prepared by RA Cole Town Planning Pty Ltd dated June 1990. The relevant points from that Statement of Environmental Effects are as follows: • Stage 1 of the development involves 7 tunnels, material storage shed, conversion of existing storage shed to machinery shed and workshop, construction of a dam, parking, driveways. • During Stage 1 some mushroom compost will continue to be manufactured in the existing shed. • Stage 2 comprises 14 tunnels extension to the existing mushroom composting shed, railway spur line to allow delivery of materials into the premises. • Stage 1 output 20 loads per week (400 tonnes). • Stage 2 output 30 loads per week (600 tonnes). • General activities on the site to take place between 6.00am and 6.00pm Monday to Saturday and 6.00am to 12 noon on Sunday. Manufacturing process will be computer controlled with only checking and monitoring during the night hours.

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DA Number	Date of Consent	Description of Development	Comment	Relevant Amenity Conditions
DA184/93	20/12/93	Land fill operation and erection of a produce store and hay shed.	Thirty one (31) conditions in total, mainly relating to construction standards. It appears that the land fill operation was completed, however the produce store and hay shed were not erected. A number of conditions were later deleted by amending the consent. These conditions relate to construction standards and payment of Section 94 contributions.	28. Operating hours limited from 7.00am to 6.00pm Monday to Friday and 7.00am to 1.00pm on Saturdays. 29. The landfill operation, including fill delivery, shall be limited to 7.00am to 5.00pm Monday to Saturday. No activity associated with filling is to be carried out on Sundays.

It can be seen from the above summary that there are essentially two consents which control the production of mushroom substrate on the property.

DA8/80: The original consent which permits substrate production in the traditional way, ie, within an open shed building; and

DA218/90: Substrate production within 21 tunnels in a climate controlled environment. Full development of the 21 tunnels would see all substrate produced in this way. However, to date only two of the tunnels have been constructed.

Therefore the property is currently operating under two separate consents, ie, DA8/80 for 'traditional' substrate production and DA218/90 for climate controlled substrate production in enclosed tunnels. Hours of operation for the 'traditional' process are 6.00am to 6.00pm Monday to Saturday and 6.00am and 2.00pm Sunday. The hours of operation for the climate controlled tunnel production are 6.00am to 6.00pm Monday to Saturday and 6.00am to 12.00 noon Sunday.

The relevant consent condition relating to amenity is Condition 3 of DA8/80, ie, *'the development being conducted in such a manner so as not to interfere with amenity of the neighbourhood in respect of noise, vibration, smell, dust, waste water, waste products or otherwise'*.

There was no similar condition attached to DA218/90 however the Statement of Environmental Effects proposed that the new process would significantly reduce odours from the plant.

In relation to production output from the plant, the Statement of Environmental Effects for DA218/90 stated that the stage 1 output would be 400 tonnes per week, which would increase to 600 tonnes per week with the completion of stage 2 of the tunnel development. For DA8/80 there is no indication in the development application of product output nor are there any conditions of consent which would restrict the output.

Recent History

As a consequence of ongoing complaints, Council on 14 June 1994 considered a number of options for the relief from the odours being emitted and resolved as follows:

- “1. *RN and NR Tolson be required to complete the development approved by development consent 218/90 within a period of 13 months.*
2. *Further that the offensive odours as have been related to Council, cease within a period of 13 months.*
3. *Council investigate a smell assessment panel.*
4. *That Council invite Mr Tolson to submit a rezoning application for the site”.*

Following a request from Mr Tolson, Council resolved on 8 August 1995 that the period provided for compliance with the notice issued on 21 July 1994 be extended for two years, requiring completion of the tunnel development by 21 August 1997 or alternatively the closure of the facility.

On 14 November 1995 Council subsequently resolved that the Draft Local Environmental Plan for rezoning of the Mulgrave composting site from Rural 1(c) to Light Industrial 4(b) not be referred for final gazettal until the owner ceases the operation of the composting on that parcel of land.

The notice to complete the development expired in August 1997, without compliance. On 14 October 1997 Council resolved that the notice requiring completion of the tunnel development be withdrawn and that the matter again be reviewed in twelve months, ie, October 1998. The matter was submitted to Council on 9 February 1999 for review, when it was resolved that the matter be deferred to the next General Purpose Committee Meeting to allow the community to speak on the matter. The matter was reported to the General Purpose Committee Meeting on 23 February 1999, when Council considered options to issue a fresh notice requiring completion of the development, commence Class 4 proceedings, to enforce conditions of consent or take action under the Clean Air Act in respect of offensive odour. At the Ordinary Meeting of 9 March 1999 Council resolved that:

1. The information be received.
2. The Mayor undertake ongoing discussions with Mr Tolson aimed at reaching a Deed of Agreement in relation to operation at Mulgrave over the next few months and the matter be further reported to Council within four months.

A Draft Deed of Agreement was presented to Council for consideration on 10 August 1999 when Council resolved that this matter be reported to the next General Purpose Committee Meeting for discussion. The Draft Deed of Agreement was discussed at the General Purpose Committee Meeting on 24 August 1999. Council subsequently resolved on 7 September 1999 *‘that Council formally request the EPA to enforce conditions in respect of the premises and that the additional information be received’*.

Recent Complaints

Council's resolution of 7 September 1999 was forwarded to the EPA, which responded on 29 September 1999 as follows.

"The Environmental Protection Authority (EPA) appreciates Council concern about the emission of odour from the facility. The EPA has received several complaints of odour in the Windsor district and as a result a number of site inspections have been conducted in recent months. To date the EPA has not been able to establish conclusively that the odours have been emitted from the mushroom substrate facility on any specific occasion. Nevertheless the EPA is conscious of the issue and has written to the licensee emphasising the requirement that no offensive odour be emitted from the facility, as per the conditions of their license and Section 129 of the Protection of the Environment Operations Act, 1997. The EPA will remain vigilant in the enforcement of license conditions with respect to this site."

A small number of complaints have been received in recent months from a resident of South Windsor and N Diamond. The time and date of each complaint was referred to the operator, who provided weather station data showing the wind direction, wind speed and temperature by 30 minute time increments for the days on which the complaints were made. This information, along with the complaints has now been forwarded to the EPA for information and action.

Conclusion

The compost production facility has now been operating for a number of years under the provisions of the original 1979 consent and partially 1990 consent with two tunnels constructed. With Council's recent decisions relating to rural industry, it is now clear that the development may not be relocated to Blaxlands Ridge. Given this situation it is appropriate to now consider the ongoing operation of Mulgrave.

The draft local environmental plan covers the whole of Lot 4 DP610341 and part of Lot 12 DP736138. The zoning line approximates the 12mAHD contour and contains all improvements located on the properties.

It is now considered appropriate that the Draft Local Environmental Plan for the subject site now proceed to rezone the site 4(b) Light Industrial. The draft plan was exhibited in 1995. Given the time which has elapsed it will be necessary to re-exhibit the draft plan should Council wish to proceed.

Council has considered options relating to the site on a number of previous occasions. Accordingly the following recommendation is now made.

RECOMMENDATION:

That:

1. A Notice of Intention to Serve an Order to complete the development in accordance with development consent reference DA0218/90 within twelve (12) months from the date of issue of the order, be served on the owner.
2. The Notice shall include that the owner or his representative may make representations to the General Purpose Committee Meeting to be held on 28 March 2000 as to why the Order should not be given or as to the terms of or period for compliance with the Order.
3. A decision as to whether to issue the Order, the terms of the Order and the time for compliance be made by Council at the Ordinary Meeting following the General Purpose Committee meeting on 28 March 2000.
4. Council re-exhibit Draft Local Environmental Plan 9/94 to rezone Lot 4 DP 610341 and Lot 12 DP 736138 Mulgrave Road, Mulgrave from Rural 1(c) to Light Industrial 4(b).
5. The EPA be advised of Council's resolution.

ATTACHMENTS:

AT-1 Mulgrave Compost Site.

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MULGRAVE COMPOST SITE

oooO END OF ITEM 87 Oooo

ITEM: 88 **Lot 1 DP862897 No. 78 Greens Road, Lower Portland - Hawkesbury Country Club: Application to amend approval to operate Caravan Park**

FILE NUMBER: P717/440/EVD/ENB29NBX.V28

PREVIOUS ITEM: 107, Ordinary (14.12.1999)

REPORT:**Introduction**

An application has been received from the owner of the property, Cllr Glenys Gilling, requesting amendment of Condition 1 of the approval to operate a caravan park to allow the installation of manufactured homes on flood liable land in certain conditions. The purpose of this report is to provide background information and to assess the proposal. Conditional approval is recommended. Action is also recommended for approval of unauthorised structure/compliance with approval requirements.

Background

This matter was reported to Council on 14 December 1999 for information, when Council resolved to approve the application. That Motion was rescinded at the Ordinary Meeting on 8 February 2000. Council subsequently resolved that the information be received and a site inspection be carried out at the next General Purpose Committee Meeting.

The following development applications have been submitted for this property in recent years:

DA Number	Application	Determination
DA442/81	Application to establish a private recreational club incorporating sixty five (65) holiday cottages, golf course and other related recreational facilities.	Approved
DA11/82	Establish a private sporting and recreation club.	Approved subject to conditions
DA243/93	Application for manufactured home estate of forty (40) sites.	Refused
DA244/93	Development application for a tavern/restaurant to cater for one hundred (100) persons, general store, coffee lounge, public boat shed and residence, small motel, reception and night quarter accommodation.	Refused
DA245/93	Sewage system for twenty five (25) caravan sites.	Approved subject to conditions

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DA Number	Application	Determination
DA174/94	Application for forty (40) manufactured homes, ten (10) unit motel, tavern, general store, coffee lounge, boat storage and ancillary facilities.	Refused
DA38/95	Application to remove the existing caravan park and sand processing operation and replace it with forty (40) holiday cottages, twenty (20) motel units, boat storage, tavern/restaurant, general store, boat shed, residence and restoration of the heritage cottage.	Refused by Council and also refused by the Land and Environment Court
DA26/97	Application to relocate sites 5-28 further from the river and also to incorporate the three (3) existing cottage sites.	Approved
DA109/97	Application for the removal of the caravan park and its replacement with thirty (30) community title "weekender" cottages and ancillary facilities.	Refused
DA/BA1128/97	Application for Manager's Residence.	Approved
DA330/97	Conversion of Heritage Listed cottage to refreshment rooms.	Approved
MA319/98	Nine (9) relocatable home sites.	Approved

The relevant development consent is DA026/97. This consent approved the relocation of 24 caravan sites and three cabin sites from low lying land to land ranging between six and nine metres AHD. Condition 2 of that consent, issued on 3 April 1997, states:

“Council to be notified in writing of any installation of manufactured homes within seven (7) days of installation.”

Subsequent to the development consent, the approval to operate a caravan park under the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995 was issued on 15 October 1997. Condition No.1 of that approval states:

“Relocatable homes, manufactured homes, mobile homes, rigid annexes, unregistrable moveable dwellings are NOT permitted to be installed on flood liable land.”

In December 1997 Council resolved that manufactured homes not be permitted on the site. Following installation of a manufactured home, the matter was referred to Council's Solicitors for appropriate action. There are currently four manufactured homes installed on the land.

Status

The applicant seeks approval to install relocatable homes on land with minimum height of 7.7m AHD, or with a floor level minimum of 8.7m AHD. The floor height standard for dwellings in this area at the time of consent was 8.7m AHD. The proposal would ultimately see 24 (twenty four) relocatable homes on the relocated sites approved by DA26/97. Approximately 12 (twelve) of those sites are between 7.7m and 8.7m, the remaining sites are above 8.7m.

It is arguable that Development Consent No. 26/97 does envisage the installation of manufactured homes as Condition No. 2 of that consent states:

"Council to be notified in writing of any installation of manufactured homes within seven days of installation."

Condition No. 5 states:

"Any manufactured/mobile relocatable home on the site is to be constructed, installed, and maintained in accordance with Part 4 of the Local Government (Caravan Parks and Camping Grounds) Regulation 1995 - No. 309. Site utility services are to conform to the requirements set by Division 4 Part 3 of the above Regulations."

The approval issued under the Regulation appears to be in conflict with Consent No. 026/97 as it prohibits manufactured homes to be installed on flood liable land.

The Local Government (Caravan Parks and Camping Grounds) Regulation 1995 provides that manufactured homes/relocatable homes may be installed on approved caravan sites without Council approval. However, flood liable land is excluded from this general exemption and Council approval is therefore required under the Regulation.

The relocatable homes currently installed on the property, albeit without approval, are quite attractive in presentation, being constructed of stained weatherboard walls and dark colorbond roof sheeting.

Council's Solicitors have been negotiating with the applicants' Solicitors on a "Without Prejudice" basis in relation to the installation of manufactured homes on the sites covered by DA026/97 and the negotiations concluded in December 1999.

Following Council's decision on 8 February 2000, the applicant filed an appeal in the Land and Environment Court against the deemed refund of the application to amend the approval.

Other Conditions of Approval

In addition to the condition which the applicant now seeks to amend, there are a number of specific conditions of the approval which require compliance by the operator. The relevant conditions are now as follows:

- i Construct shower, toilet and laundry facilities in full compliance with Part 3 of the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995. Disabled facilities are to be provided.
- ii No building work or alteration is to occur on the premises without prior written approval.
- iii Annexes (flexible or rigid) installed on a site must be capable of being removed from the premises within 24 hours.
- iv All sites are to be clearly delineated and numbered.

In summary, the matters of non-compliance are:

- Shower, toilet and laundry facilities - laundry facilities have been provided, however, the operator claims exemption from the requirement for showers and toilets as all caravans have ensuite facilities. Inspection reveals that the ensuite facilities provided have not been approved by Council and it appears that many of the toilet and shower facilities are unsatisfactory.
- Annexes - inspection revealed that with the exception of 1 caravan, no annexes would comply with the requirement that they must be capable of being removed from the premises within 24 hours. None of the rigid annexes comply with the current Regulation. In fact, most of the annexes are essentially free-standing buildings with caravans attached. Advice from the Department of Local Government confirms that the rigid annexes would not be exempted by savings or "deemed to comply provisions" given their size and nature of construction.
- Site delineation - some sites are marked and delineated but not all sites comply with this requirement.
- Unauthorised building - a large storage shed has been constructed on the property. Deferred Commencement Consent was issued prior to construction, however the Deferred Commencement item was not satisfied, nor was construction approval issued.

Conclusion

It is considered that it is appropriate to amend the condition of approval to allow relocatable homes to be placed on caravan sites which are flood liable, subject to appropriate limitations.

As a separate matter, action should be taken to ensure compliance with the remaining conditions.

RECOMMENDATION:

- A. That Condition 1 of the approval to operate a caravan park be amended as follows:

"Manufactured homes are permitted to be installed on flood liable land, subject to the following requirements only:

- i. Floor level for manufactured homes to be at a minimum 8.7 metres AHD.*
- ii. Floor level for manufactured homes to be a maximum of 1 metre above natural ground level.*
- iii. Manufactured homes will be the subject of approval applications to the Council having regard to the provisions of the Local Government (Caravan Parks, Camping Grounds and Movable Dwellings) Regulation 1995.*
- iv. Applications referred to in (iii) are to contain details of construction which complies with Council's requirements for structures capable of being inundated by flood waters, in particular flood compatible materials, electrical, plumbing and other services and footings and tie downs having regard to potential impact from flooding.*
- v. Completion of manufactured homes following approval and installation are to be certified by a suitably qualified engineer having regard to hydraulic and structural expertise, certifying that the structures are appropriate having regard to the potential impact from flooding and that they will not cause future damage having regard to the potential flood impact.*

- B.** That Council's Solicitors be instructed to proceed with Class 4 Proceedings in the Land and Environment Court to bring about compliance with all relevant conditions of approval and to obtain removal of unauthorised structures.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 88 Oooo