



**general
purpose
committee**

**1
section**

environment

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ITEM: 50 **Mobile Phone Telecommunications Facility - 121 Fairey Road, South Windsor**

FILE NUMBER: M 1400/99/EVD/ENA25NAX.V08

Applicant: Cellsites International
Applicants Rep: Mr Rad Blagojevic
Owner: G & N Carter
Stat. Provisions: Telecommunications Act 1997
 Telecommunications Code of Practice 1997
 Hawkesbury Local Environmental Plan 1989
 Telecommunications Facilities DCP
Area: 2000m2
Zone: Industry General 4(a)
Advertising: Surrounding land owners/occupiers and a notice in Hawkesbury Gazette
Date Received: 13 September 1999. Additional information received 3 November 1999
 and 23 December 1999.

Key Issues: • Visual impact
 • Health concerns
 • Proximity to residences and school
 • Alternative locations

Action: Approval

REPORT:

Introduction

The applicant seeks approval to erect a mobile phone base station on vacant land at 121 Fairey Road, South Windsor.

This matter is being reported to Council due to the objections received and concerns raised previously by Council in relation to mobile phone towers generally. This report will detail 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.

The Proposal

The applicant is Cellsites International who represent Hutchison Telecom, a licensed telecommunications carrier.

The proposal consists of:

- a 30 metre slimline monopole;

- on the top of the pole are six (6) panel antennae measuring 2m long by 300mm wide
- two (2) 1.2m parabolic (dish) antennae approximately 2m below the top of the pole
- one (1) 600m parabolic (dish) antenna approximately 4m below the top of the pole
- a colourbond steel equipment hut at the base of the tower measuring 3m long by 2.5m wide by 3m high

The facility is to be enclosed by a 2.4m high cyclone wire mesh fence 10m long by 5m wide.

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 Industry General 4(a) under HLEP 1989. The relevant objectives of the Industry General 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.*

“Mobile phone base stations” or “Telecommunication facilities” are not specifically defined in Hawkesbury Local Environmental Plan 1989 hence they are known as “innominate uses” which are permitted within the zone subject to development consent.

Draft Hawkesbury Local Environmental Plan - Amendment 110 - Exempt and Complying Development

Draft HLEP 1989 - Amendment 110 defines this type of development as a “public utility undertaking”. Under Amendment 110 the proposed facility would be classified as "development without consent" in the Industry General 4(a) zone.

Telecommunications Facilities Development Control Plan

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

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;*
3. *Proposals for towers should consider and provide evidence of investigation into co-locating with other carriers, wherever possible;*
6. *Proposals for towers should have regard to environmentally sensitive areas and should be located to have minimal visual impacts wherever possible;*
8. *Any proposal for a tower needs to justify the location in terms of the servicing area.*

Relevant matters for consideration 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*

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. SREP No. 20 contains general and specific matters for consideration which are to be considered in the assessment of a development application. The relevant specific considerations are total catchment management, water quality, water quantity and flora and fauna. Where appropriate these matters will be discussed later in the Planning Assessment section.

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.

Two letters of objections were received. A summary of the objections is provided below.

- visual impact of the tower
- possible health risks resulting from exposure to electro magnetic energy (EME)
- proximity of facility to surrounding residences and future industrial development
- alternative locations have not been adequately considered

Planning Assessment

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

Need for Facility

Cellsites International have advised that Hutchison Telecom propose to provide their mobile phone network coverage to the South Windsor and Bligh Park area. This facility is needed to achieve the required coverage.

Examination of Alternative Sites

Cellsites examined four alternative sites within proximity to the proposed site.

The sites are identified below as well as Cellsites reasons for their unsuitability:

- Existing tower Speedo Factory, 100 Mileham Street, South Windsor
Site is not suitable because radio frequency requirements can not be achieved.
- Existing monopole at Cnr Argyle Street and Fairey Road, South Windsor

Site was not suitable because of inferior radio frequency coverage. Co-location on this pole would require Hutchison's antennae to be located below the existing Telstra antennae. The reduced height of the antennae would contribute to the reduced coverage area. Cellsites have advised that the design and strength of the existing monopole make it unsuitable for increasing the height of the pole to allow Hutchison's antennae to be located above Telstra's antennae.

Cellsites have provided coverage maps which show that co-location on this monopole could lead to potential black spots within the desired service area.

- 26 Fairey Road, South Windsor

Property owner is unwilling to commence negotiations.

- Existing monopole, 139 Racecourse Road, Clarendon

This facility is unsuitable because it is too far away from the preferred site location.

Public Health Issues

Concern has been raised about the possible health effect from the base station,

The Commonwealth Government's position is that there is no substantiated evidence to suggest that living near a mobile phone tower causes adverse health effects. This position is based on a comprehensive review of substantiated scientific evidence from Australia and overseas.

The Australian Standard for exposure to the general public is 200 micro watts per square centimetre (uw/cm²). These standards incorporate substantial safety margins to address concerns for potentially sensitive groups in the community, such as children, pregnant women, the infirm and aged.

The applicant states that EME emission from the proposed facility would be less than 0.2 uw/cm², ie less than 1000 times the Australian Standard

Design and siting of the facility

The design of the proposed facility is typical of other base stations and considered appropriate for the intended use.

The facility is located at the front of the property and will have a separate access to the remainder of the site. The siting of the facility in this manner is primarily due to the carrier's requirement to have unimpeded 24 hour access in case of emergency and equipment failure. The pole is to be located approximately 2m from the front boundary and the equipment hut 1m from the front boundary. A factory building on the adjacent property to the south has a setback of approximately 4m from the property boundary. It is recommended that the pole and equipment hut be re-located so that the pole and eastern side of the equipment hut are equal to or behind the building line of the adjacent factory building.

Visual Impact of the Facility

The existing visual landscape is dominated by factory buildings, silos, overhead powerlines and other telecommunication towers to the west of Fairey Road and vacant industrial land, factory buildings and silos to the east of Fairey Road.

The proposed tower is to be located on the western side of Fairey Road approximately two metres from the property boundary. The tower will be readily visible along Fairey Road and within the immediate industrial area. The tower will also be visible, at distance, from surrounding residential and rural areas.

The appearance of the tower and associated equipment shelter will not be inconsistent with the existing character of the area and will not significantly change or degrade the existing visual landscape.

Proximity to surrounding residences and schools

The closest residence is approximately 100m to the south, the next closet residence is approximately 150m to the north. The closest child care centre is approximately 900m from the site. Surrounding schools are located over 1km from the site.

Given the low forecast EME emissions and the distant views to the tower from surrounding residences, childcare and school it is considered that the separation distances are satisfactory.

Access to the Site

Access to the property is presently available via a 5.5m driveway off Fairey Road. Access to the facility will be via a 3m wide gate fronting Fairey Road. No new driveways are proposed. The proposed access is considered satisfactory.

Utilities

The electricity service is to be extended to serve the facility.

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. Based on the operations of other base stations it is anticipated that the site would be visited for maintenance purposes approximately once a month.

Flora and Fauna

The proposed site for the base station has been cleared of all vegetation. It is considered that the construction and operation of the facility will not significantly impact on any endangered or vulnerable flora or fauna that may be present in the area.

Socio-Economic Impact

The proposed facility will provide enhanced digital mobile telephone coverage to Bligh Park and South Windsor allowing for a more efficient 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 landuses 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 impacted upon surrounding land occupiers.

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. Potential impacts of water quality can be controlled by appropriate erosion and sedimentation control devices during construction of the facility. Adequate services and utilities can be provided to the site.

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

Public Submissions

Matters raised in the letters of objection have been discussed above.

Public Interest

The concerns of the objectors are recognised and have been addressed in the above report.. The greater public interest will be served by improving mobile telephone coverage in the area.

Conclusion

The proposed development is permissible and is not inconsistent with the objectives of the zone 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 Transfield Pty Ltd numbered T3118-12652 A1;27 dated August 1999) submitted with Development Application No. M 1400/99 and any supportive documentation, except as otherwise provided by the conditions of this consent.

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

Prior to Issue of Construction Certificate

2. Amended plans being submitted to the Principal Certifying Authority showing the pole and equipment hut relocated such that they are not forward of the building line, with respect to Fairey Road, of the factory building immediately to the south proposed site.
3. Submission of design plans and calculations covering all pavement and drainage works required by this consent.
4. Construction and engineering plans and specifications are to be submitted to the Principal Certifying Authority.

Prior to Commencement of Works

5. 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.
6. 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.

7. 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.
8. 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.
9. Approval in the form of stamped Construction Certificate plans is to be obtained from Sydney Water to verify that the development meets its requirements concerning the relationship of the development to any water mains, sewers or stormwater channel.
10. 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

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) erosion controls, site works and site set out;
 - (b) piers;
 - (c) steel reinforcement; and
 - (d) on completion of the structure.
13. 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.
14. 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.

ATTACHMENTS:

AT-1 Locality Plan and objector locations

AT-2 Site Plan

AT-3 Photomontage

LOCALITY PLAN

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SITE PLAN



Photomontage showing existing site and digital representation of proposed 30m monopole, as viewed from Ham Street looking north-east.

oooO END OF ITEM 50 Oooo

ITEM: 51 **Two-Storey Duplex - Cnr Lot 1 DP662568 No. 32 Cox Street, South Windsor**

FILE NUMBER: M 1766/99/EVD/ENA25NAX.V09

Applicant: Mr Dennis Clarke
Applicants Rep: as above
Owner: Mr and Mrs Clarke
Stat. Provisions: HLEP 1989
Area: 518sq.m
Zone: Residential 2(a)
Advertising: Notified to adjoining owners and occupiers. Seven (7) letters of objection received
Date Received: 8 November 1999

Key Issues: • Lack of privacy
 • Out of character with the area
 • Overshadowing
 • Density

Action: Deferred Commencement Approval

REPORT:

Introduction

An application has been received seeking consent to demolish a single brick cottage and construct a two storey duplex. The duplex consists of two, three bedroom units.

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 a deferred commencement approval, subject to conditions.

The Proposal

The proposal is for the demolition of a single brick cottage, carport and removal of a silky oak tree for the construction of a two storey brick veneer duplex with frontage to Bell Street.

The subject property is rectangular in shape and has a total site area of 518sq.m.

The duplex consists of two, three bedroom units. Each unit has courtyard areas, adequate parking and landscaping.

Statutory SituationHawkesbury Local Environmental Plan 1989

The subject property is zoned Residential 2(a) under Hawkesbury Local Environmental Plan (HLEP) 1989. The objectives of the zone are:

- (a) *to provide for housing and associated facilities in locations of high amenity and accessibility;*
- (b) *to enable development for purposes other than residential only if it is compatible with the character of the living area and has a domestic scale and character; and*
- (c) *to ensure that development does not create unreasonable demands, in the present or in the future, for provision or extension of public amenities or services.*

Under HLEP 1989 the proposed development is defined as a Residential Flat Building Class A which means:

“a residential flat building containing 2, but not more than 2, dwellings and includes buildings commonly known as duplex flats, maisonettes or semi-detached cottages”

Residential Flat Buildings Class A are permissible within a Residential 2(a) zone with development 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 as it is providing a development which offers high amenity to future residents and is accessible to local shops, community facilities and public transport. The development should not create unreasonable demands for the provision or extension of public amenities and services as it is only creating one additional dwelling.

Reference should be made to Clause 37 under HLEP 1989 - Protection from aircraft noise. The subject property falls within a 30-35 ANEF Contour. A noise report was submitted to indicate that the duplex can be constructed in accordance with AS-2021. This is discussed in more detail in the assessment which follows.

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 seven (7) letters received objecting to the proposal. Six (6) of those seven (7) letters were proforma, the separate letter was received from the owner of 30 Cox Street, which adjoins the northern side of the site. The main concerns expressed in the letters include:

- Out of character with the area (no other two storey in the area)
- Contrary to the street scape
- Lack of privacy
- Opens further development of this type in the area
- Overshadowing
- Landscaping plan indicating shrubs and trees along boundary which will impact on sewerage pipes being damaged by roots
- Noise from garage/workshop
- Density

There was concern expressed that the duplex will decrease the property value of surrounding properties.

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:

Dual Occupancy Development Control Plan

Hawkesbury City Council Development Control Plan for Dual Occupancy development is relevant to the proposal.

Under this plan a duplex is defined as :

"a building containing two dwellings under the same roof line situated on the same allotment."

Compliance with the DCP is summarised in the following table:

ITEM	REQUIRED	PROVIDED	COMPLIES
Minimum Allotment Size	Minimum of 400sqm	518sq.m	Yes
Floor Space Ratio	Maximum of 0:5:1	0.47:1	Yes

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ITEM	REQUIRED	PROVIDED	COMPLIES
Private Open Space / Landscaping	Minimum courtyard area of 50sqm	Unit 1 courtyard 75sq.m and Unit 2 courtyard 90sq.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	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.	The duplex is setback 7.5m from Cox Street and 3.4m from Bell Street.	Yes
	Side setbacks are generally less.	The Bell Street setback is staggered with a minimum of 3.4m and a maximum of 5.5m. This is considered acceptable	Yes
Building Height	Not to exceed two storeys or levels at any one point	Not greater than two storeys	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

The development generally complies with the numerical standards of the DCP.

Character of the Area

The subject site is predominately surrounded by single dwellings constructed of brick, fibro and weatherboard. There are no duplexes or two storey dwellings in the immediate vicinity of the development site but there are duplexes and medium density development both single and double storey in the South Windsor area.

The proposed development does differ from the established character of the locality by way of design, however the proposal will not change the residential nature of the area, nor is it likely to lead to a significant change in the character of the area.

Density

There were concerns expressed that the density of the development will impact adjoining properties by way of generation of noise.

The proposed duplex complies with the density requirements of the Dual Occupancy DCP. The development also provides private open space in excess of the minimum required by Council.

The noise generated by the duplex would be similar to that of a large single residential property. Therefore the noise generated by this development would not be inconsistent with the surrounding development.

Privacy

There were some concerns regarding the second storey of the duplex overlooking adjoining properties, therefore impacting on the privacy of the residents.

The main concern was that the windows from the duplex will have views to the adjoining (30 Cox Street) second bedroom window, kitchen window and backyard. There are four 1.08sq.m windows which are ensuite and bathroom windows which face 30 Cox Street, these windows should be frosted to assure the adjoining property that their privacy is maintained.

There are windows and a sliding door on the ground floor which face 30 Cox Street but these windows would be no different from a large single residence and a 1.8m fence could be installed to reduce overlooking.

Should the application be approved, the concerns regarding privacy could be overcome by ensuring the second storey small windows have frosted glass and that there be 1.8m capped and lapped fences installed.

Overshadowing

There were concerns expressed that the proposed duplex would overshadow 30 Cox Street which adjoins the subject property. The adjoining property is located to the north of the subject property and the shadow falls towards Bell Street and away from the adjoining property. There will be no overshadowing of 30 Cox Street from the Duplex.

The 3pm shadow falls across 2 Bell Street, this dwelling has window awnings which would block access to sunlight anyway. This adjoining property will receive at least 50% sunlight during mid winter. There were no objections raised by 2 Bell Street in regards to the application.

The proposed duplex will not restrict adequate solar access to adjoining properties, therefore it is considered that the overshadowing of the neighbouring properties as a result of this development will not be significant or unreasonable.

Flora and Fauna

It is considered that the subject property is located within an established residential area with domestic gardens and therefore will not have any significant impact on any endangered flora and fauna under Section 5A of the E P and A Act 1979.

It is proposed to remove a silky oak tree which is located in the centre of proposed Unit 2, this is the only tree requiring removal as the applicant intends to retain other existing trees.

There were some concerns expressed that the landscaping proposed may encourage roots to block the sewer line. The proposed plant species which the objector is concerned about include *Arbutus Uned*, *Buxus Microphylla*, *Callistemon Citrinus*, *Camellia Sasquana* and *Photinea Glabra* and *Murraya Paniculata*, these species are known not to have deep root systems therefore they will not impact on below ground pipes.

Aircraft Noise

The subject property exists within a 30-35 ANEF contour in relation to aircraft noise. A noise report prepared by Murphy Pastoral and Technical Company Pty Ltd dated 4th December 1999 and this was submitted with the application.

The report indicated that an acoustical analysis was undertaken in accordance with the requirements of Australian Standard 2021-1994.

The report concluded that provided the duplex is constructed in accordance with the report then the development will meet the requirements of the Australian Standard which is consistent with Clause 37 of HLEP 1989.

Should the application be approved then a condition of consent can require that the development be carried out in accordance with the acoustic report submitted.

Sewer Connection

The subject property is serviced by reticulated sewer in which Council is the sewer Authority. There is a sewer connection already available to the existing cottage which would easily service proposed Unit 1. Due to the depth of the sewer main and the fall of the land it may prove difficult but possible to service Unit 2 with sewer.

To determine that sewer service is available to the entire development and in particular Unit 2 the applicant needs to provide design details and levels of the land to demonstrate that connection to sewer from unit 2 is possible.

Should Council choose to support the application, a deferred commencement consent should be issued to ensure that design details have been submitted to demonstrate Unit 2 can be connected to Council sewer.

Access, Transport and Traffic

The existing cottage has access via Cox Street but due to site having a narrow frontage the better solution for this development is to gain vehicle access from Bell Street.

The additional traffic created is not considered to be significant as it is well within the capacity of the local road network.

The residential area is accessed via motor vehicle and public transport. Windsor railway station is within walking distance.

The parking requirements under the Council's Dual Occupancy DCP have been met.

Conclusion

The proposed development is consistent with the objectives of the zone and satisfies Council's development control plan for dual occupancy development.

The development is compatible with the residential nature of the area and will not adversely impact the existing or future amenity of the area.

It is recommended that the application should be approved as a deferred commencement consent subject to appropriate conditions.

RECOMMENDATION:

That:

- A.** A Deferred Commencement Approval be granted for a two-storey duplex at 32 Cox Street, Windsor, Cnr Lot 1, DP662568, subject to the following conditions:
- (I) Upon compliance with the conditions appearing in Schedule 1, and with the issue of confirmation to that effect in writing from Council, this "Deferred Commencement" consent shall commence to operate as a development consent inclusive of all conditions appearing in Schedule 2 pursuant to Section 80(3) of the Act.
- (II) The Deferred Commencement consent will lapse in twelve months from the date of this consent unless the condition appearing in Schedule 1 has been complied with.

Schedule 1

1. Design details and reduced levels of the proposed development site to determine the sewer service is available to the entire development are to be submitted and approved by Council.

Schedule 2**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 (4 sheets) dated 5/11/99) 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.

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

2. 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 is not practicable, to an accredited sewage management facility approved by the Council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, 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.

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. 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 bathroom and ensuite windows located on the second storey are to be frosted glass.
28. 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.
29. Construction of Council's standard residential footway and layback vehicular crossing to suit the access to the site.
30. 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

31. 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.
32. 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.
33. 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).
34. 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

35. 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 and location of objectors

AT-2 Site Plan

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LOCALITY PLAN

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SITE PLAN

oooO END OF ITEM 51 Oooo

ITEM: 52**Alligator Weed****FILE NUMBER:**

GE020/013 Pt 03/GMA/ENA25NAX.G13

REPORT:

At the December meeting, a report was requested to the Council regarding the current issue with Alligator Weed. The New South Wales Weeds Strategy highlights that the “primary responsibility for weed management rests with the landholder or land and water manager, but collective action is necessary where the problem transcends the capacity of the landowner to address it adequately”.

Alligator Weed is now widely recognised as having the potential to seriously impact on agriculture, recreation, extractive industries and the environment at Western Sydney. Its possible impacts on agriculture are of particular concern, as it could put at risk annual production estimated to be worth at least \$1 billion. In those circumstances, the Minister for Land and Water has made available a two year grant of \$220,000 to be managed by a task force known as the “Alligator Weed Task Force” that was established in late 1997.

Part of the task force’s agenda was to develop a strategy to effectively manage Alligator Weed.

Attempts to control the weed to date have failed for a number of reasons that include lack of commitment by various stakeholders, insufficient funds, lack of effective integration between agencies, unwillingness to accept responsibility for eradication of the weed, loss of control over causal factors such as high nutrient levels in water and inaccessibility of source weed populations.

Alligator Weed grows both in water and on land and spreads rapidly. It is capable of taking over paddocks and waterways in a short period of time and can seriously disrupt farming, water use and natural plant communities. Tiny fragments of each plant are able to generate into a new plant. This is particularly hazardous during eradication as great care needs to be taken to remove all portions of the plant. Once it has encroached on land, the risk of events such as mowing or slashing can cause even more rapid spread from each cut piece of the weed.

It is possible in some parts of the catchment to control the weed by using herbicides. This is involved in bush regeneration with follow-up after-spraying where the weed needs to be sprayed two to three times per season for good results. The Alligator Weed however, is impossible to eradicate chemically. Recent research identified three herbicides, each with limitations and restrictions.

The history of the weed in the Williamstown area of Port Stephens, indicates from one location the extent of the problem. The weed was first detected in Williamstown 30 years ago, where it now covers over 2,500 hectares of land and infests three river systems - the Patterson, the Hunter and the Williams. The weed has been contained in the Patterson, but not so to date in the Hunter and Williams Rivers. In the district, there have been a number of education campaigns, including using local radio, newspapers and national television. However, the indications are that the community is fast losing interest as little progress is being made.

Late last year, New South Wales Agriculture appointed Mr David Mason as the Task Force Coordinator for the Hawkesbury-Nepean Aquatic Weeds Task Force. He has produced a Weeds Strategy Development and Implementation Program that commenced in October last year and runs to September 2000. The functions involve developing the weeds strategy, its implementation, funding and reporting. He indicates that it is intended to apply for funding to implement the strategy in the 2000/2001 State Budget. He has proposed a meeting with the Western Sydney General Managers in March to review the current status of the program, following which the matter will be further reported to the Council.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 52 Oooo

ITEM: 53 Stormwater Management Plans - Funding for Implementation**FILE NUMBER:** GD001/004 Pt 03/GMA/ENA25NAX.G01

REPORT:

In 1998, the Environmental Protection Authority directed that Urban Stormwater Management Plans be prepared and submitted for approval by July 1999. The plans were prepared to ensure that the issues of catchment management were addressed on a total catchment basis and taking into account the findings of the Healthy Rivers Commission Report and the Floodplain Management Study.

For Hawkesbury, the plans identified works that could cost in the order of 7.5 millions dollars that needed to be implemented.

The Hawkesbury Nepean Catchment Management Trust has now written advising it recognises the resourcing constraints faced by Local Government in implementing the plans. As a result, the Trust recently resolved to support those Councils that make application to the Minister for Local Government for a special rate to fund stormwater management plan implementation.

The Trust advises that it will assist in the application for special rate funding for those works located in the catchment and detailed in the stormwater management plans. The responsibility for stormwater in the Sydney region lies with the Councils, Sydney Water, Roads and Traffic Authority and there are a number of privately-owned systems. To achieve any significant improvement to water quality obviously requires a concerted effort by all involved and over an agreed period of time. For example it would be important for Councils and agencies in the one catchment to agree on the improvement timetable, so there was seen a quantum improvement in water quality with the agencies involved applying their financial resources on an agreed basis to achieve this maximised result.

The matter of a special rate is intended to be discussed at the Council's corporate planning workshop. At this stage, it is recommended that the Council advise the Environmental Protection Authority, the Hawkesbury Nepean Catchment Management Trust and WSROC of the need for a coordinated basis to applying resources for the stormwater management plans in order to maximise results in water quality improvement.

RECOMMENDATION:

That Council advise the Environmental Protection Authority, the Hawkesbury Nepean Catchment Management Trust and WSROC of the need to have an agreed period for the implementation of Urban Stormwater Management Plans in catchments to maximise water quality improvements from the efficient application of resources.

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ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 53 Oooo

ITEM: 54 **Hawkesbury Nepean Catchment Management Trust**

FILE NUMBER: GR060/067 PT02/GMA/ENA25NAX.G02

REPORT:

The Trust has advised of the reforms to the structure and operations of Total Catchment Management across New South Wales as announced by the Minister for Land and Water Conservation, the Honourable Richard Amery.

In the Trust's operational area all Catchment Management Committees ceased to operate from 31 December 1999. The Trust will now establish three Regional Catchment Committees by 01 July 2000 to assist in advancing total catchment management within its operational area.

The Trust has put in place a set of arrangements to help ensure a smooth transition from the Catchment Management Committees to the Regional Catchment Committees. These arrangements involve:

- The establishment of Interim Total Catchment Management Sub-Committees to succeed the Catchment Management Committees from 01 January 2000. These sub-committees will operate in the same sub-catchments as the former committees until 29 February 2000.
- From 01 March 2000 the interim Total Catchment Management Sub-Committees will combine into three Interim Regional Catchment Management Committees to service the regions identified and will operate until the substantive Regional Catchment Committees are established.

The Trust advises that it wishes to ensure the current committee members continue to participate in their local interim committees and subsequently their local interim regional committees. This is on the basis of their experience and commitment in advancing Total Catchment Management and their understanding of local catchment and river health issues that are valued by the Trust. The Trust has appointed Chairs to the interim sub-committees and provided them with delegated authority to appoint all other sub-committee members.

The Council is currently represented on the Catchment Management Committees by Councillor Sheather. The Trust seeks the Council's support for his continued participation on the interim committee.

The interim committees and their interim Chairs are:

- South Creek - Dr David Robinson
- Berowra/Cowan - Dr David Booth
- Cattai - Mr Frank Braybrooks
- Upper Nepean - Dr Tony Ross
- Blue Mountains - Mr Ian Tunstall
- Middle Nepean-Hawkesbury - Dr David Burrell

RECOMMENDATION:

That Council supports the continuing participation of Councillor Sheather in the Interim Total Catchment Management Sub-Committees.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 54 Oooo

ITEM: 55 **Policy for the Erection of Rural Sheds**

FILE NUMBER: M609/98/EVD/ENA25NBX.V18

PREVIOUS ITEM: 44, Ordinary (07.09.1999)

REPORT:

Introduction

Concerns have recently been raised by Councillors and residents in relation to the size and siting of rural sheds. In particular, Council resolved on 7 September, 1999 that "a report be prepared on a policy for farm sheds".

The purpose of this report is to explore the ways in which:

- the siting of the building;
- the size (floor area and height) of the shed;
- the form (shape) of the building;
- the colour of building materials;
- the type of building materials; and
- the landscaping

can enhance the scenic quality and rural character of an area. This assessment will then enable development standards for rural sheds to be created and subsequently enforced by means of a Development Control Plan (DCP).

Background

An investigation of approximately 310 rural sheds erected in the Hawkesbury City area within the last 2 years was carried out. No relationship between the size of a shed and the zoning of the property was found.

The most popular size ranges are:	51 - 100 m ²	31%
	101 - 150 m ²	23%
	151 - 200 m ²	15%

It was noted that the smallest shed approved was 18m² and the largest was 1296m².

From the information provided by applicants an analysis of the use and size of buildings was carried out. This indicates the following relationships:

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The average floor area in relation to use is:

Domestic	104m ²
Stables	123m ²
Machinery	177m ²
Farm/Rural	125m ²

Note: The uses are indicative only.

Site inspections of approved rural sheds were carried out by planning staff. While in the field staff observed that the following elements tend to dictate the overall appearance.

Positive Elements	Negative Elements
Sheds which share colour or design themes with existing dwellings.	Sheds that are closer to the front boundary than the dwelling.
Sheds which are rectangular in shape (rather than square). Barn style reduces bulk.	Sheds of a square shape appear bulky.
Smaller/lower sheds were less obvious in the landscape.	Sheds that are higher than existing dwellings dominate the view.
Sheds which are cut into slopes, but no fill.	Excessive fill on steep slopes.

The objectives of the rural zones provided for by Hawkesbury Local Environmental Plan 1989 (HLEP 1989) and draft Amendment No. 108 (Hawkesbury Sustainable Agricultural Development Strategy) in most instances aim to retain the rural character of the landscape, preserve environmentally significant areas and scenic features while encouraging or maintaining agricultural pursuits.

Zones 7(d), 7(d1), Environmental Protection - Agriculture Protection, Rural Living and Rural Village require the consideration of siting, choice and colour of building materials, the position of buildings, and landscaping when erecting structures.

The development standards formulated in this report will support these zone objectives and provisions of HLEP 1989.

Discussion

This section of the report provides a discussion on each individual element, followed by a recommended design principle which can be incorporated into a development control plan.

Siting

The siting of rural sheds plays a major role in overall appearance. It has been noted that the erection of these structures on the top of ridgelines makes them more noticeable (Plate 1).



Plate 1

Likewise, the use of large amounts of fill on sloping sites can give these structures the appearance of protruding into the skyline (Plate 2).

Siting of sheds closer to the road boundary than a dwelling makes these bland structures more obvious. This problem is compounded where the style and colours of these buildings are in stark contrast with those of the existing dwelling.



Plate 2

Recommended Design Principles

- (i) Cut and fill should be limited to 2m of cut and 900mm of fill.
- (ii) Sheds should be located no closer to the road than the existing dwelling.
- (iii) Sheds are not to be erected on land which has a slope in excess of 10%.
- (iv) The erection of rural sheds should involve minimal disturbance to native vegetation.

Size

It is quite obvious that the larger the shed the more prominent it becomes, especially when no measures have been taken to lessen the visual impact by means of appropriate siting, colours or landscaping. From field observations and investigations of approved rural sheds it has been determined that the size of these structures should be limited to a maximum of 120m².

To clarify this size it should be noted that a standard double garage is 30 to 50m².

This limit would also support the objectives for the Rural 1(c), Rural 1(c1) and Rural Living zones which provide for a rural residential lifestyle. The proposed Rural Living and Rural Village zones prohibit agriculture, intensive agriculture and rural industry, thus eliminating the necessity for larger sheds. The smaller minimum lot sizes of these zones, as well as the residential intention of these areas, suggest that for these zones the size of rural sheds should be limited.

The aim of the Rural 1(a), Rural 1(b), Rural 1(d), Environmental Protection (Scenic) 7(d), Environmental Protection (Scenic) 7(d1), Environmental Protection - Consolidated Land Holdings 7(e), Mixed Agriculture, Rural Investigation, Consolidated Lands, Environmental Protection - Agriculture Protection and Environmental Protection - Mixed Agriculture rural zones is to protect and encourage agricultural uses. Size will be a consideration in achieving these aims in terms of allowing a functional structure which will not be visually intrusive. This suggests that sheds erected in these rural zones and exceeding 120m² would need to be approved on individual merit.

Recommended Design Principles

- (i) The maximum size of sheds in the Rural 1(c), Rural 1(c1), Rural Living or Rural Village areas will not exceed 120m². The cumulative total of all outbuildings shall not exceed 120m² on any one property in these zones.
- (ii) In zones 1(a), 1(b), 1(d), 7(d), 7(d1), 7(e), Mixed Agriculture, Rural Investigation, Consolidated Lands, Environmental Protection - Agriculture Protection and Environmental Protection - Mixed Agriculture an applicant would need to justify the size of any shed exceeding 120m² in terms of precise use of structure, size and use of the land, as well as measures taken to minimise the impact on neighbours and the general area.

Height

The height of a shed affects the overall appearance of the structure in the surrounding landscape. If the height of the building exceeds that of existing dwellings it tends to become the dominant feature (Plate 3). Height can also add to the bulky appearance of the structure.



Plate 3

Recommended Design Principle

- (i) The total height of a rural shed is to be limited to 5m or the height of the ridgeline of the dwelling on the property, whichever is less.

Note: The maximum legal height (without a permit) of a semi-trailer is 4.3 metres.

Form

Sheds which are square in shape give a dominant and bulky appearance, more so as size and height increase (refer to Plate 1). It has been observed that rectangular structures appear less bulky. Sheds which are barn-like in design blend in more successfully with existing residences and are more interesting in appearance (Plates 4 & 5).



Plate 4



Plate 5

Recommended Design Principles

- (i) It is intended to limit the form of rural sheds with standard roof form to rectangular shapes.
- (ii) Sheds of other roof forms, for example barn style, will be encouraged.

Colours

Buildings can be tied in together by a common theme, be it in terms of design or by similar colours. Sheds that adopt the colour scheme of existing dwellings, especially if in close proximity to these buildings, were seen to blend into the landscape more successfully.

Sheds erected on land with no other improvements should adopt a colour scheme from the natural environment which ensures minimal visual impact by blending in with the existing landscape.

Recommended Design Principles

- (i) The colour of a rural shed will match or blend in with those of existing buildings.
- (ii) On vacant land the colour scheme for rural sheds should be taken from the natural environment.

Type of Building Materials

Concerns have been raised in the past in regard to the use of second hand and reflective materials. For this reason, materials used for the erection of sheds should be new, prepainted and non-reflective.

It should be noted that mushroom growing sheds and other specialised intensive agriculture buildings require white or light coloured materials. Such buildings will be dealt with on merit as "intensive agriculture".

Recommended Design Principles

- (i) Building materials used in the construction of rural sheds are to be new, prepainted and non-reflective.
- (ii) Note: HLEP 1989 requires any part of a building below the 1-in-100 year flood level to be constructed of flood compatible materials.

Landscaping

Landscaping can function in screening a development or giving scale to a building so as to minimise the visual impact it may otherwise have. It was observed that trees that extend well above roof height can make an otherwise dominant structure less visually intrusive (Plate 6).



Plate 6

Recommended Design Principle

- (i) Landscaping of an appropriate scale is to be provided. The design should provide screening from the road, adjoining properties and take into account views across valleys, etc.

Conclusion

It can be seen that by controlling the siting, floor area, height, shape, colour and building materials, as well as the provision of landscaping when erecting rural sheds, a structure that will blend into the surrounding landscape, enhancing both the scenic quality and rural character of an area can be produced.

It is recommended that the design principles discussed in this report be formalised by the making of a Development Control Plan for Rural Sheds; and once the draft DCP has been compiled that it be placed on public exhibition.

In addition to the design principles, it is intended that this DCP will contain explanatory diagrams to illustrate the design criteria, as well as the requirements for lodgement of applications with Council.

RECOMMENDATION:

That:

1. A draft development control plan be prepared in accordance with the design principles contained within this report and be exhibited in accordance with the provisions of the Environmental Planning & Assessment Act.
2. Following exhibition, the draft Development Control Plan be reported to Council for consideration of any submissions received and adoption.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 55 Oooo

ITEM: 56 **Information Report - Rodeo at Tourmaline Hotel/Motel, 711-725 Windsor Road, Vineyard**

FILE NUMBER: M1286/99/EVD/ENA25NBX.V19

PREVIOUS ITEM: 32, GPC Section 1 - Environment (26.10.1999)

REPORT:

Introduction

On 16 November 1999 Council considered a development application for rodeos at the Tourmaline Hotel, Windsor Road, Vineyard. Council resolved to approve one (1) rodeo event and that the matter be reported back to Council after this event.

A rodeo was held at the hotel on 5 December 1999. Council staff attended the rodeo to monitor the event. This report discusses the rodeo's compliance with the conditions of consent.

The Event

The rodeo was held on Sunday 5 December 1999 between the hours of 12 noon and 4pm. Crowd numbers varied throughout the event however it is estimated that at most there were approximately 600 people on the premises. There was a maximum of approximately 300 vehicles parked on the site.

Compliance with Conditions of Consent

Almost all conditions of consent were complied with in satisfactory manner.

Of particular concern to those who objected to the proposal were traffic and parking, noise, behaviour of patrons, keeping of animals on the property and litter. These matters are discussed below:

Traffic and Parking

Throughout the course of the event hotel staff undertook regular patrols along Windsor Road and Boundary Road to ensure no vehicles parked on the road side. During the event Council staff did not observe any cars parked along Windsor Road or Boundary Road.

All parking was accommodated on site and generally in accordance with conditions of consent and the approved parking plan. There was a maximum of approximately 300 vehicles parked on the site.

Approximately 109 vehicles left the property within 30 minutes of the events close. No significant queueing at the intersection of Windsor Road and Boundary Road was observed. A survey of the cars leaving during this time showed that there was an average of two (2) persons per car.

In summary the operation of the parking staff and accommodation of vehicles on the site was satisfactory.

Noise and Patron Behaviour

Noise levels at the nearest residence were recorded throughout the event. Noise was primarily generated by the public address system by the playing of music and the rodeo caller's commentary. Noise from patrons, animals and vehicles was a secondary and much lower noise source.

Condition 25 of the development consent required that noise levels are not to exceed 70dBLa10(A) at the nearest residence as a result of the event. Noise levels at the nearest residence before the event were measured at 68dbLa10(A). The noise monitoring during the event showed that the majority of the rodeo achieved levels of 76 dBLa10(A). Council staff visited the adjacent property throughout the event and it was considered by Council staff that the noise levels experienced were not excessive or unreasonable when standing in the rear yard of the residence and just audible inside the residence.

Conditions 26 and 27 of the consent required the public address system to be directed away from the nearest residence and that the speaker be angled downwards to approximately 45 degrees relative to the horizon. The speakers were not inclined downwards and there was direct line of site between the speakers and the adjacent property. Noise levels could be reduced if the sound system was relocated and the above measures employed. Noise levels could also be reduced if lower frequency (ie bass) boost was not used.

At times it appeared that the rodeo caller was artificially restraining his call of the event thus resulting in reduced noise levels and arguably a less than optimum presentation of the event. By employing the above measures the caller's noise output could be increased by a small margin to improve the presentation of the commentary without impacting on the adjacent residence.

Patron Behaviour

The behaviour of patrons during the times Council staff were present was good. No loud, drunken or unruly behaviour was observed.

Keeping of Animals

Rodeo animal's were kept in purpose built temporary holding yards. All animals were transported from the site after the event. The keeping of animals on the site was satisfactory and in accordance with conditions of consent.

Litter

No litter was observed along Windsor Road or Boundary Road within the vicinity of the property before, during or after the event.

Conclusion

The event was conducted in a satisfactory manner and generally in accordance with conditions of consent.

No complaints were received from surrounding neighbours. However in discussions with neighbours they advised that this event attracted considerably less patrons than a previous event and was significantly quieter. It should be noted that the amount of advertising undertaken to promote the event was considerably less than what would normally be expected. With greater promotion one would expect a larger crowd.

The development consent was for one event only. The applicant has been advised to submit another development application for future events. When such application is received it will be publicly advertised in accordance with Council's Public Notification DCP and reported to Council for determination.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 56 Oooo

ITEM: 57 **Rural Industries**

FILE NUMBER: LEP008/98, LEP006/98/EVD/ENA25NBX.V20

REPORT:

Council has made two resolutions concerning rural industries and their management. Firstly on 7 September 1999 Council resolved:

“... the issue of the application of rural industries generally across Council’s rural zones be referred to the preparation of the Draft LEP to implement the Hawkesbury Sustainable Agricultural Development Strategy”.

Secondly, at the meeting of 16 November 1999 when it was resolved that:

“Council readvertise that part of LEP6/98 which relates to rural industries and rural zones”.

LEP6/98 is the Exempt and Complying Local Environmental Plan which is currently on its way for gazettal. The Draft LEP to implement the Hawkesbury Sustainable Agricultural Development Strategy is currently with the Department of Urban Affairs and Planning obtaining a Certificate to allow its exhibition to take place.

The Land and Environment Court has now determined that rural industries are prohibited in the 1(b) zone, therefore, legal advice received by Council has been confirmed by the Courts. Currently, rural industries are only permissible in the 4(a) General Industry zone and 4(b) Industry Light Zone.

The two Council resolutions have led to a review of the position of rural industries and the distribution into appropriate locations. Rural industries are currently defined as being:

“handling, treating, processing or packing of primary products and includes the servicing in a workshop of plant or equipment used for rural purposes in the locality”.

Therefore, rural industries could include such items as repair of farm machinery, pine bark processing, fruit packing sheds, abattoirs, saw mills and mushroom substrate production. The recent amendments to State Environmental Planning Policy No.30 also means that composting of household waste or municipal waste is also a rural industry.

Many of these activities also fall within the provisions of the Environmental Planning and Assessment Act (Schedule 3) Regulations. This is a schedule of those industries which are considered to be designated development and requires the preparation of an Environmental Impact Statement. For example, composting facilities which process more than 5,000 tonnes per annum of organic materials and saw mills processing 40,000 cubic metres per annum of sawn timber, and located within 500 metres of a watercourse are designated development.

There may also be a perception that some land uses which are in fact defined as intensive agriculture are rural industries. Hawkesbury Local Environmental Plan 1989 deals with intensive agriculture and such items as poultry farms, feed lots, fish farming and piggeries are, in fact, intensive animal production. Intensive horticulture means hydroponics, artificial flower housing, crop protection structures, market gardening, orcharding and growing of field flowers. These are not rural industries and are currently permissible in the Council's rural areas with Council consent.

Options

There appears to be at least five options for the handling of the rural industries. These are as follows:

1. *Maintaining the Status Quo*

That means, only permitting rural industries to take place in industrial zones as the Court has now determined this is the current situation with Hawkesbury Local Environmental Plan 1989.

2. *Exempt and Complying LEP*

The Exempt and Complying LEP proposed (prior to Council resolution) that rural industries will be permissible within the 1(a), 1(b), 1(c), 1(c1) 7(d) and 7(d1) zones. This reflected the perceived position prior to receipt of the legal advice regarding rural industries in the 1(b) zone.

3. *Hawkesbury Sustainable Agriculture Development Strategy*

The Hawkesbury Sustainable Agriculture Development Strategy known as Draft LEP 8/98 introduces new rural zones and objectives for these zones and proposed that rural industries would be local development, that is requiring Council's consent, within the Mixed Agriculture, Environmental Protection Mixed Agriculture and the Environment Protection-Agriculture Protection zones. These largely equate with the current Rural 1(a) and 1(b) and the Environment Protection (Scenic) zones. This Draft LEP as prepared would not allow for rural industries to take place in the rural Rural Living zone which is now known as the 1(c) and 1(c1) zones.

4. *Establish a new definition*

Rural industries could be redefined based on their size and their location in different zones. Different terms would need to be used as the State Policy 30 would refer to any place where the words "rural industries" are used. The new definition could exclude items that are listed in Schedule 3 of the EPA Regulation, that is, designated development or the definition could be modified to exclude designated development as being rural industries.

5. *Locate by size and location*

Various types of rural industries could be located by size, into different zones. It should be noted that this distribution of different size rural industries could also be achieved by Development Control Plan once the broad outline of what are acceptable rural industries is defined by Council.

The purpose of the two previous resolutions of Council would appear to allow the public a period of time in which to voice an opinion over the location and type of rural industries that would be permissible in the zones affecting their land. It would seem that the most appropriate distribution of rural industries, per se, would be achieved by the Hawkesbury sustainable Agriculture Development Strategy LEP8/98. It would also be seen that rural industries which have become designated due to their size are the most likely ones to cause problems in the general rural areas of the Council and maybe these should be confined to the industrial zones.

This would affect, for instance, a composting facility. Composting facilities would be permissible within the zones outlined above but should they produce more than 5000 tonnes per annum or approximately 100 tonnes per week, they would be designated development and would be prohibited and only allowed to take place in the industrial zones. Similar restrictions would apply to other rural industries. If this process was adopted, the definition in the LEP would be altered to leave out those items that are designated under the Environmental Planning & Assessment Act. The full list of the Schedule associated with designated development should be published with the exhibition of the Draft Plan so that the public understands precisely what these limits are.

Advertising

The Council's two resolutions seem to have the effect of requiring greater public consultation on the size and distribution of rural industries and the most appropriate mechanism to achieve this would be to include this in the exhibition of the LEP associated with the agricultural development strategy being LEP8/98. Council has already resolved the exhibition of this plan is to take place for a three month period. This may provide the appropriate forum for the issues associated with rural industries to be discussed by the community.

The format of the exhibition and any associated public meetings or other seminars has not been finalised but will need to take place prior to the exhibition commencing. It is not clear yet when the Department will certify this plan for exhibition however it is anticipated that it will take place shortly. An exhibition of this size and importance will take some time to organise so it is unlikely to commence until March.

RECOMMENDATION:

That:

1. The proposed distribution of rural industries within Draft Local Environmental Plan 8/98 (Amendment 108) which seeks to implement the Hawkesbury Sustainable Agricultural Development Strategy be retained.

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2. The definition of “rural industry” be amended to exclude those industries which are designated development.
3. The Deferred item from Draft Amendment 6/98 (Amendment 110) where it relates to rural industries in its land use Matrix be amended to be consistent with LEP8/98.
4. The two Draft Local Environmental Plans be exhibited simultaneously and appropriate material be advertised to draw the public’s attention to the issues of rural industries that affects the Hawkesbury Valley.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 57 Oooo

ITEM: 58 **Hawkesbury Nepean Catchment Management Trust - Advocacy
Position on Extractive Industries**

FILE NUMBER: GT170/004Pt03//ENA25NBX.V05

REPORT:

On 6 October 1999 the Hawkesbury Nepean Catchment Management Trust adopted an advocacy position on extractive industries. This was conveyed to Council in December 1999. This position replaces the Hawkesbury Nepean Catchment Management Trust's policy on extraction of construction materials which was dated 4 March 1998.

The Advocacy position statement sets in general terms what the Trust believes should affect the operation of extractive industries. In general, these are that the government should offer long term strategy for the evaluation of sources of supply of extractive materials. This strategy should address the supply and environmental management of materials and should be reviewed every five years. The new government policy should also seek to replace Sydney Regional Environmental Plan No.9 - Extractive Industries.

The Trust goes on to advocate that extractive industries should meet minimal environmental standards and requirements and should require ongoing monitoring undertaken by both operators and regulators and, should existing extractive industries step outside acceptable guidelines, they should be appropriately controlled.

The Trust also advocates that only new proposals should apply where the quality of water discharge from the site does not compromise the achievement of environmental values for water recommended in the Healthy Rivers Commission Report. Operators should have in place environmental management systems prepared in accordance with international standards.

Finally, the Trust opposes extraction of bedload, that is, material from the bed of the river downstream from the major water catchment dams, as they believe that this is not sustainable and also as a general principle they oppose dredging for the sake of navigation purposes.

The Trust goes on to state that riverbank extraction as a general principle should not be supported and no new development approval should be issued for riverbank extraction. The Trust seeks Council's cooperation in changing their local environmental plans to achieve these positions.

The Trust has come to these conclusions based on the recognition that extractive resources are non renewable, that there is significant scientific evidence that the river processes are being damaged by extraction, loss of remnant riparian vegetation has been significant as a result of riverbank extraction, and extractive industries have a major potential for environmental impact.

This would appear to be the first of these position statements adopted by the Trust and the Trust looks forward to working with Council to ensure extractive industries are permitted or continue to operate if they are consistent with the vision of a healthy diverse productive river system. Copies of the Trust's documents have already been forwarded to the operators of extractive industries within the Council area.

RECOMMENDATION:

The information be noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 58 Oooo

ITEM: 59 **Wilberforce Abattoir - Lot 1 DP 741444 No. 47 King Road, Wilberforce**

FILE NUMBER: P1102/560Pt08//ENA25NBX.V04

PREVIOUS ITEM: 2, GPC Section 1 - Environment (27.07.1999)

PREVIOUS ITEM: 94, Ordinary (16.11.1999)

PREVIOUS ITEM: 115, Ordinary (14.12.1999)

REPORT:

This matter was last reported to Council at its Ordinary meeting on 14 December 1999 where Council agreed to draft consent Orders and to allow residents to be given the opportunity to address the Court.

Council's Solicitors have responded that the Court did, in fact, issue the consent Orders as adopted by Council on 23 December 1999. Before they were adopted, however, the Solicitors attended before the Court on 21 December 1999 as the Court had received requests from a Barrister, on behalf of Mr & Mrs Moore, and a Notice of Motion from Mr Neville Diamond. They both sought leave to be heard in respect of the Orders. The Registrar referred the matter to the Duty Judge for hearing on 22 December 1999.

Having regard to Council's resolution that the residents be given the opportunity to address the Court, Council's Solicitors sought instructions from Council's staff as a result of the motions filed on behalf of Mr & Mrs Moore and Mr Diamond. They were instructed that, as Mr & Mrs Moore are clearly residents, they should neither oppose nor consent to them joining proceedings and leave the matter for the Court to determine. In the case of Mr Diamond, however, his service address was stated as 110 Kissing Point Road, Turramurra. Given the fact that he did not appear to be a resident within the terms of Council's meaning, they were instructed to oppose the application by him.

The matter was heard before the Duty Judge on 23 December 1999. Submissions were made on behalf of Mr & Mrs Moore, by Mr Diamond, by the Barrister appearing on behalf of the abattoir, and Council's Solicitors. The Duty Judge refused to grant leave to appeal to either Mr & Mrs Moore or Mr Diamond. The Barrister for the abattoir then sought cost orders against Mr & Mrs Moore and Mr Diamond and they were granted by the Judge. In terms of Council's resolution, Council's Solicitors sought costs against Mr Diamond only and, again, these were granted. The Judge then referred the matter to the Registrar who made the consent Orders on 23 December 1999.

Council's Solicitors have advised that the Orders for cost against Mr Diamond could be in the vicinity of \$1,000.

The operators of the abattoir have been contacted regarding the Court Orders and particularly the return dates of various information required by conditions of the Orders. The Director of the Environment Protection Authority has also been contacted to inform him that the Court Orders have been granted. It was also requested that the Authority issue Council with a copy of the current licence to operate the effluent disposal process and any monitoring information they have concerning the operation of this process.

When the matter was reported to Council on 14 December 1999, an error was made in the last paragraph on page 15, Section 4. The information should read as follows:-

“The 2,300 weekly slaughter limit was based on information previously provided by the abattoir in the context of Development Application No.236/90. This information was received however after that development application was refused on 18 April 1990. The letter from the operators was in response to Council correspondence of August 1990 and is dated 31 August 1990. Development Consent No.191/91 approved alterations and additions to legitimise unauthorised extensions to the killing room floor.”

The effect of the Court Order is that there are measurable conditions of consent regarding the operation of the abattoirs. These include the amount of noise that can be generated, the maximum number of animals that can be killed in a given four week period, and the amount of effluent that can be disposed of. If any of these parameters are exceeded, the abattoir will not be operating in accordance with these Orders. Failure to comply with Orders of the Court can be viewed as being in contempt of Court.

RECOMMENDATION:

That the information be noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 59 Oooo

ITEM: 60 **Lot 25 DP742749 Corner North and Palmer Streets, Windsor**

FILE NUMBER: P1409/10/EVD/ENA25NBX.V07

REPORT:

Introduction

At the Ordinary meeting of 14 December, 1999, Council resolved:

"That:

- 1. A stop work order for all building works be placed on No. 17 North Street.*
- 2. The owner be advised that Council intends to consider a report on the matter at its General Purpose Committee in January. Further that the owner be invited to attend to address the meeting and provide any evidence he has of the original approval and therefore the basis that the building works are proceeding."*

Background

A building approval was issued in 1973 for a dwelling on the subject property. A subsequent development application for a different dwelling was refused by Council in 1996.

Work commenced on the original building approval and concrete footings were placed in the ground, however no further work has taken place since.

The owner of the property recently submitted a set of plans for a dwelling which relates to the footings which have already been constructed. A search of Council's files revealed that no records exist within Council to confirm the exact detail of the approved plans, however approval registers and prior reports to Council confirm that an approval was indeed issued.

In the absence of any Council record of plans, the recent plans submitted by the applicant with a statutory declaration to the effect that the plans are as close as possible to the original design, were formally recognised by Council staff.

Council's resolution of 14 December, 1999 followed representations received from an adjoining owner concerning the matter.

Current Situation

A letter was received on 17 January, 2000, from the owner, Mr James, which states as follows:

"I cannot foresee commencement of work in the near future so I would only be too happy to submit another building application for Council's requirements."

When received, the development application will be notified in accordance with Council's development control plan and reported to Council for determination.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 60 Oooo

ITEM: 61 Proposed Amendments to Telecommunications Facilities Development Control Plan**FILE NUMBER:** GT001/007 PT01/EVD/ENA25NBX.V10**REPORT:****Background**

On 16 November 1999 Council considered an application for a mobile phone base station at 171 Old Stock Route Road, Oakville. The proposed base station generated a number of concerns from surrounding land owners. Two main concerns were the proximity of the base station to surrounding residences and school, and the possible health effects of electromagnetic energy.

Council resolved that the matter be deferred until Council revise the present development control plan (DCP) regarding telecommunications facilities.

Telecommunications Facilities Development Control Plan

Council's DCP for Telecommunications Facilities came into effect on 11 November 1997.

The objectives of the DCP are:

- (i) *to provide guidelines for assessment of proposals for telecommunication facilities;*
- (ii) *to ensure that the location and siting of telecommunication facilities does not adversely affect the environment; and*
- (iii) *to require development consent for development of telecommunication facilities other than 'low-impact' facilities or works, in accordance with the Telecommunications (Low-impact Facilities) Determination 1997.*

Specific performance criteria in the DCP relating to the location of facilities near residences and schools are:

- (i) *proposals for telecommunication 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;*
- (ii) *proposals for towers, greater than 5m in height shall in the first instance be encouraged to locate in commercial/industrial zones and/or premises used for commercial premises;*

...

- (iv) *proposals for towers in rural zones should avoid locations in close proximity from any residence;*

The DCP is attached.

Permissibility of Mobile Phone Base Stations under HLEP 1989

Hawkesbury Local Environmental Plan 1989 (HLEP 1989) does not contain a specific definition for “mobile phone base stations” or “telecommunication facilities”. Council’s Solicitors have advised that under the present structure of HLEP 1989 “telecommunication facilities”, including mobile phone base stations, may be considered to be an innominate use, ie an undefined use, and permissible in any zone.

Under Draft HLEP 1989 - Amendment No. 110 a mobile phone base station would fall within the definition of a “public utility undertaking”. Draft Amendment No. 110 proposes to make “public utility undertaking” development that may be carried out without consent in all zones except for Special Uses 5(b) and Environmental Protection (Consolidated Holdings) 7(e). In the 5(b) zone consent would be required, the 7(e) the proposed activity would be prohibited.

Emission of Electromagnetic Energy

Electromagnetic energy (EME) is the energy stored in an electromagnetic field. EME is emitted by natural sources like the Sun and the Earth as well as man-made sources such as mobile phone towers, broadcast towers, radar facilities, electrical and electronic equipment. The term EME incorporates electromagnetic radiation, radiofrequency fields and radiofrequency radiation.

EME emission levels must comply with Australian Standard AS2772.1. The standard requires the aggregate of the EME coming from all antennas on a single tower, or groups of towers, to comply with a maximum exposure limit of 200 micro watts per square centimetre (uw/cm²).

The exposure limit is derived from scientific research that indicates EME starts to cause heating, known as a thermal effect, of biological cells at a level of 10,000 micro watts per square centimetre. Therefore, the Australian standard is one fiftieth of the minimum exposure level that creates a thermal effect.

The Commonwealth Government’s position is that there is no substantiated evidence to suggest that living near a mobile phone tower causes adverse health effects. The Government’s position is based on a comprehensive review of substantiated scientific evidence from Australia and overseas.

The Department of Communications and the Arts states that:

The compliance of the mobile phone companies with the standard is regarded by the Government as a prudent and cautious approach to ensure that the community is not adversely affected by, but benefits from, developments in communications. In the absence of any substantiated adverse health effects there is no reason to deny mobile phone technology to the ever increasing number of people who want access for personal, safety, and business use.

Source: *What is electromagnetic energy and what are its effects?*, Department of Communications and Arts, February 1997.

Forecast EME emissions from existing towers in Glossodia, Oakville, Clarendon, South Windsor, Vineyard and Maraylya when measured 5m from the base of the tower are less than 0.2uw/cm², ie less than 0.1% of the allowed standard. As the distance from the base station increases the emission exposure rate generally decreases, however in some cases exposure can increase due to factors such as antennae direction, topography, buildings and trees. If this does occur the distance for which emission exposure rates increase is generally confined to a few hundred metres.

It should be noted that various reports on overseas research have been quoted in the media over recent years. However there has been no change to the Australian Standard as a result of debate.

Locational Criteria adopted by other Councils

A number of Councils have adopted locational criteria for mobile phone base stations which are a function of emission rates and distance from surrounding residences. Examples from Baulkham Hills Shire Council, Manly Council and Blacktown Council are provided below:

Baulkham Hills Shire Council

Zone/Use	Location Criteria
Residential Zones	Prohibited
Land Adjacent to a residential zone	300 metres from any residence, or residential land unless annual average exposure at nearest residence is less than 0.20 +/- 0.02uw/cm ²
Business / Industrial Zones	300 metres from any residence, or residential land unless annual average exposure at nearest residence is less than 0.20 +/- 0.02uw/cm ²
Sensitive Land Uses	300 metres from any residence unless annual average exposure at nearest residence is less than 0.20 +/- 0.02uw/cm ²
Rural Zones	300 metres from any school, childcare, hospital, aged care centre, church or youth centre and annual average exposure less than 0.20 +/- 0.02uw/cm ²
Bushland/Wetland/ National Park/National Reserves & State Recreation Areas	Only with consideration of environmental procedures to minimise impact during construction, maintenance and operation and the submission of an acceptable workplan.

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Zone	Requirement
Residential Business Industrial Special Use	Not within 300 metres from any residential dwelling unless annual average exposure at any residential dwelling is less than 0.2uw/cm ² Not within 300 metres from any preschool, day care centre, hospital or aged care centre
Open Space National Park	Not within 300 metres from any residential dwelling unless annual average exposure at any residential dwelling is less than 0.2uw/cm ² Only with an approved work plan that addresses potential environmental impacts and measures intended to be undertaken to mitigate against any adverse impact.

Blacktown City Council

Zone/Use	Location Criteria
Industrial / Business	300 metres from any residence unless annual average exposure at nearest residence is less than 0.20 +/- 0.02 uw/cm ²
Dwelling/Residential Land/ Sensitive Land Uses	300 metres from any dwelling, residential land, school, child care centre, hospital or aged care accommodation unless annual average exposure at any of these is less than 0.02 +/- 0.02 uw/cm ² Wherever possible Council prefers the distance separation requirement to apply in these zones
Rural	300 metres from any residence unless annual average exposure at nearest residence is less than 0.20 +/- 0.02 uw/cm ²
Open Space / Corridor Lands/ Drainage Reserves	Considered on merits having regard to the above standards and only with consideration of environmental procedures to minimise impacts during construction, maintenance and operation and the submission of an acceptable workplan.

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Zone/Use	Location Criteria
Other	Considered on merits having regard to the above standards.

Discussion

Of the above tables not all zones are relevant to the Hawkesbury and not all location criteria can be similarly applied.

HLEP 1989 divides the City into a number of zones. These can be broadly categorised as Rural, Residential, Business, Industrial, Special Uses, Open Space, Environment Protection, Nature Reserves and Proposed Road.

Primary objections to mobile phone base stations are generally the visual impact and proximity of the facilities to surrounding residences and the possible health effects of EME.

Applying the criteria of "300 metres from any residential dwelling unless annual average exposure at any residential dwelling is less than 0.20 uw/cm²" would provide adjoining property owners/occupiers with certainty that emissions from a mobile phone base station are below 0.2 uw/cm² (ie 0.1% of the allowed standard). If the emission rate could not be achieved then the tower would have to be relocated further away from surrounding residences thus reducing the visual impact of the tower on surrounding residences.

It is considered reasonable that this criteria be adopted for all new base stations on land zoned Rural, Residential, Special Uses, Open Space, Environment Protection, Nature Reserves Proposed Road and land immediately adjacent to these zones. It is recommended that this criteria not be applied to proposals for co-location on existing towers or for proposals requiring the erection on antennae of existing buildings, structures, water towers etc.

Applying the above criteria to land zoned Business or Industrial could, if the emission rate could not be achieved, have the effect of severely restricting the possibilities of locating such facilities in these zones. The reason being is because there is a residence or the potential for a residence within 300m of almost every property in the City which is zoned either Business or Industrial. Applying the above criteria would be contrary to performance criteria (ii) of the DCP which aims to concentrate towers in the Business and Industrial zones.

Conclusion

It is recommended that the Telecommunications Facilities DCP be amended by inserting the following table into Section 3 of the DCP:

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Zone	Locational Criteria
<i>Any land zoned Rural, Residential, Special Uses, Open Space, Environment Protection, Nature Reserve, Proposed Road under Hawkesbury Local Environmental Plan 1989 and land immediately adjacent to these zones</i>	<i>300 metres from any residential dwelling unless annual average exposure at any residential dwelling is less than 0.2uw/cm2.</i>

The above table does not apply to proposals for co-location on existing structures or for proposals involving the attachment of antennae to existing buildings, structures, water towers etc.

The proposed changes to the Telecommunications Facilities DCP will provide clearer guidelines on suitable locations and emission rates for proponents of mobile phone base stations as well as land owners/occupiers within the City.

However, under HLEP 1989 - Amendment No. 110 a mobile phone base station would fall within the definition of a “public utility undertaking”. When this plan is gazetted development consent would not be required for mobile phone base stations in all zones, except for 5(b) where development consent would be required and 7(e) where the activity would be prohibited. At present this draft plan is being processed, its likely date of gazettal is unknown.

Two options are available to control the installation of these facilities after the gazettal of draft Amendment No. 110. The first option is to make a further amendment to HLEP 1989 by amending the definition of a “public utility undertaking” and classifying “mobile phone base stations” as exempt or complying development subject to certain criteria being met or development requiring consent. The second option would be to repeal the Telecommunications Facilities DCP and adopt a modified version of the DCP as Council guidelines. These guidelines would then be forwarded to telecommunication carriers for them to consider when assessing a proposed facilities. Manly Council and Baulkham Hills Shire Council both have policies for mobile phone base station rather than development control plans. Modifying the DCP to make the document suitable for guidelines would require rewording the section 1 and 4 and deleting the sections 2 (iii), 5, 6 and 7.

Telecommunication carriers are required to comply with development and environmental controls contained within the Telecommunications Act 1997 and Telecommunications Code of Practice 1997, which is Commonwealth legislation. In many respects these controls are similar to the matters for consideration contained within Section 79(C) of the Environmental Planning and Assessment Act 1979 and Council’s Telecommunications Facilities DCP. Hence Council’s assessment is somewhat a duplication of assessments already carried out by the proponent. In light of this it is considered Council’s development assessment resources should be directed to other types of development and the proposed draft Amendment No.110 with respect to “public utility undertakings” should not be abandoned.

It is therefore recommended that upon gazettal of HLEP 1989 - Amendment No. 110 this matter be further reported to Council with the aim of repealing the DCP and adopting policy guidelines for telecommunication facilities.

RECOMMENDATION:

That:

1. The proposed locational criteria amendment to the Telecommunications Facilities DCP be publicly exhibited in accordance with the Environmental Planning and Assessment Regulation 1994 for a period of not less than 28 days.
2. Following the exhibition period the matter be reported to Council.
3. Following the gazettal of HLEP 1989 - Amendment No. 110 the matter be further reported to Council for the purposes of repealing the Telecommunications Facilities DCP and adopting a modified version of the DCP as policy guidelines.

ATTACHMENTS:

AT-1 Telecommunications Facilities Development Control Plan

H a w k e s b u r y C i t y C o u n c i l**TELECOMMUNICATIONS
FACILITIES DEVELOPMENT
CONTROL PLAN**

George Street (PO Box 146)
Windsor NSW 2756
Phone: (045) 60 4444
Facsimile: (045) 60 4400
DX: 8601 Windsor

1. INTRODUCTION

This Policy is designed to provide a formalised approach to assessing proposals for the location and siting of telecommunications facilities.

Since the introduction of the Telecommunications Act 1997, Council is able to require development and building approval for development and works for telecommunication facilities.

For any proposed development for telecommunication facilities the proponent is to consider the required matters for consideration under this Policy in addition to the statutory matters under the Environmental Planning and Assessment Act and Local Government Act.

2. OBJECTIVES

The specific objectives of this Policy are:-

- (i) to provide guidelines for assessment of proposals for telecommunication facilities;
- (ii) to ensure that the location and siting of telecommunication facilities does not adversely affect the environment; and
- (iii) to require development consent for development of telecommunication facilities other than 'low-impact' facilities or works, in accordance with the Telecommunications (Low-impact Facilities) Determination 1997.

3. PERFORMANCE CRITERIA

To maintain the residential, rural and scenic significance of the area, while permitting telecommunication facilities to be developed, the following criteria need to be considered:-

- (i) proposals for telecommunication 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;
- (ii) proposals for towers, greater than 5m in height shall in the first instance be encouraged to locate in commercial/industrial zones and/or premises used for commercial premises;

- (iii) proposals for towers should consider and provide evidence of investigation into co-locating with other carriers, wherever possible;
- (iv) proposals for towers in rural zones should avoid locations in close proximity from any residence;
- (v) proposals for towers and/or other telecommunication works should avoid environmentally sensitive lands. Such environmentally sensitive lands would include wetlands, creeks and protected habitats of endangered flora and fauna;
- (vi) proposals for towers should have regard to environmental sensitive areas and should be located to have minimal visual impact wherever possible;
- (vii) proposals for aerial cabling will only be considered where there is existing aboveground cables or wires within the same street or locality. Where underground services are provided every effort should be made for the provision of underground telecommunication facilities; and
- (viii) any proposal for a tower needs to justify the location in terms of the servicing areas.

4. MATTERS FOR CONSIDERATION

The following matters are those specifically for telecommunication facilities and works and the proponent shall also have regard to the matters under the Environmental Planning and Assessment Act and associated legislation.

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

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

- any submissions received from the public.

5. PUBLIC NOTIFICATION

With any application for development other than low-impact facilities or works, Council will give public notification including advertisements as well as notice to adjoining and adjacent property owners. In accordance with Council's adopted notification Policy.

Such notice will be for a period of 14 (fourteen) days from the date the notice appears in the local newspaper. For towers, a Public Notice will be displayed in the local newspaper circulating in the area.

As a result of public submissions the applicant may be required to consider alternative proposals for the facility or works. The applicant will be requested to consider the submissions received by Council and any submission may be made public for information purposes.

6. APPLICATION FEES

In accordance with the adopted fees and charges by Council the development application fee will be based on the cost of development.

An advertising fee of \$70 is required for notifications to adjoining and adjacent property owners concerning development proposals.

Should the telecommunication facility or work be high impact development, ie. a new tower, the development proposal will be advertised in the local newspaper and a \$200 fee for this service is required.

7. COMING INTO EFFECT

This "Hawkesbury City Council Telecommunication Facilities Development Control Plan" comes into effect on 19 November, 1997 following adoption by Council on 11 November 1997.

oooO END OF ITEM 61 Oooo

ITEM: 62 **The Care and Management of Dogs and Cats in NSW Pounds**

FILE NUMBER: GE020/002/EVD/ENA25NBX.V17

REPORT:

A Department of Local Government Circular titled the "*Companion Animals Act; Working Draft July 99- The Care and Management of Dogs and Cats in NSW Pounds*" dated the 5 August 1999 was circulated to all NSW Councils. The Code has been prepared by the Pounds Sub-Committee of the Companion Animals Advisory Board.

The Draft has been released for comment until 1 February 2000. Once the final document has been completed a recommendation will then be made to the Minister to have the Code of Practice formally adopted.

The Code's objective is '*to ensure that all such animals are treated in a way which maintains their comfort, security and well being at all times, and minimise the stress these animals experience in an unfamiliar environment*'.

The aim of the Code is to secure public confidence in pounds, so they are seen in a positive light, and promoting responsible animal ownership.

The following is a list of issues addressed in the Code:

- Animal housing;
- Management;
- Hygiene;
- Care of animals;
- Collection and transport;
- Record keeping; and
- Release and adoption.

Council staff are compiling a response to the Department of Local Government

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 62 Oooo

ITEM: 63 **Rural Production and Water Sharing Package (Farm Dams and Volumetric Conversion Policy)**

FILE NUMBER: DCP001/96//ENA25NBX.V15

PREVIOUS ITEM: 99, Ordinary (14.12.1999)

REPORT:

In considering a report on this matter, Council at the Ordinary meeting of Council on 14 December 1999 resolved that:

“... Mr David Mason from the Department of Agriculture be invited to address the General Purpose Committee on 25 January 2000 to discuss the effect of the policy on the Hawkesbury district and its farmers.”

Mr Mason has accepted the invitation and will address the meeting.

RECOMMENDATION:

The information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 63 Oooo

ITEM: 64 Charges for Micro Chipping of Cats and Dogs at Hawkesbury City Dog Pound**FILE NUMBER:** GE020/002/EVD/ENA25NBX.V03

REPORT:

The introduction of the Companion Animals legislation has caused the need for micro chipping of cats and dogs for life time registration to arise. The insertion of the micro chip is required to be carried out by an authorised identifier or by others under the supervision of a veterinary surgeon. One of the three dog controllers is an authorised identifier and is now eligible to insert the micro chips unsupervised.

As it is a requirement under the new legislation that impounded animals be micro chipped and registered before they are released, the need to have staff attend the appropriate TAFE course and be able to provide this service at the pound is imperative.

A survey of veterinarians in our area revealed that they are charging between \$25 and \$50 for each insertion. It is suggested that Council apply a fee of \$25 per insertion, which would become part of the fees and charges under the Management Plan.

The service can then be used by members of the public to have their animals micro chipped, or they can choose to use a local veterinarian instead, excluding a situation where the animal has been impounded. In this instance, the insertion would be carried out by the Dog Controller as part of the release procedure.

RECOMMENDATION:

That:

1. Council ensure all dog controllers are trained as authorised identifiers of companion animals.
2. A fee of \$25 (twenty five dollars) be adopted for the insertion of micro chips into animals by Council's Dog Controllers.
3. The procedures for setting a fee of Council, including public exhibition, be followed and implemented.
4. Should no submissions be received at the end of the public exhibition period, the fee will be included in the list of Council fees and charges under the Management Plan.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 64 Oooo

ITEM: 65 **Outcome of Appeal against refusal to grant consent to extension of trading hours for North Richmond Hotel**

FILE NUMBER: M170/98/EVD/ENA25NBX.V14

PREVIOUS ITEM: 24, GPC Section 1 - Environment (29.09.1998)

REPORT:

Introduction

A development application for extension of trading hours from 12 midnight to 2.00am on Fridays and Saturdays was refused by Council in October 1998. The applicant lodged an appeal which was heard by the Land and Environment Court on 12-14 January, 2000.

The purpose of this report is to advise of the outcome.

Background

At the Ordinary meeting on 13 October, 1998 Council resolved:

"That the proposed extensions to trading hours be refused for the following reasons:

1. *The proposal will have a detrimental impact on the adjoining residential area as a result of noise.*
2. *The proposal will have a negative impact on the residential amenity of the area.*
3. *The proposal is not in the public interest."*

Following lodgement of the appeal, solicitors Abbott Tout were instructed to act for Council in defending the appeal. Falson and Associates were engaged to provide expert town planning evidence, and Mr Barry Murray, Acoustic Consultant, was also engaged.

Hearing

The matter was heard by Commissioner Hussey in the Land and Environment Court on 12-14 January, 2000. The appeal was upheld in favour of the applicant subject to the following conditions:

"The following measures will be implemented for trading from 12.00 midnight to 2.00am on Saturday and Sunday mornings:

1. *All doors and windows facing the residential areas to the south will be closed after 10.00pm. There shall be only one exit door accessible to Pitt Lane to the west after 10.00pm*

2. (i) *The construction of a 1.8 metre high masonry wall 250mm thick across the carpark as indicated in the plan annexed hereto and marked "A".*
- (ii) *The provision of a gate with sound transmission rating (STC) equal to a 250mm thick masonry wall between the wall referred to in the preceding condition and the patio as indicated in the plan annexed hereto and marked "A".*

This gate of opaque material shall be erected 1.8 metres high between the western end of the masonry fence and the eastern building alignment of the hotel building so that it might be manually opened and closed to restrict pedestrian and vehicular access to that area of the car park hatched on the attached plan after 10.00pm. Such work shall be completed in accordance with detailed plans approved by Council, prior to the extended hours of operation coming into effect.

3. *The movement of cars and people through the carpark will be restricted in the area hatched on the plan annexed hereto after 10.00pm.*
4. *A chain shall be provided across the entrance from Pitt Lane so that that entrance shall be closed at 10.00pm.*
5. *Patrons entering the Hotel after 10.00pm will be required to enter via the doors fronting onto Bells Line of Road and Pitt Lane. Exiting the hotel after 10.00pm shall be via the doors on Bells Line of Road and Pitt Lane.*
6. *Garbage collections and truck deliveries will not occur during the period between 8.00pm and 7.00am Monday to Saturday, and 8.00pm and 9.00am on Sundays and Public Holidays.*
7. *The following management controls will be utilised to manage patron departure particularly at night to ensure that patrons leave the carpark in a prompt and orderly manner:*
 - (a) *at the time of booking for any function, a notice shall be provided to the effect that the carpark in the area hatched on the plan attached will be closed at 10.00pm on Fridays and Saturdays;*
 - (b) *notices shall be displayed in the hotel bars and function rooms to the effect that the said gates shall be closed at 10.00pm on Fridays and Saturdays;*
 - (c) *an announcement shall be made in the hotel and function rooms at 9.45pm on Fridays and Saturdays that that section of the car park shall close at 10.00pm.*
 - (d) *the gate and the chain shall be manually operated to shut off access to that section of the car park at 10.00pm on Fridays and Saturdays.*

8. *Prominent notices will be placed to remind patrons that a minimum amount of noise is to be generated when leaving the premises.*
9. *All doors to the North Richmond Hotel are to be designed so that entry to the hotel is not possible after 12.00pm.*
10. *After 12.00pm, only patrons who were in the hotel prior to 12.00pm are to be served. No patrons will be permitted entry to the hotel after 12.00pm. any advertising is to clearly indicate this restriction.*
11. *The ground floor TAB and lounge will be closed at 11.00pm.*
12. *Playing of amplified music between 12 midnight and 2.00am on Friday and Saturday evenings will be restricted to the ground floor public bar, and the lounge and function rooms on the first floor orientated towards Bells Line of Road. All other sound systems will be disconnected at 12 midnight.*
13. *Management shall use its best endeavours to ensure that patron departure from the carpark is prompt and orderly.*
14. *Prominent notices will be placed to remind patrons to minimise generation of noise when leaving the premises, particularly at night, so as not to detrimentally impact on surrounding residences.*
15. *Noise levels when measured at the facade of dwellings on the south western boundary of the property shall not exceed 53 dB(A).*

Council's solicitors have advised that Council may have grounds to appeal the Court's decision. Accordingly they have been requested to provide an opinion as to the prospects of success of an appeal. The matter will be further reported when that advice is received.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 65 Oooo