



**general
purpose
committee**

**1
section**

environment

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ENVIRONMENT

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ITEM: 92 **Proposed Rodeo, tourmaline Hotel/Motel - 711-725 Windsor Road, Vineyard**

FILE NUMBER: M 151/00/EVD/ENC28NAX.V15

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

PREVIOUS ITEM: 56, GPC Section 1 - Environment (25.01.2000)

Applicant: Mr Craig Harmer
Applicants Rep: Mr Craig Harmer
Owner: Newbit Pty Ltd & Bittini Pty Ltd
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 State Environmental Planning Policy No. 11
Area: 7.708 hectares
Zone: Rural 1(c)
Advertising: Surrounding owners/occupiers notified
Date Received: 8 February 2000

Key Issues: - Traffic
 - Noise
 - Behaviour of Patrons
 - Keeping of animals
 - Previous events
 - On-going monitoring

Action: Approval

REPORT:

Introduction

The applicant seeks approval to conduct four (4) rodeos per annum at the Tourmaline Hotel -Motel, 711-725 Windsor Road, Vineyard.

This matter is being reported to Council due to the number of objections received in relation to the application. This report will detail the background to the proposal, the current statutory situation and provide an assessment of the application in accordance with Section 79C (1) of the Environmental Planning and Assessment Act 1979.

Background

In November 1998 a rodeo was conducted without Council approval at the Tourmaline Hotel - Motel. The Director of the hotel was informed by Council officers that development consent was required to conduct a rodeo on the premises.

In August 1999 Council received a development application to conduct four rodeos per annum at the hotel. Three (3) letters of objection were received. On 22 November 1999 Council granted approval for one rodeo only. This rodeo was held on 5 December 1999 and was reported to Council on 25 January 2000. Compliance with conditions of consent for this rodeo was satisfactory.

The Proposal

The applicant proposes to stage four rodeos per annum at the Tourmaline Hotel - Motel.

Three events are proposed to be conducted during Spring/Summer, one event is proposed to be conducted during Winter. Spring/Summer events are to be held on Saturday nights between 7.00pm and 9.30pm. The Winter event is to be held on Sunday between 12.00pm and 3.00pm.

The applicant anticipates that 400 - 700 spectators would attend an event, with half of these likely to be family groups. The applicant expects that almost all spectators will arrive within an hour of the start of the rodeo and 50% will leave within an hour of the rodeo's finish. It is anticipated that the remaining 50% will go the hotel and leave later.

An arena (approx 30m in diameter) with an associated holding yard is to be located behind the existing motel building. Three main parking areas have been nominated; viz, the sealed parking areas surrounding the hotel, the sealed parking area surrounding the motel, and an open paddock north of the hotel/motel. Portable toilets and food and drink stalls are to be located within the vicinity of the arena.

Statutory Position

Provisions of Hawkesbury Local Environmental Plan 1989

The property is zoned Rural 1(c) under Hawkesbury Local Environmental Plan 1989 (HLEP 1989). The proposed use falls within the definition of a "recreational area". HLEP 1989 defines an "recreational area" as, inter alia:

...

(b) *an area used for sporting activities or sporting facilities;*

...

but does not include racecourses and showgrounds.

"Recreational areas" are permissible within the Rural 1(c) zone.

Relevant provision of HELP 1989 are:

Clause 9 Zone Objectives and development control table

- (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 objectives of the Rural 1(c) zone are:

- (a) *to primarily provide for a rural residential living style; and*
- (b) *to prevent the establishment of traffic generating development along main and aerial roads.*

It is considered that the proposed activity is not inconsistent with the objectives of the zone.

Clause 18 Provision of Water, sewerage etc, services

Sufficient and satisfactory services for the purposes of water, sewerage, drainage and electricity are proposed.

Clause 22 Development fronting a main or arterial road

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

The relevant provisions of Clause 22 are:

- 22. (1) *In determining any application for consent to carry out development in any zone where the land has frontage to a main or arterial road, the Council shall have regard, in addition to the matters specified in section 79C(1) of the Act, to the following principles:*
 - (a) *Development should be of a type compatible with the maintenance and enhancement, as far as practicable, of the existing scenic character of the locality.*
 - (b) *Development should not generate significant additional traffic or create or increase ribbon development directly along a main or arterial road, relative to the capacity and safety of the road.*

...

These matters are discussed later.

Draft Local Environmental Plan Amendment No. 110 - Exempt and Complying Development

Under this draft plan the proposed activity would be defined as a “recreation area” and would be permissible subject to Council consent.

State Environmental Planning Policy No. 11 Traffic Generating Development

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

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

The RTA's has not raised an objection to the proposed activity in principle and has provided Council with recommended conditions of consent.

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

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

The aim of SREP No. 20 is to protect the environment of the Hawkesbury - Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. SREP No. 20 contains general and specific matters for considerations, specific planning policies and recommended strategies which are to be considered in the assessment of a development application. The relevant specific planning policies and recommended strategies relate to total catchment management, water quality, water quantity and flora and fauna.

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

Community Consultation

Surrounding property owners and occupiers were notified of the development application. Two (2) letters of objections were received.

A summary of the concerns raised in the letters of objection is provided below:

- how will Council monitor the proposed events to ensure compliance with conditions of consent are being adhered to. If they are not adhered to what will be done?;
- the event held on 5 December 1999 was not a true test as it was substantially smaller and quieter than the unauthorised event held in November 1998;
- anticipated crowd numbers have been understated;
- concern that more than four events per year will be conducted or that the applicant will make further application for more events;

- there is no need to conduct rodeos at the hotel because a purpose built venue is nearby and available;
- the site is not suitable due to its proximity to Killarney Chain of Ponds and Windsor Road;
- the November 1998 rodeo was heavily attended and resulted in noisy and unruly behaviour well into the early hours of the next morning;
- the hotel's parking facilities could not cope with the number of patrons attracted to the November 1998 event and as a result vehicles were parked on both sides of Boundary Road and Commercial Road making it difficult for vehicles to pass. Many vehicles were left parked over property entrances;
- concerned about the keeping of animals on the property and the potential for rodeo horses to enter adjoining properties. Also concerned about cruelty to animals during the rodeo;
- concerned about litter/garbage left along road verges and property fences;
- potential for litter and pollution to enter the nearby Killarney Chain of Ponds and down stream on MacKenzie's Creek;
- the proposal conflicts with the objectives of the Rural 1(c) zone;
- loss of privacy;
- finishing time of 9.30pm will require outdoor lighting which will cause nuisance to surrounding residents;
- noise of events will disturb surrounding residents and be inconsistent with the objective of the zone to provide for a rural - residential living style; and,
- concerned about proximity of arena to surrounding residences and culvert draining into the Killarney Chain of Ponds.
- concerned about that the amount of traffic to be generated has been underestimated and that the extra traffic will create delays on Windsor Road. Appearance of cars parking in the paddocks is inconsistent with the rural residential living character of the area.

Planning Assessment

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

Context and Setting (issue raised by objector)

The site is flat, irregular in shape and has frontages to Windsor and Boundary Roads, a northern boundary with Killarney Chain of Ponds, and a western boundary with the Vineyard Veterinary Hospital.

The front portion of the site near Windsor Road presently consists of a hotel, two motel buildings, bottle shop, and associated parking areas and outbuildings. The remainder of the property consists of paddocks which are used for agistment, dams and waste water treatment and irrigation.

In addition to the Vineyard Veterinary Hospital, surrounding land uses include two petrol stations, a disused tractor sales and repair establishment, rural residential properties, firewood storage, golf driving range. Hence, whilst the general locality is zoned for a rural residential lifestyle/character, the immediately surrounding area has the character of a rural business area and not a traditional rural - residential living area.

The proposed additional structures required for the event include the arena and holding yards, food stalls, and port-a-loos. No grandstand seating is proposed. These structures are to be temporary installations which will not detract from the scenic quality of the landscape or character of the area.

Special events such a rodeos, car shows, outdoor concert are activities which are ancillary to many hotels. The proposed rodeo and associated structures/car parking area is not out of context with the existing use of the hotel or the surrounding land uses.

Hours of Operation / Event Times (issue raised by objector)

The hotel's hours of operation for Saturday and Sunday are 10.00am to 3.00am (Saturday) and 11.00am - 10.00pm (Sunday). The Hotel currently has a "Place of Public Entertainment" licence for up to 400 people.

The Spring/Summer events are to be held on Saturday nights between 7.00pm and 9.30pm. The Winter event is to be held on Sunday between 12.00pm and 3.00pm.

Spring/summer events have been programed at a later time to take advantage of daylight savings time. The later finishing time may require the provision of outdoor lighting. Concerns about lighting affecting the amenity of surrounding residences can be addressed by suitable conditions of consent relating to the location and direction of the light source and spillage of light.

The proposed event times are considered satisfactory given the limited number of events per annum and the existing hours of operation of the hotel.

Proximity to Surrounding Neighbours (*issue raised by objector*)

The closest residential property to the arena is approximately 100m to the west. This property contains 2 dwellings. A small proportion of the closest residence can be seen from the arena area, the remainder of the house is obscured by boarding kennels. The second dwelling cannot be seen from the arena area. Other surrounding residences are located approximately at least 350m to the north and cannot be readily seen from the arena area.

Given the limited number of events and the existing use of the hotel/motel it is considered unlikely that the proposed rodeo will significantly decrease the privacy presently enjoyed by the surrounding neighbours.

Traffic Generation and Safety (*issue raised by objector*)

The traffic survey submitted with the application is based on 400 -700 persons attending the rodeo. Traffic generation and car parking has been determined on the expected maximum audience. The report states that whilst these figures have been based on the expectations and experience of the rodeo operator it is difficult to be precise about the actual number of patrons.

Parking is to be provided on the sealed areas surrounding the hotel and motel as well as overflow parking in a rear paddock. This paddock contains two dams and a waste water treatment system with associated irrigation area.

Based on normal trading of the hotel - motel and the expected number of patrons for the rodeo, the traffic report demonstrates that all normal trading parking and rodeo parking can be accommodated on-site.

The report concludes that the operating performance of the Windsor and Boundary Roads intersection is satisfactory given the expected traffic generation.

The RTA has not raised an objection to the proposal has provided comments/conditions for inclusion in any consent. It is considered that the requirements of the RTA can be readily met by the applicant.

Concern has been raised by the objectors about the accuracy of the expected number of patrons and cars. In particular the previous rodeo in November 1998 is mentioned as creating a significant amount of on street parking. It should be noted that the overflow parking in the paddock was not used on this occasion.

The event held on 5 December 1999 attracted a crowd of approximately 600 people which equated to approximately 300 motor vehicles. All parking was able to be accommodated on site and periodic inspection of Windsor and Boundary road before, during and after the event revealed no vehicles were parked on these roads.

Noise Generation (issue raised by objector)

Concern has been raised over the noise that will be generated by the events. Main sources of noise are the rodeo caller, the crowd, and cars and patrons entering and exiting the site. Arguably the most intrusive noise will be that of the rodeo caller using a public address (P.A.) system. The application includes advice from a noise consultant which recommends that the PA system be limited to 90dB(A) at the point source thus producing a noise level of 75-77dB(A) 80m from the noise source.

Noise levels were measured at the nearest affected residence during the event held on 5 December 1999. Noise levels recorded showed that before the event background noise was measured at 68dbLa(10)A. Noise levels during the event were generally 76dBLa(10)A. Council staff visited that 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.

Holding Areas (issue raised by objector)

The applicant advises that for each rodeo approximately 15 bulls and 15 horses will be used. Animals are to floated in on the day of the event and corralled in a portable steel holding yard with 2.2m high walls. This area is to be exclusively accessed and controlled by the event handlers, no spectator access is allowed. Animals will be taken off the site after each event and will not be kept on the site overnight.

Waste Disposal / Collection of Garbage (issue raised by objector)

Waste from the holding area and arena is to be collected after each event. Some of the waste will be used by the hotel as garden fertilizer the remainder is to be bagged and removed from the property.

The likely waste generated by 30 animals kept on the site for up to six hours 4 times a year is minimal compared with current agistment/grazing practices on the subject property and surrounding properties.

All garbage created by the event will be placed in a 4 cubic metre bin which is to be collected by private contractor. An undertaking has also been given that any litter along Boundary and Windsor Roads within the vicinity of the site will be collected the day after each event by the staff of the hotel.

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

Behaviour of Patrons/Security (issue raised by objector)

The application states that security and parking staff will be increased to cater for the event. Specifically 1 security staff member will patrol Windsor and Boundary Road within the vicinity of the site for one and one half hours after the event.

Impact on Killarney Chains of Ponds / RTA drain (*issue raised by objector*)

The arena is located approximately 250m from the Killarney Chain of Ponds and approximately 80m from the RTA channel which drains into Killarney Chain of Ponds. The proposed overflow parking area backs onto Killarney Chain of Ponds. The amount of pollutants created by these uses, ie animal waste and car oil, 4 times a year would be insignificant compared with the run-off from Boundary and Windsor Roads and agistment/grazing practices on surrounding properties.

The arena has a sand base and is to be surrounded by turf. The applicant proposes to install erosion and sedimentation devices immediately downstream of this area to catch any soil laden run-off. The rodeo will be postponed in the event of wet weather.

The applicant proposes that hotel staff collect any litter created by patrons of the event such that litter does not enter the RTA drain or Killarney Chain of Ponds.

It is considered that the proposal will not compromise the strategies contained within SREP No. 20 relating the total catchment management, water quality and water quantity.

Social and Economic Impact

It is anticipated that the staging of rodeos at the hotel will produce a positive economic effect for the operator and a positive social effect for the patrons. Provided future events are conducted in a similar manner to the December 1999 event it is considered that the activity will not result in a significant negative impact on surrounding land owners/occupiers.

Site Design

The layout of the arena, holding yards, parking areas, sound system, food stalls and toilets takes advantage of existing infrastructure and cleared areas which is readily accessible to the patrons. It is concluded that the site layout and location of the above mentioned items is satisfactory

Soil suitability and erosion and sedimentation control (*issue raised by objector*)

The soil on the property is suitable for the proposed events. Measures can be installed on site to prevent soil erosion and sedimentation as well as dust control.

Ongoing management and Cumulative Impact (*issue raised by objector*)

The objectors have raised concern about Council role in monitoring the events and what recourse may be available to Council if the applicant does not adhere to conditions of consent. The event conducted on 5 December 1999 was conducted generally in accordance with the submitted application and condition of consent. It is anticipated that Council staff will attend future events as required to ensure conditions of consent are being met. If the events are being staged contrary to the development application or in contravention of condition of consent then Council may take action via the issuing of notices and/or court proceeding to ensure compliance with conditions of consent or to stop any further events. If the applicant wishes to hold more than four events to year, then separate approval will be required.

It is considered that if the events are conducted in a similar manner to that which occurred on 5 December 1999 the activity will not create a significant long term impact on the environment or the amenity of the area.

Suitability of the Site (issue raised by objector)

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 can be controlled such that surrounding residences are not significantly impacted upon.

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

The fact that another venue within close proximity of the hotel may provide similar events does not make this site unsuitable.

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

Public Interest (issue raised by objector)

A number of the concerns has been raised by surrounding neighbours relating to the proposed rodeos. These concerns have been addressed and where relevant can be controlled by conditions of consent.

Conclusion

The proposed development is not inconsistent with objectives of the rural 1(c) zone or relevant provision of HLEP 1989. The development satisfies the relevant provisions of SREP No.20 (No 2 - 1997).

The site is suitable for the proposed events and matters such as car parking, noise, waste disposal, collection and garbage, behaviour of patrons, hours of operation, and the keeping of animals have been adequately addressed by the applicant and can be controlled by conditions of consent..

Ongoing monitoring of events will ensure conditions of consent are complied with.

RECOMMENDATION:

That approval be granted subject to the following conditions:

General

1. To confirm and clarify the terms of this approval, the development shall take place in accordance with the plans and accompanying documentation submitted with the application, except where altered by conditions of consent.
2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
3. The organisers/operators of the rodeo are to hold Public Liability Insurance with a minimum indemnity of cover of \$10,000,000 (ten million dollars).
4. A Structural Engineer's Certificate certifying the integrity of the arena, holding yards and chutes as erected shall be submitted to Council prior to the first event.
5. This approval is for a maximum of four (4) events per year.

Use of the Site

6. Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of nutrients, litter, vegetation debris or other water borne pollutants in accordance with Council's Development Control Plan 1/94 - Soil Erosion and Sedimentation.
7. Hawkesbury City Council and all immediately surrounding property owners/occupiers are to be notified of events a minimum of 14 days in advance.
8. Events held in autumn/winter are to be restricted to between 12.00pm and 3.00pm on Sundays. Events held in Spring/Summer are to be restricted to between 7.00pm and 9.30pm on Saturdays.
9. Regular patrols of Windsor and Boundary Roads within the vicinity of the property are to be carried out by staff/security personnel during and after each event to ensure the prompt and quiet departure of patrons.
10. Rodeo animals are not to be kept on the property unless appropriate stock fencing has been erected and suitable housing facilities made available.
11. Any lighting on the site is to be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.
12. No signs shall be displayed on the footpaths, pedestrianways, roadways or in the vicinity.

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13. During periods of heavy patronage events, the first entry driveway in Boundary Road in close proximity to Windsor Road should be closed when the off-street carpark area in front of the Tourmaline Hotel is full to avoid unnecessary delay and queueing back onto Windsor Road. Hotel staff are then to direct patrons to the secondary entry driveway further north along Boundary Road to access the site.
14. Parking associated with the rodeo is not permitted along the Windsor Road frontage of the property.
15. All driveways should be clearly signposted "Entry/Exit" as appropriate and controlled by staff in order to direct traffic movements to and from the site.
16. The overflow parking area is to be supervised to ensure vehicles park in an orderly manner with clear access aisles being provided at all times. Aisle widths are to be a minimum of 6.7m wide.
17. The access to the overflow parking area is to be provided with a compacted crushed rock surface a minimum of 6m wide. The access is to be extended to the northern most point of the dam near the waste water treatment plant. The overflow area is to be improved and maintained by any necessary regrading, grassing, slashing and removal of rubbish.
18. Parking in the overflow area shall be a minimum of 6m clear of the dams, waste water treatment plant and irrigation area. Temporary fencing/bunting with reflectors is to be installed to restrict vehicle access to the above areas.
19. The loading/unloading of livestock from trailers should take place on-site within a designated area which is well clear of public patrons at all times.
20. All litter on the site and along Boundary Road and Windsor Road within 100m of the property is to be collected within 24 hours of an event.
21. Provision of 2 Port-A-Loo toilets for every one hundred people with hand washing facilities in each unit. A constant supply of toilet paper, soap, and hand drying facilities is to be maintained for all toilets.
22. Effluent from the portable toilets is removed off the site.
23. Garbage is to be collected, stored and disposed of to the satisfaction of the Manager of Environment and Waste.
24. A garbage bin with the capacity to hold 240 litres is to be provided every 50 metres around the main arena. Six (240 Litre) garbage bins are to be placed within 25 metres of each food and drinks stall.
25. All Barbeque facilities, temporary food stalls, and canteens are to comply with "National Standards for the Establishment and Operation of Temporary Food Premises".

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26. Noise levels are not to exceed 76dBL_{A10}(A) at the nearest residence as a result of the event.
27. Public Address speakers should be directed away from surrounding residential properties. Where speakers are to be mounted on poles, they are to be inclined downwards at an angle of approximately forty-five (45) degrees from the horizontal.
28. A sound limiting circuit should be included in the PA system to control the signal amplitude to a fixed level regardless of the loudness of the operator's voice, or the volume control on the amplifier.

ATTACHMENTS:

AT-1 Locality Plan

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LOCALITY PLAN

oooO END OF ITEM 92 Oooo

ITEM: 93 **Single Storey Duplex and Two Lot Subdivision - Lot 7, DP243630 No. 51 Elizabeth Street, North Richmond**

FILE NUMBER: M 1979/99/EVD/ENC28NAX.V04

Applicant: Mr S & Mrs V Marsh
Applicants Rep: as above
Owner: Mr S & Mrs V Marsh
Stat. Provisions: HLEP 1989
Area: 1353m2
Zone: Residential 2(a)
Advertising: Notified to adjoining owners and occupiers. Eight (8) letters of objections received
Date Received: 15 December 1999

Key Issues: - Out of character with the area
 - Solar Access
 - Traffic

Action: Approval

REPORT:

Introduction

An application has been received seeking consent to subdivide the subject property into two allotments and construct a single storey duplex on the rear lot and retain the existing dwelling on the front lot. The duplex consists of one, three bedroom unit, and one, two bedroom unit.

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

The Proposal

The application proposes to subdivide the existing parcel of land comprising 1353sq.m into two lots. The lot sizes proposed are:

- Front lot 585sq.m
- Rear lot 768sq.m (including battle-axe handle)

Access to both lots will be off Elizabeth Street via the creation of a reciprocal right of way over the existing driveway and access handle.

The single storey duplex is proposed on the rear lot and consists of:

- Unit A - Two Bedrooms, lounge room, living, dining, bathroom and laundry.
- Unit B- Three bedrooms, lounge room, living, dining, bathroom and laundry. There is also an atrium proposed over the living and dining room to maximise solar access to the living area to overcome the deficit of solar access in the courtyard areas.

Each unit provides for sufficient courtyard areas, off street car parking spaces and landscaping appropriate for the development.

Statutory Situation

Hawkesbury 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 the Residential 2(a) zone subject to development consent.

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

- 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 is not expected to create unreasonable demands for the provision or extension of public amenities and services. If the proposal is approved, Section 94 contributions will be levied to assist in the provision of public amenities and services.

Reference should be made to Clause 12 (1)(a) - residential subdivision which requires each allotment that is created in a Residential 2(a) zone to be no less than 450 sqm Both the proposed lots are greater than 450sq.m.

Reference should be made to Clause 37 under HLEP 1989 - Protection from aircraft noise. The subject property falls within the 20-25 ANEF Contour. A noise report is not required at this stage of the application but if approved would be required prior to issue of a construction certificate. It is anticipated that design and construction measures can be readily implemented in order to achieve the noise attenuation requirements of AS2021

Sydney Regional Environmental Plan No.20 - Hawkesbury-Nepean River

The subject property is within the boundaries of SREP No.20 and is within the Middle Nepean & Hawkesbury River catchment area. The subject property is not in a scenic corridor and is not inconsistent with the specific planning policies and recommended strategies of the plan.

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.

Council received eight (8) letters of objection. Four objectors adjoin the subject property, the remaining objectors reside in Trent Place and Elizabeth Street. The main concerns expressed in the letters include:

- Out of character with the area
- Amenity
- Density
- Traffic
- Setting a precedent

There was also 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	Proposed rear lot is 768sq.m	Yes
Floor Space Ratio	Maximum of 0:5:1	0.32:1	Yes
Private Open Space / Landscaping	Minimum courtyard area of 50sqm	Unit A courtyard 76sq.m Unit B courtyard has two courtyard areas totalling 92.2sq.m	Yes
	At least half of each courtyard must receive sunlight between 9am and 3pm midwinter.	See note*	Yes
	Landscaping must be compatible with the scale of the building	Landscaping consists of a mix of grass, shrubs and trees which are at an appropriate scale	Yes
Car Parking/ Access	Minimum two off street covered spaces	Two double garages are provided	Yes
	Covered spaces setback 5.5m from street alignment	Spaces are setback behind existing dwelling	Yes
	Driveways to be a minimum of 3m wide	Driveway width is 3m	Yes
	Design of garages must be integrated with the dwelling	Garages are incorporated into the design of the duplex	Yes

ENVIRONMENT**Meeting Date: 28 March, 2000****Item: 93**

ITEM	REQUIRED	PROVIDED	COMPLIES
Setbacks	Generally 7.5m, however reductions can be supported on merit.	The duplex is setback behind existing dwelling	Yes
Building Height	Not to exceed two storeys or levels at any one point	Proposed duplex single storeys	Yes
Design Considerations	Where ever possible living areas are to be orientated to north	Living areas are orientated 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 Colonial brick bond with sandstone quoining and sills. This is compatible with the mix of construction materials used throughout the area.	Yes

Note * The proposed duplex generally complies with the DCP and exceeds some of the minimum development standards. However, the proposal does not comply with the numerical standard of minimum of 50% sunlight to courtyard areas between 9am and 3pm midwinter. A meeting was held with the applicant to address this matter and the applicant agreed to some changes to overcome this non-compliance.

Unit A provides for sunlight between 9am and approximately 11am. To maximise solar access the applicant amended the plans to include an atrium over part of the living areas, incorporating maximum glazing along the windows below the atrium. It is considered this solution achieves acceptable amenity for the future occupants in terms of solar access.

Unit B provides for sunlight between 9am and approximately 11am. To maximise solar access to this unit and provide a development with high amenity the applicant amended the plans to remove the visitor parking space (which is not required) and replace with an extra courtyard area that will receive full afternoon sunlight.

It is considered that the development satisfactorily achieves all the development standards within the DCP.

Character of the Area *issue also raised by all objectors*

The subject site is predominately surrounded by single dwellings constructed of brick. There are a number of duplex and villa developments in the near vicinity of the development site but none directly adjoining. Elizabeth Street has a diverse land usage which includes North Richmond primary school, industrial land, Richmond community centre and residential land. The North Richmond retail centre is within walking distance, which generally attracts higher density developments (see Attachment 3).

The proposed development differs from established dwellings in the immediate vicinity in terms of density, 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. The proposal is also single storey which is consistent with development directly adjoining and is to be constructed behind an existing dwelling using the existing driveway which will not alter the streetscape.

Some objectors raised concern that the proposed development would set an undesirable precedent. Although there are not any duplexes or villa developments directly adjoining the subject property, these types of development are located in the near vicinity and permissible within the zone. The proposed development would not be setting a precedent as there is similar developments already existing in the area.

Amenity *issue also raised by objector*

Objectors raised concern about noise generation and privacy. These are discussed below:

Noise generated as a result of the development would be similar to the surrounding noise from other residences in the area, and is not considered to be significant.

The adjoining neighbour to the south raised concern about the proposed development overlooking their pergola and pool area. The development is single storey and the impacts in relation to this is considered acceptable as the fencing proposed would make it difficult for future occupants to directly overlook this area.

The adjoining property owner to the east raised some concern that the existing dwelling will affect their privacy as the courtyard area will be restricted to the existing covered pergola area. The adjoining property owner has suggested that a new fence be extended to the existing dwelling to ensure that they are given some privacy. At the meeting held between Council officers and the applicant, agreement was reached to install a new fence. Should the application be supported this will be included as a condition of consent.

The adjoining owner to the south of the subject property will receive early morning shadow midwinter to the rear of the property, this is considered acceptable as there is already three large trees existing in their property which would already be casting morning shadow. The proposed development will not alter the existing situation in regards to overshadowing. This adjoining owner did not raise any objections to overshadowing.

Density *issue raised by objectors*

Some objectors raised concern that the proposed development would be an overdevelopment of the site.

The proposed development complies with the density requirements within the DCP. The floor space ratio of the total development is 03:1 which is 38% lower than the DCP permits. It provides for parking and courtyard areas in excess of the minimum requirements and also provides for residential lots that are well above the minimum allotment size for the zoning. The proposed development will be constructed behind the existing dwelling, not altering the streetscape and not being directly visible from Elizabeth Street. It is considered that the proposal is not an overdevelopment of the site.

Flora and Fauna

The subject property is located within an established residential area with domestic gardens and therefore the proposed development will not have any significant impact on any endangered flora and fauna, critical habitats or ecological communities as listed under the Threatened Species Conservation Act 1995.

The proposed development provides for courtyards with sandstone paving, boundary fences consisting of sandstone pillars with timber infill and capping. Along the fence will be a garden edge consisting of Crab Apple trees and gardenias. At the end of each of the courtyards the applicant is proposing a water feature. The proposed landscaping is appropriate to the design of the development and provides for a development of high amenity.

An objection was raised by the adjoining property owner to the south that the construction will damage the existing trees on their property. The proposed development is setback 1.2m from the boundary and should not interfere with the trees on the adjoining property.

Access, Transport and Traffic *issue raised by objector*

Access to the proposed development is from Elizabeth Street using the existing driveway. A reciprocal right of way will be created to allow access over the existing driveway and over the access handle to the rear lot. The reciprocal right of way is 3m wide.

Egress from the development site is considered to be safe as there is good sight distance in both directions along Elizabeth Street and there is no through traffic. Trent Place is also a small cul-de-sac with a low vehicle usage. It is considered that the traffic generated by the development is not significant, considering the capacity of the existing road network.

The residential area is accessed via motor vehicle and public transport, and is close to community and commercial services that are in walking distance.

The proposed development provides parking in excess of the minimum parking requirements under Council's Dual Occupancy DCP. Due to the development providing twice as much parking than required by the DCP it is unlikely that on street parking will be a problem.

Conclusion

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

The development is compatible with the residential nature of the area and will not adversely impact on the amenity of the area. The design provides for a high level of amenity for the future occupants.

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

RECOMMENDATION:

That:

- A.** Approval be granted for a single storey duplex and two lot subdivision at 51 Elizabeth Street, North Richmond, Lot 7, DP243630, 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 All-Plans numbered GS199 (7 sheets) dated March 2000) submitted with Development Application No. M1979/99 dated 15 December, 1999 and any supportive documentation, except as otherwise provided by the conditions of this consent.
2. This consent covers the removal of trees and other vegetation from the site of approved buildings, structures, permanent accessways and car parks. This consent also covers the removal or lopping of trees within 6m (six) of approved buildings. No other trees or vegetation shall be removed or lopped except with prior written approval of the this office.
3. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
4. Prior to construction of the approved development it is necessary to obtain a Construction Certificate.
5. The applicant is advised to consult with:
 - (a) Sydney Water Corporation Limited
 - (b) Integral Energy
 - (c) Natural Gas Company
 - (d) a local telecommunications carrier

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

6. No excavation or site works shall be commenced prior to the issue of the construction certificate.
7. The applicants shall make themselves aware of any use restriction relevant to this property and shall comply with the requirements of the Section 88b instrument relevant to this subdivision and property.

Prior to Issue of Construction Certificate (Building)

8. 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 | (\$421) |
| (b) | Community Facilities | (\$1,913) |

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.

9. The submission of a Certificate from Telstra Australia that satisfactory arrangements have been made for the provision of cables for telephones to the development.
10. 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
11. A schedule of external finishes are to be submitted to Council for assessment.
12. 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.

13. Separate practising Structural Engineer's details of all structural concrete and steelwork shall be lodged prior to issue of construction certificate.
14. Details demonstrating compliance with the Building Code of Australia is to be submitted to the Principle Certifying Authority for approval. Details should include:
 - i. Location of smoke alarms
 - ii. Fire resistance levels of relevant building components
 - iii. A section of the proposed common wall
15. Submission of detailed designs for pavement areas and drainage to be provided on site.

Prior to Issue of Construction Certificate (Subdivision)

16. Submission of full designs and calculations for access and drainage works required for the subdivision.
17. A design checking and inspection fee of 250 (two hundred and fifty dollars), must be paid when submitting engineering plans for approval prior to construction. This amount is valid until 30 June, 2000.
18. The building design shall incorporate components that will provide aircraft noise mitigation in accordance with AS 2021. Details prepared by an accredited acoustical consultant submitted with the construction certificate.

Prior to Commencing Works

19. 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.

20. 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.

21. 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.
- 22. 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
- 23. 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.
- 24. 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.
- 25. Sanitary accommodation shall be provided for workmen throughout the course of the building operations in accordance with the Local Government Act 1993 and the Environment Planning and Assessment Act.

During Construction

- 26. All building work must be carried out in accordance with provisions of the Building Code of Australia.
- 27. 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.
- 28. All demolition, construction, and associated work and deliveries 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.
- 29. No burning of demolition or construction material being carried out on the site.

30. 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.
31. 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.

Prior to Issue of Occupation Certificate

32. An occupation certificate is to be obtained on completion of all works and prior to commencement of the approved use. The occupation certificate will not be issued if any conditions of this consent are outstanding.
33. 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.
34. 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. Lattice shall be erected above the north eastern boundary fence along the length of the existing dwelling to maintain privacy.

Prior to Issue of Subdivision Certificate

35. Construction of a centrally located concrete driveway a minimum of 2.5 metres wide and 150mm thick reinforced with F82 mesh over the full length of the access handle and reciprocal right of way the rear lot together with the construction of Council's standard residential footway and layback crossing also 150mm thick reinforced with F82 mesh. All services are to be placed on conduits laid prior to placing concrete
36. The submission of a plan showing all existing services on the lots including septic tank and effluent disposal area, sewer connections, water connections and stormwater disposal, where applicable, and the correction of any encroachments or defects to the requirements of the Director of Environment and Development.
37. The submission of the plan of subdivision, together with 4 (four) exact copies thereof, suitable for lodgement with the Registrar General.
38. Payment of a linen release fee of \$200. This amount is valid until 30 June 2000.
39. 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 (\$734)
 - (b) Community Facilities (\$3,340)

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.

The Use of the Site

40. 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

AT-3 Surrounding land uses

ENVIRONMENT

Meeting Date: 28 March, 2000

Item: 93

LOCALITY PLAN

ENVIRONMENT

Meeting Date: 28 March, 2000

Item: 93

SITE PLAN

ENVIRONMENT

Meeting Date: 28 March, 2000

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SURROUNDING USES

oooO END OF ITEM 93 Oooo

ITEM: 94 **Staged Development for a Boarding House and Tourist Accommodation - Lot 2 DP709500 No. 3075 Bells Line of Road and Sign at Lot 10 DP39306 Powells Road**

FILE NUMBER: M1767/99/EVD/ENC28NAX.V06

Applicant: Mr J Stokman
Applicants Rep: N/A
Owner: Mr J Stokman and Ms M Van Hage
Stat. Provisions: HLEP 1989, SREP No. 20 (No. 2 - 1997)
Area: 4 hectares
Zone: Environmental Protection Scenic 7(d)
Advertising: Notified to adjoining owners and occupiers / site sign. Five (5) letters of objection received.
Date Received: 8 November 1999

Key Issues: - Effluent Disposal
 - Access
 - Traffic
 - Privacy
 - Unsuitability of building

Action: Approval

REPORT:

Introduction

An application has been received seeking consent to undertake a staged development for the conversion of an existing shed for use as a boarding house and approval for an existing cottage for tourist accommodation. The application also includes the erection of a sign on an adjoining property.

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

Background

1. The following consents have been issued by Council relating to the proposal:

BA1492/89 - Shed , concrete floor, colorbond walls, zincalume roof. Was not permitted for use for habitable purposes.

- SA159/91 - Approval for the installation for a septic tank
BA566/92 - Dwelling , approval issued on 22/6/92. Not commenced, approval lapsed.
BA541/93 - Awning for existing shed identified in BA1492/89.

The applicant was permitted by Council to use the existing shed temporarily for accommodation whilst the above approved dwelling was being constructed. The shed was fitted out for habitable purposes but the dwelling consent lapsed.

2. The following approvals have been issued on the adjoining property (owned by applicant) (Lot 1)

- BA575/94 - Approval for shed (timber cladding)
DA44/99 - Approval for a tourist facility (two cabins). This included the approval for the use of the above shed and the construction of an additional structure for the purposes of tourism accommodation.

3. The following unauthorised works have been carried out on the subject property (Lot 2):

- Construction of a mezzanine level within the existing shed;
- Use of the existing shed for habitable purposes; and
- Erection of small cottage and use for habitable purposes.

The applicant was issued with a Notice of Intention to Serve an Order on 15 September, 1999. These works ceased as a result of this Notice and as a result the applicant has lodged this development application.

The Proposal

The proposal is for a two staged development which consists of the following:

Stage 1

- Use the existing ground floor of the shed as a boarding house consisting of a kitchen, lounge room, laundry, bathroom and one bedroom for a maximum of two (2) visitors. The floor area of the shed is 200sq.m and is 4m in height to the ridge line. The shed walls and roof are finished in colorbond metal-deck.
- Approval of the freestanding cottage existing on the property for tourist accommodation providing accommodation for maximum two (2) people. This cottage is 120sq.m and consists of a bathroom, combined living, dining, kitchen and bedroom. The wall cladding is white weatherboard.
- Use of the existing septic tank for the above two uses.

Stage 2

- Alterations both internally and externally to the existing shed to be used as a boarding house. The ground floor will be altered to provide for a total of three (3) bedrooms and two (2) bathrooms. A mezzanine level is proposed to be constructed to provide an additional five (5) bedrooms and two (2) bathrooms, allowing accommodation for a maximum of eighteen (18) people.
- Replacement of existing absorption trench and installation of a trickling filter system for the treatment of grey water from the septic tank, together with the installation of irrigation system for the disposal of treated effluent.

It is anticipated that Stage 2 will commence within 6 to 12 months of Stage 1.

The application also includes the construction of five (5) car parking spaces to service the proposed development. These parking spaces are to be located immediately north of the freestanding cottage.

A site sign is proposed on the adjoining land which is owned by the applicant, is occupied by the applicant's dwelling and is where tourists can book accommodation and collect information regarding the accommodation available on the adjoining properties. The proposed sign will be 1.98sq.m and will indicate the name of the tourist facilities on the subject property and the adjoining property (Lot 1).

Access to the proposed development is via a right of carriageway from Powells Road.

Statutory SituationHawkesbury Local Environmental Plan 1989

The subject property is zoned Environmental Protection Scenic 7(d) under Hawkesbury Local Environmental Plan (HLEP) 1989. The objectives of the zone are:

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

Under HLEP 1989 the proposed conversion of the shed falls within the definition of a boarding house. The use of the cottage may be defined as a tourist facility. HLEP 1989 defines a “boarding house” and “tourist facilities” as follows:

"boarding-house" includes a house let in lodgings or a hostel but does not include a motel;

"tourist facilities" means a building or place that is used to provide refreshment, accommodation, recreation or amusement facilities for the travelling or holidaying public, and includes craft shops and the like;

Both boarding houses and tourist facilities are permissible within a 7(d) zone with development consent.

Relevant Clauses from HLEP 1989

Clause 9(3) under HLEP 1989 – Zone objectives and development control table:

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

Comment: The proposed uses are occupying existing structures which have formed part of the landscape in the area. The use will not impact on the local features of scenic significance in the area as it does not involve the construction of any new structures along the ridge.

The subject property fronts a main road but access to the proposed development is via a right of carriageway from Powells Road. The traffic generated will not impact on the existing capacity and use of Bells Line of Road.

The proposed advertising sign will not impact on the rural landscape of the area as it is relatively small (1.1m x 1.8m), will be coloured pale blue and cream with the only text being the name of the tourist facility ‘Blue Wren Cottages’ and contact number.

The character of the area will be maintained as the visual appearance of the proposed development will not be altered. The development is considered low density in terms of its usage being mainly restricted to weekends, holiday periods and during the fruit picking season.

The proposed boarding house will assist orcharding in Bilpin area as the primary target for the proposed boarding house is backpackers that come to the area for seasonal work in the orchards and the applicants’ flower growing.

Clause 21 - Danger of bushfire

The threat of bushfire is not significant enough to make this site unsuitable for the proposed development.

Clause 22 –Development fronting a main or arterial road.

The property where the development is proposed does have road frontage to Bells Line of Road but access to the development site is via a right of carriageway from Powells Road.

Clause 23 (3) - Advertising structures:

23.

(3) *The Council may consent to the erection of an advertising structure on land to which this clause applies for the purpose of*

(a) *directing the travelling public to tourist areas; or*

(b) *displaying private advertisements for tourist accommodation or other tourist facilities.*

Comment: The proposal includes the erection of a sign on the property adjoining the subject property. The adjoining property is owned by the applicant which will display an advertisement for the proposed tourist accommodation on the subject property and for the recently approved tourist facility on the adjoining property (Lot 1). This clause does not prohibit the proposed sign to be located on an adjoining property.

Clause 24 - Development within Zone 7(d) and 7(d1)

The proposed uses will occupy existing structures. The existing structures are sympathetic to the scenic quality of the area as the shed is similar to Colorbond 'Mist green'. The roof is zincalume, and due to the location of the shed on a ridge this is reflective, to ensure the development blends in with the surrounding area, it should be painted to match the walls. The cottage is white and as a result does not blend with the existing landscape (it should be noted that the cottage was erected without approval). It is recommended that the cottage be painted in colours which blend in with the adjoining tourist facility cabins and shed.

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

The subject property falls within the Grose River Catchment Area defined by SREP No. 20. This site is not within a riverine scenic corridor but is considered to be an environmentally sensitive area due to being located on a ridge.

The aim of this plan is *“to protect the environment of the Hawkesbury-Nepean River System by ensuring that the impacts of future land uses are considered in a regional context.”*

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

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

Relevant Clauses:

Clause 11(17) - Sewerage Systems or Works

Development for the purpose of any sewerage system or work which stores, treats or disposes of sewage (including domestic on-site disposal systems that are ancillary to development which requires consent) but not including a public utility undertaking. The matters for consideration in relation to the upgraded system in Stage 2 are:

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

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

- b) *The suitability of the site for the on-site disposal of effluent or sludge and the ability of the sewerage systems or works to operate over the long-term without causing significant adverse effects on adjoining properties.*

Comment: A Soil Capability Report was undertaken by Nyranie Landscape Design. This report indicates that the site was capable of providing on-site effluent disposal. There is sufficient land for the disposal area to be rotated, therefore, the sewerage system should operate over the long term without causing a significant affect on adjoining properties. Additional information will be required prior to Stage 2 commencing should the application be supported to ensure that all runoff is to be contained on site.

- c) *The likely effect of any on-site disposal area required by the proposed development on:*

- *any water bodies in the vicinity (including dams, streams and rivers), or*
- *any mapped wetlands, or*
- *any ground water, or*
- *the floodplain.*

Comment: The on-site disposal area is in close vicinity to a dam which is used to irrigate a commercial flower growing garden. The proposed treatment system is unlikely to have a significant impact on the dam.

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

Comment: The system irrigates onto an irrigation area.

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

Comment: The Soil Capability Report did not indicate that there was a need for wet weather storage. There is sufficient land available for the disposal of effluent.

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

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

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

Comment: The onus is on the applicant to undertake regular maintenance and monitoring of the installed system and comply with the Sewage Management Regulations. The consultant recommends that the system be serviced quarterly by a qualified contractor.

Community Consultation

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

Five (5) letters of objection were received. Two (2) of the objectors have access to their properties via the right of carriageway. The main concerns expressed in the letters include:

- Impact on privacy
- Access being unsealed
- Sewerage run off
- Unsuitability of the building
- Traffic
- Safety

Objections were also raised regarding the applicant's previous use of the land operating without Council approval. This was dealt with separately, and hence a development application has been lodged.

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

Planning Assessment

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

Character of the Area

Predominately land uses in the Bilpin area include orcharding and tourist facilities. The subject property is presently used for flower growing. Tourist facilities are located along Powells Road as well as in the locality.

The proposed development is consistent with the character of the area as it provides for tourist accommodation, and also provides accommodation for seasonal orchard workers. The proposed use of the property is carried out within existing structures located on the property, hence the character of the area will be substantially unchanged.

Building Suitability *(issue raised by objector)*

Some objectors have raised concern that the building is unsuitable for the proposed use. The proposed boarding house is structurally suitable for the intended use and can be made to comply with the Building Code of Australia (BCA). For the existing shed to comply with the BCA, the applicant will need to undertake, at a minimum, such works as the installation of hard wired smoke alarms, portable fire extinguishers, emergency lighting, exit signs and fire resisting construction. Should the application be supported it is recommended that a condition be imposed at both stages that the development complies with the BCA.

The proposed structures and uses are considered to be suitable for the site as it is compatible with the surrounding land uses and complies with HLEP 1989 and other relevant planning instruments with acceptable impacts to the surrounding area.

Effluent Disposal *(issue raised by objector)*

During Stage 1 of the development the applicant intends to use the existing septic tank to serve the ground floor plan of the boarding house (one bedroom) and the freestanding cottage (one bedroom). The septic tank has been approved by Council and can service up to 10 people. This system is adequate to service Stage 1 with no impacts to adjoining properties.

Stage 2 of the development includes the addition of seven (7) rooms to the proposed boarding house, the applicant intends to upgrade the septic tank system to an aerated waste water system. To determine if the site was capable of accepting the additional load a Soil Capability Report was undertaken by Nyranie Landscape Design.

The report concluded that the site is capable of disposing of effluent on-site with an aerated waste water system. The proposed use will create approximately 2700L per day of wastewater requiring a disposal area of 3577sq.m. The site has an area of 7000sq.m available for disposal of effluent and it has been recommended that the disposal area be divided into three areas of 2333sq.m and that these areas be rotated on a 3 to 6 month basis. If the management procedures recommended by the consultant are adopted by the applicant then the site will meet the criteria required for on-site disposal of effluent.

There was concern regarding sewerage runoff from the subject property to the adjoining property Lot 41, which is located downslope from the proposed development. In principle the system is acceptable for the proposed development. Notwithstanding this, the location of the disposal area has the potential to runoff into the adjoining property due to the fall of the land, existing irrigation of flower beds and climate. Should the application be supported it is recommended that prior to Stage 2 commencing that additional information be submitted to Council requiring a landscape plan (incl. plants with high absorption) along the northern boundary between the objectors property and the subject property. Also, a plan is to be submitted providing contours of the disposal area and possible grading of these contours to divert runoff to the existing dam (all runoff is to be contained within the property), and water management of the existing flower growing. The above recommendations will ensure that no runoff is experienced by the adjoining owner.

The applicant has sought a separate approval for the carrying out of sewerage works relating to Stage 2. This approval should be deferred pending the receipt and approval of the above recommendations.

Access and Traffic *(issue raised by objector)*

The proposed development has access via a right of carriageway from Powells Road. Powells Road is a no through road and has a central seal. Currently the right of carriageway is earth/gravel and is fenced off just past the entrance to the proposed development.

Access to the proposed development is via an existing entrance off the right of carriageway. There is also an entrance at the western most end of the site and the applicant has agreed to allow for a separate ingress and egress to reduce the traffic at one point and therefore reducing the impact on the nearby adjoining dwelling.

The internal access driveway for the proposed development extends east along the boundary and then curves around north of the freestanding cottage to the proposed parking area. There is no other alternative access to the designated parking area. An alternative access could be considered in the area between the freestanding cottage and boarding house, but this area is quite steep over a short distance which will be at an unsuitable grade for vehicle movement.

There was concern raised regarding the traffic on an unsealed track. The application proposes that there is an expected traffic flow of 4-5 vehicle per day during peak occupation which is estimated to occur 20 days per year in conjunction with fruit picking season. The applicant has based these figures on another operation of a similar business and the seasonal and short term nature of the accommodation. It is anticipated that five (5) vehicles would create a maximum of 20 movements per day (ie. Four (4) vehicle movements per day per vehicle).

From the RTA guidelines for 'Traffic Generating Development' the projected vehicle movements for a single dwelling house in an area not serviced by public transport is nine (9) vehicle movements per day. The proposed boarding house would create twenty (20) vehicle movements per day at peak (at a maximum of 20 days per year) which is only double that of a single dwelling, this is not a significant increase in vehicle movements considering the temporary and tourist nature of the development. It is anticipated that during low peak season there could be less vehicles using the proposed development than a single dwelling.

It is anticipated that Stage 1 will only generate a maximum of two (2) vehicles per day. The traffic generated from this is expected to be less than that of a dwelling and will not generate a significant impact on the right of carriageway.

Stage 2, which consists of a total of 9 bedrooms, will generate some traffic however as discussed above, this will not be significant or cause an adverse impact on adjoining properties. The traffic should not impact on the adjoining neighbours by way of noise and dust as the vehicles do not directly pass adjoining dwellings. There is a gate just past the development site to prevent vehicles from using the right of carriageway other than the owners of Lot 41 and Lot 3.

If the proposal is supported then the access to the site along the right of carriageway should be constructed and sealed, up to the entrance of the proposed development, this should overcome the objections raised about traffic on the unsealed road and also ensure that the adjoining tourist facility and neighbour amenity is maintained.

Parking

The development provides for five (5) car parking spaces. Councils' Development Control Plan for Parking does not contain specific parking requirements for Boarding Houses or Tourist Facilities. Hence, the requirement for parking is to be determined on merit.

Due to the seasonal nature of the proposal, the proposed five (5) car parking spaces appear to be adequate for the development.

Should the applicant require more parking there is sufficient room on site to provide informal parking spaces if required. It is recommended that any consent be conditioned such that five (5) car spaces be required initially and that the number of spaces be increased should Council see it being needed in the future.

Signage (issue raised by objector)

The applicant is proposing to erect a sign on the adjoining property (Lot 10) which is also owned by the applicant. The sign is to be located on this property as the dwelling on this property is where the administration functions (ie. Taking of bookings, key collection, and general enquiries) are carried out for the adjoining cabins and proposed boarding house.

The sign will have light blue text with a cream background (refer to Attachment 4). The proposed signage complies with Clause 23 of HLEP 1989 relating to advertising structures.

Councils' Development Control Plan for Signage is applicable to the development and permits:

"a sign directing the travelling public to tourist areas or where displaying private advertisements for tourist accommodation or other tourist facilities."

The proposed sign is approximately 1.1m x 1.8m (1.98sqm) and is double sided. This sign will be erected on a 3.2m high pole. The proposed sign will be located within the property boundary on the corner of Bells Line of Road and Powells Road, this location will not impede driver vision. The sign is considered to be unobtrusive and sympathetic to the scenic significance of the area.

Should the application be supported the sign should be permitted to be erected on Lot 10 as it is generally in accordance with the DCP and Clause 23 of HLEP 1989.

Privacy (*issue raised by objectors*)

Some objectors raised concern regarding loss of privacy. The existing buildings are on a ridge that overlooks the existing flower growing and the applicants dwelling located on Lot 10 and Bells Line of Road. There is no direct overlooking onto any other dwelling in the surrounding area. The nearest residence is located 30-50m south of the proposed development.

There is a stand of large pine trees along the boundary of the adjoining property to the east. The internal access of the subject site should not create problems by way of noise and headlight glare as the existing vegetation and right of carriageway act as a buffer, and the access be sealed. The applicant has agreed to incorporate additional landscaping along this boundary to help reduce the impact of vehicle movements.

There was concern raised that tourists using the boarding house will loiter on the concrete apron which exists at the front of the proposed boarding house. There are two large sliding doors that open to the rear (north) of the boarding house in Stage 2 that overlook the flower beds. This area is also covered by an awning to protect from weather which delineates an area for outside seating. In the future the applicant intends to incorporate a BBQ area at the rear of the boarding house restricting outside use to the northern side of the building. The existing roller door will be replaced with a wall and a standard front door will be installed, this will also prevent people from loitering at the front of the property. The applicant has agreed to erect fencing extending north from the western end of the building to prevent people loitering down the western side of the proposed boarding house.

The applicant has agreed to incorporate additional landscaping along the front boundary to assist in screening the development. Should the application be supported it is recommended that a detailed landscape plan be required as a condition of consent. Also, a fence defining the northern side of the dwelling outside seating area and a restriction on outside activities to the northern side of the proposed boarding house should be imposed.

Conclusion

The proposed development is generally consistent with the objectives of the zone and satisfies the provisions in other relevant planning instruments and policies with acceptable impacts on adjoining properties and the surrounding area.

The proposed development will not alter the scenic qualities of the area as the structures already exist. The proposed development is compatible with the surrounding land uses and will not impact adversely on the existing or future amenity of the area.

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

RECOMMENDATION:

That approval be granted for a staged development which consists of a boarding house and tourist facility on Lot 2, DP709500, 3075 Bells Line of Road, Bilpin and a tourist sign at Lot 10, DP709500, Powells Road, Bilpin, subject to the following conditions:

Stage 1 Use of existing ground floor of shed for purposes of boarding house, use of existing cottage for tourist accommodation, continued use of existing septic tank, sign erected on Lot 10 DP39306.

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 Kurramoore Design Service numbered 99552-2, 99552-3, 99552-4, 99552-5, 99552-6, dated 1 October, 1999) submitted with Development Application No. M1769/99 dated 8 November, 1999 and any supportive documentation, except as otherwise provided by the conditions of this consent.
2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
3. Prior to construction of the approved development it is necessary to obtain a Construction Certificate.
4. The applicant is advised to consult with:
 - (a) Integral Energyregarding 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).
5. No excavation or site works shall be commenced prior to the issue of the construction certificate.

Prior to Issue of Construction Certificate

6. 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.
7. A detailed landscape plan for the area marked in red on the approved plans is to be submitted to Council for approval.
8. A design checking and inspection fee of \$200 (two hundred dollars), must be paid when submitting engineering plans for approval prior to construction. This amount is valid until 30 June 2000.

9. Submission of design plans for all civil construction required by this consent.
10. The submission of a schedule of colours for the external walls and roof of the tourist facility and the roof of the boarding house for Council approval. Note: These colours are to be non-reflective and blend in with the surrounding area.

Prior to Commencement of Works

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

During Construction

15. All building work must be carried out in accordance with provisions of the Building Code of Australia.
16. 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.

17. 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.
18. Access to the Boarding House and Tourist Facility for people with disabilities shall be provided in accordance with the requirements of Part D3 and the BCA and AS1428.1 (1993), 1228.2 (1992) and 1428.3 (1992) all thresholds and room access (both internal and external) shall have "lipless thresholds".
19. The construction of a 5m wide sealed access and any necessary drainage along the right of way from Powells Road to the access point onto the site.
20. Parking shall be provided for five (5) vehicles in accordance with Council's Regulations and Parking Policy. Parking spaces, accessways and aisles to conform to Council's Development Control Plan and to be constructed, drained, sealed and marked. Full details of works shall be submitted for approval with the building application. Old 250 (5) (insert before accessways 'all internal') (delete last sentence)

Prior to Issue of Occupation Certificate

21. The submission of a Certificate from Telstra Australia that satisfactory arrangements have been made for the provision of cables for telephones to the development.
22. The following documentary evidence is to be obtained prior to the issue of any Construction Certificate, whether by Council or an accredited certifier:
 - (a) A written clearance from Integral Energy, stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.
23. 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.
24. A form 15 Fire Safety Certificate is to be submitted to Council.

Use of Site

25. All outside activities are restricted to the northern side of the structures at all times.

Stage 2 Alteration to existing building by construction of mezzanine level and additional room on ground floor for use as boarding house

General

26. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans (prepared by Kurramoore Design Services numbered 99552-2, 99552-3, 99552-7, 99552-8, 99552-9, 99552-10 dated 1 October, 1999) submitted with Development Application No. M1767/99 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.

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

Prior to Issue of Construction Certificate

29. Stage one is to be completed prior to issue of construction certificate for stage two.
30. The submission of details relating to the sewerage management facility for Council approval. Such details should include; water management of the flower growing activity, plan detailing how the disposal areas will be defined, location of drip system, grading of contours to contain all runoff on site, landscape plan indicating high absorption plant species.

Prior to Commencement of Works

31. 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
32. 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.
33. 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

34. All building work must be carried out in accordance with provisions of the Building Code of Australia.
35. 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.

36. All demolition, construction and associated work necessary for the carrying out of the development being restricted to between the hours of 7.00am and 6.00pm on Mondays to Fridays and between 8.00am and 4.00pm on Saturdays.

Prior to Issue of Occupation Certificate

37. A fence shall be provided extending 4m from the western and eastern corner of the boarding house in a northern direction.

Use of Site

38. All outside activities are restricted to the northern side of the structures at all times.

ATTACHMENTS:

AT-1 Locality plan and location of Objectors

AT-2 Site Plan

AT-3 Site Plan

AT-4 Sign Diagram

LOCALITY PLAN

ENVIRONMENT

Meeting Date: 28 March, 2000

Item: 94

SITE PLAN

ENVIRONMENT

Meeting Date: 28 March, 2000

Item: 94

SITE PLAN (2)

ENVIRONMENT

Meeting Date: 28 March, 2000

Item: 94

SIGN DIAGRAM

oooO END OF ITEM 94 Oooo

ITEM: 95 **Development Control Plan - Contaminated Land Policy**

FILE NUMBER: DCP001/00/EVD/ENC28NBX.V02

PREVIOUS ITEM: 46, GPC Section 1 - Environment (30.11.1999)

REPORT:

Introduction

On 14 December, 1999 Council resolved to adopt, for the purposes of public exhibition, the draft Development Control Plan (DCP) for Contaminated Land.

Public exhibition has been completed and the draft DCP is now presented to Council for adoption.

Background

Assessment and controls for contaminated land are provided for by the Environmental Planning and Assessment Act, State Environment Planning Policy No. 55, and the Department of Urban Affairs and Planning Guidelines for Managing Land Contamination. The Environmental Planning and Assessment Act, 1979 requires councils to consider whether land has been contaminated by past uses when assessing development applications and proposals for rezoning. The advantage of preparing a DCP is that all relevant requirements can be included within one document.

The aims of the draft Plan are to:

- (a) enable Council to more adequately identify, record and manage known and potentially contaminated land;
- (b) assist Council in the discharge of its functions and responsibilities in relation to existing and potential land contamination with reasonable care and due diligence to minimise potential risk to both public health and the environment;
- (c) inform the community, particularly those interested or involved in the planning and development process, of Council's procedures relating to existing or potential land contamination; and
- (d) ensure that all stakeholders are aware of their responsibilities for the on-going management of contaminated land.

Community Consultation

The draft Plan was placed on public exhibition for a period of six weeks from 12 January, 2000 up to and including 23 February, 2000 and an advertisement was placed each week in the local newspaper.

No submissions from the public were received in respect to the draft Plan.

Consequently, no change in the content of the draft Plan has been made, however grammatical errors have been corrected.

Upon adoption of the DCP by Council, the Plan will become effective from the date that the public notification appears in the local paper.

Conclusion

The draft DCP for Contaminated Land was compiled and exhibited in accordance with the Environmental Planning and Assessment Act, 1979. At the conclusion of the exhibition of the draft Plan no submissions were received.

It is therefore recommended that the draft Plan be adopted and that notification of this decision be placed in the local paper.

RECOMMENDATION:

That:

1. The draft Development Control Plan - Contaminated Land Policy be adopted by Council.
2. Notification of commencement of the development control plan be placed in the local newspaper in accordance with Section 20(2) of the Environmental Planning and Assessment Regulation, 1994.
3. A copy of the development control plan be sent to the Director of the Department of Urban Affairs and Planning in accordance with Section 20(5) of the Environmental Planning and Assessment Regulation, 1994.

ATTACHMENTS:

AT-1 Copy of Development Control Plan - Contaminated Land Policy distributed separately

oooO END OF ITEM 95 Oooo

ITEM: 96 **190 Macquarie Street, Windsor - Extensions to Existing Church -
Hawkesbury Christian Centre - Noise Complaints**

FILE NUMBER: DA151/98/EVD/ENC28NBX.V12

REPORT:

Introduction

This report provides relevant information for Council following a question without notice at the Ordinary meeting on 14 March, 2000.

Background

Development consent for extensions to the existing Hawkesbury Christian Centre Church was granted in September 1998. Building works commenced in 1999.

Several complaints have since been received from adjoining residential properties regarding noise associated with construction outside the hours permitted on the development consent.

Condition 26 of the consent states:

"All demolition, construction and association 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".

Current Status

The complaints were discussed with the builder following receipt of each complaint. However, the noise nuisance has continued. Accordingly, a Noise Abatement Direction was served on the owners of the building, Hawkesbury Christian Life Centre, on 14 March, 2000 to:

"Prevent the emission of offensive noise from the operation and movement of construction and transport equipment on and nearby the subject property."

Conclusion

Any further breaches of the Noise Abatement Direction will result in police attendance in response to complaints and possible "on the spot fines" being issued.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 96 Oooo

ITEM: 97 **Draft Local Environmental Plan 16/95(Amendment 64) -Rezoning of the Grose Wold area**

FILE NUMBER: LEP16/95/EVD/ENC28NBX.V09

PREVIOUS ITEM: 131, Ordinary (08.02.2000)

REPORT:

On 8 February 2000 Council resolved to re exhibit the draft local environmental plan for Grose Wold, which aims to rezone the area from Rural 1(b) to Rural 1(c1). The plan also introduces an Environmental Constraint Area which will apply to the Grose Wold area.

The plan was re-exhibited as a result of a court case in the Land and Environment Court which had significant implications for community consultation in the preparation of local environmental plans.

Public Exhibition

The draft plan was publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979 from 16 February 2000 to 14 March 2000 (28 days). Approximately 260 residents and adjoining residents were notified of the exhibition and details of the plan the plan placed in the Hawkesbury Gazette on 16 February 2000 and 8 March 2000.

No submissions were received in relation to the draft plan.

Community Meeting

The residents within the area and the residents adjoining the area were invited to attend a community meeting. The meeting was held on Wednesday 1 March 2000 at the North Richmond Community Centre and was attended by approximately 30 people. At this meeting, the alterations made to the draft plan since the last exhibition in February 1999 were outlined and explained.

Conclusion

It is considered that the draft Plan can proceed in its current format and no alterations are required. It is recommended that the draft plan proceed and that the plan be forwarded to the Department of Urban Affairs and Planning for finalisation and gazettal.

RECOMMENDATION:

That the draft local environmental plan - Amendment 64 be forwarded to the Department of Urban Affairs and Planning for finalisation and gazettal.

ENVIRONMENT

Meeting Date: 28 March, 2000

Item: 97

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 97 Oooo

ITEM: 98 **Notice of Intention to Consider Listing Lot 180 DP41869 No. 286 Windsor Street Richmond on State Heritage Register**

FILE NUMBER: P2343/1590 Pt02/EVD/ENC28NBX.V08

REPORT:

Introduction

Council has received notification from the Heritage Council of NSW that they are considering listing the former Richmond Post Office on the State Heritage Register.

The Heritage Council has invited Council to comment on the proposed listing.

What is the State Heritage Register?

The State Heritage Register is a list of places and items of particular importance to the people of New South Wales.

The Register was established under the Heritage Amendment Act 1998 which commenced on 2 April 1999.

The Register replaced the system of Permanent Conservation Orders as a statutory means of protecting items of *State significance*. *State significance*, in relation to a place, building, work, relic, moveable object or precinct, means significance to the State in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic values of the item.

What does it mean to be listed on the Register?

Listing on the State Heritage Register means that the heritage item:

- is of a particular importance to the State and enriches our understanding of the history of NSW;
- is legally protected under the NSW Heritage Act 1977;
- requires approval from the Heritage Council of NSW for certain kinds of work; and,
- is eligible for financial incentives.

Brief History of the Post Office

Prior to 1844 mail was delivered to Richmond three times per week where the local constable would deliver it on a voluntary basis. The first post office was officially established in Richmond in 1844, with a telegraph office later, operating out of the railway station.

In c1870, the residents of Richmond petitioned for a new post office to be built. The new office, designed by Colonial Architect James Barnet, was opened in October 1875. Originally a single storey office costing 1,479 pounds, the colonnade running around the building was added in 1879,

with stables and other additions constructed in 1882. The original form of the ground floor suggests that part of this space was initially used as a residence for the postmaster. A second storey was added soon after to provide additional residential space. These addition were completed in August 1888 at a cost of 869 pounds.

The Georgian Revival style infill of the ground floor colonnade was constructed in 1906.

Why is the Post Office significant?

The Richmond Post Office is significant at a State level for its historical associations, strong aesthetic qualities and social values.

The Post Office is historically significant because it is associated with the NSW Colonial Architect's Office under James Barnet, and is part of an important group of works by Barnet, a key practitioner of the Victoria Italianate architectural style in NSW. Richmond Post Office is also associated with the development of Richmond as an important service area in the Hawkesbury region, and development of communications services in the Richmond area. The building compares with post offices in Wellington (1869), Tumut (1870), Parkes (1880), and other nineteenth century post offices having ground floor arcades with upper level verandahs.

It is located on a prominent corner site and, along with the neighbouring courthouse, makes a significant contribution to the streetscape of the Richmond civic precinct.

The Post Office is presently listed as an item of heritage significance by the National Estate, National Trust and Hawkesbury City Council.

RECOMMENDATION:

That Council support the proposed listing of 286 Windsor Street, Richmond on the State Heritage Register.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 98 Oooo

ITEM: 99 **Submissions from Department of Agriculture Concerning the Definition of Rural Industry**

FILE NUMBER: M0006/98/EVD/ENC28NBX.V05

PREVIOUS ITEM: 57, GPC Section 1 - Environment (25.01.2000)

REPORT:

Council is in receipt of three items of correspondence authored by David Mason, the Resource Management Liaison Officer for the Department of Agriculture in George Street, Windsor.

These documents are:

1. An undated submission made to the Economic Development Advisory Board's public forum on Wednesday, 16 February 2000
2. A letter dated 21 February, 2000.
3. A letter dated 2 March 2000 on NSW Department of Agriculture letterhead.

These two letters and the submission to the public forum are shown as attachments.

This correspondence has arisen from Council's resolution concerning the definition of Rural Industries and a decision to amend the definition of Rural Industries to exclude those rural industries which are designated development under the provisions of the Act from the definition. This would have the effect of excluding those designated development rural industries from the rural zones in the Hawkesbury Local Environment Plan (LEP) confining them to industrial zones. The following issues are raised in each of the items of correspondence:

1. Submission to the Economic Development Board's public forum -
 - NSW Agriculture has no position that agriculture has to be catered for in a Sydney basin;
 - submission outlines a background to the Strategic Plan for Sustainable Agriculture - Sydney Region;
 - states that the amendment to the LEP would critically wound potential economic growth;
 - removes the potential for value adding within existing industries;
 - is contrary to the Strategic Plan for Sustainable Agriculture objective 4;
 - is contrary to the Shaping Western Sydney document from the Department of Urban

Affairs and Planning;

- gives details about the size of industry.

2. Letter of 21 February 2000 -

- ask Council to consider when preparing the draft LEP whether the amendment is consistent with the objectives of the zone and the fact that the economic importance of the industry is more significant than whether it is designated by Act or not;
- supports the use of the application associated with an Environmental Impact Statement as it provides a clear process for all parties involved including the proponents, objectors and Council;
- prefers that the EIS/Development Application process over rezoning process as a rezoning process may not be accompanied by a comprehensive Environmental Impact Statement;
- the rezoning process may deter an opponent due to the expense of the preparation of an Environmental Impact Statement when there is no appeal over Council decision;
- request that Council remove the confusion that has occurred and the amendment may have some unintentional affects;
- contends that if a zone is not suitable then the zone should be altered for a particular land use or activity;
- agrees where Council has established sufficient industrial zones they should be encouraged to locate into them but contends that this option should not prohibit their establishment elsewhere if they meet broadly accepted community standards;
- contends that Council's ability to respond to proponents will be limited and Council's flexibility in dealing in innovative solution proposals would be restricted.

3. Letter dated 2 March 2000 -

- agriculture is under pressure from fragmentation of land particularly for residential purposes;
- agriculture is being prevented from achieving its maximum potential;
- department would prefer the Environment Impact Statement process and accompanied Development Application rather than rezoning;
- Council is removing the proponents and community's right of appeal to the Land and Environment Court following the submission of development application for designated development;

- agriculture is not a small industry in the region;
- promotes consistency between all Council's policies so that sustainable agriculture can expand.

It is considered that the correspondence from the Department of Agriculture is more rightly described as a submission to Council's decision regarding the definition Rural Industries. This draft Local Environmental Plan which seeks to carry out Council's resolution will be placed on exhibition in accordance with Council resolution when a certificate is received for the draft plan which seeks to implement the Hawkesbury Sustainable Agriculture Development Strategy (HSADS). A central tenant of that strategy (HSADS) is the removal from rural lands, land use which are not used to support agriculture or indeed not agricultural in their intent.

Hawkesbury Local Environmental Plan 1989 like all local environmental plans, zones lands and excludes some particular land uses in one zone and allows them in another. If any person was to apply to develop an industry or land use that is prohibited in the zone then they need to go through a rezoning process. This decision is with Council and there is no right of appeal through the Land and Environment Court. This is a basic tenant of the Environmental Planning and Assessment Act and it has not been changed by this amendment (rural industries).

NSW Department of Agriculture like other government agencies will be notified when the exhibition of the draft plan is about to commence and their opinion sought as to its content and its effect.

The Department of Urban Affairs and Planning have not yet released a certificate to allow the HSADS draft LEP to be replaced on exhibition and legal advice for the drafting of the definition of rural industry is still to be obtained. It is concluded that these two letters and submission should be treated as submissions to the preparation of the draft Local Environmental Plan and reported to Council at the conclusion of the exhibition period.

RECOMMENDATION:

The information be received.

ATTACHMENTS:

AT-1 Submission submitted to the Economic Development Advisory Board's public forum.

AT-2 Letter dated 21 February, 2000.

AT-3 Letter dated 2 March 2000.

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LETTER 1

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LETTER 2

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LETTER 2

oooO END OF ITEM 99 Oooo

ITEM: 100 **Development Control Plan for the Grose Wold area**

FILE NUMBER: DCP 2/00/EVD/ENC28NBX.V13

REPORT:

Background

Council at its meeting of 29 June 1999 resolved to prepare a Development Control Plan (DCP) for the Grose Wold area which is currently being rezoned from Rural 1(b) to Rural 1(c1) to allow the minimum allotment size for subdivision of four hectares.

Furthermore Council considered the draft DCP at its meeting of 8 February 2000 and resolved to place the DCP on public exhibition.

The DCP covers the same area as the draft local environmental plan (Amendment 64) and generally bounded by Grose River Road, Grose Wold Road, Grose Vale Road and the Grose River. The consideration of the draft local environmental plan (Amendment 64) is listed separately in this business paper.

Public Participation

The draft DCP was placed on public exhibition from the 16 February 2000 to 14 March 2000 in accordance with the Environmental Planning and Assessment Act 1979. The DCP was advertised in the Hawkesbury Gazette on 16 February 2000 and 8 March 2000. A letter notifying the exhibition of draft local environmental plan and the DCP was sent to approximately 260 residents and adjoining residents within the Grose Wold area.

The residents within the area and the residents adjoining the area were also invited to attend a community meeting to discuss the draft local environmental plan and the DCP. The meeting was held on Wednesday 1 March 2000 at the North Richmond Community and was attended by approximately 30 people. At this meeting the requirements of the DCP were outlined and explained.

No submissions were received.

Alterations to the plan

There have been no alterations made to the plan as a result of the public exhibition.

Conclusion

It is important that the DCP be in force at the time of gazettal of Amendment 64 to ensure that the impact of any development in the area is minimised as well as to provide guidelines for land owners in the area. It is therefore recommended that the DCP be adopted.

RECOMMENDATION:

That the Development Control Plan for Grose Wold be adopted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 100 Oooo

ITEM: 101 **Lot 1 DP 862897 No 78 Greens Road, Lower Portland - Hawkesbury Country Club - Issues Associated with Development Application and Operation of Caravan Park**

FILE NUMBER: 717/0440, DA319/98, DA26/97/EVD/ENC28NBX.V11

PREVIOUS ITEM: 88, GPC Section 1 - Environment (29.02.2000)

PREVIOUS ITEM: 107, Ordinary (14.12.1999)

REPORT:

This matter was last reported to General Purpose Committee on 29 February 2000 when it was resolved that a detailed list of all matters in relation to problems and non compliance be given to the operators of the caravan park and the matter reported to this General Purpose Committee.

An inspection of the site was carried out by Council's Director of Environment and Development and Environmental Health Officer. Detailed discussions regarding the operation of the caravan park were had with the licence holder. It appears that the issues can be divided into three areas.

1. Development Consent No 319/98 for 9 additional caravan park sites;
2. Development Consent No 26/97 for relocation of sites 5 to 28; and
3. Sites 29 to 50 and compliance with the regulations concerning the operations of the caravan parks.

1. Development Consent No 319/98 - Allowing the construction of nine new relocatable home sites.

This consent was issued by consent orders from the Land and Environment Court. A condition of those consent orders is:

- “17. The approval to operate a caravan park and/or camping ground issued by Hawkesbury City Council on 15 October 1997 be updated to reflect the additional nine sites”.*

The applicant contends that this condition of the consent which was issued by the Court is in fact an order on Council to issue the amended caravan park licence. The applicant contends that they will proceed to the Land and Environment Court to have the Court issue an order for Council to amend the caravan park licence. This matter has been referred to Council's solicitor Abbott Tout who advised in their opinion the consent condition does not place any obligation on Council to issue licences but rather the licence issued by Council in October 1997 must be updated to reflect the additional nine sites. They go on to further say that this licence cannot be issued until the nine sites have been physically constructed which in this case requires the demolition of buildings, provision of water and reticulated sewer to those sites and the construction of access roads.

It appears that the applicants may be satisfied with a letter from Council assuring them that once the caravan park sites have been constructed in accordance with the conditions of consent that the licence to operate will be issued. The applicants are concerned that this will not take place.

2. Development Consent 26/97 - Relocation of Sites 5 to 28

This matter is reported in detail at Council's last General Purpose Committee. The issue here is that the Development Consent for these sites and the conditions on the operation of the caravan park appear to be in conflict. The applicant made submission by letter dated 20 July 1999 and wish the consent for the caravan park licence to read:

"relocatable homes, manufactured homes, mobile homes, rigid annexes, unregistrable moveable dwelling are permitted to be installed on land above 7m AHD."

This matter reported to last General Purpose Committee, proposed that manufactured homes be located without further reference to Council on land above 8.7m AHD and that land from 8.7 to 7.7m AHD be allowed to be used for mobile homes provided they receive individual approval.

The applicants have submitted detailed drawings on footings and tie down provisions from a structural engineer which appeared to satisfy the requirements for location of homes between 7.7 and 8.7m in terms of the impact on wind loading and water and it would be possible to amend the caravan park licence to reflect that particular drawing. This would mean that manufactured homes could be installed in accordance with that drawing without further reference to Council. It should be noted however the applicant wishes this to be extended to 7m AHD. This may only affect one or two sites and does not appear to be of great consequence.

This matter is list for a Land and Environment Court hearing in June 2000.

It may be possible for Council to negate necessity for the hearing if it resolved to amend the caravan park licence in accordance with the matter as last reported to General Purpose Committee as outlined above. The applicant has submitted information that sets the 1:100 year flood level of the area at 8.9m AHD and be 1:50 year level at 7.9m AHD, however these figures were not used in the development application.

3. Sites 29 to 50

These sites are occupied by permanent caravans many of which have structures associated with them, some which could be described as normal annexes and some which are described as building that have been constructed over many years to augment the provisions of the caravan. This issue here is that the applicant contends that because many of the structures were in existence prior to Ordinance 71 which commence in 1987 they are therefore protected by that provision and are then 'deemed to comply', that means they do not have to comply with the provision of Ordinance 71. They further contend that as this is the case they are then deemed to comply with the current caravan park regulations and therefore Council must accept them as being part of the caravan park. This position is in conflict with advice Council has received from the Department of Local Government in a letter following the on-site inspection of the site on 11 March 1999 by Council staff, the proprietor and the Assistant Manager of Building Codes and Standards Branch of

Department of Local Government. In the letter to Council arising from the inspection the Department of Local Government make it quite clear that in their opinion the deemed to comply provisions do not apply to these structures. To clarify this position a barrister has been briefed to provide an opinion as to whether or not these structures do comply with the current caravan park regulation. Should this opinion be obtained prior to the General Purpose Committee a late report will be prepared advising the Committee of the barrister's advice.

The issues associated with these structures are shower and toilet provisions, whether the annexes are appropriate, the facts that the sites are not marked out in accordance with the regulations and unauthorised buildings have been carried out. All these matters were reported to the General Purpose Committee meeting on 29 February 2000.

Conclusions

In conclusion there seems to be three areas of dispute between the operators of the caravan park and Council. It appears that these can all be solved by certain directions being taken by both the applicant and by Council and it is considered the following recommendation may go some way towards solving these issues.

RECOMMENDATION:

That:

1. Council write to the operators of the Paradise Point Caravan Park informing them that the licence to operate the caravan park will be amended once the sites approved on Development Consent 319/98 have been constructed.

2. Condition 1 of the approval to operate a caravan park be amended as follows:

"Manufactured homes are permitted to be installed on flood liable land, subject to the following requirements:

- i. *Floor level for manufactured homes to be at a minimum 8.7 metres AHD.*
- ii. *Floor level for manufactured homes to be a maximum of 1 metre above natural ground level.*
- iii. *Manufactured homes which are to be installed on land lower than 8.7m AHD will be the subject of approval applications to Council having regard to the provisions of the Local Government (Caravan parks, Camping Grounds and Moveable Dwellings) Regulation 1995.*
- iv. *Applications referred to in (iii) are to contain details of construction which complies with Council's requirements for structures capable of being inundated by flood waters, in particular flood compatible materials, electrical, plumbing and other services and footings and tie downs having regard to potential impact from flooding.*

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- v. *Completion of manufactured homes following approval and installation are to be certified by a suitably qualified engineer having regard to hydraulic and structural expertise, certifying that the structures are appropriate having regard to the potential impact from flooding and that they will not cause future damage having regard to the potential flood impact.*
- 4. Once the opinion of Counsel is obtained concerning the deemed to comply provisions of the regulations these be conveyed to the operator for them to take the appropriate action.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 101 Oooo

ITEM: 102 **Hawkesbury Local Environmental Plan 1989 - Clause 13 - Boundary Adjustments**

FILE NUMBER: GT160/002 PT2, GT160/001 PT2/EVD/ENC28NBX.V10

PREVIOUS ITEM: 84, GPC Section 1 - Environment (29.02.2000)

REPORT:

This matter was last reported to Council at its Ordinary on 14 March 2000 where some issues of concern were raised concerning the operation of Clause 13 of the Hawkesbury Local Environmental Plan 1989 which deals with subdivision by adjustment of boundaries.

Clause 13 is as follows:

Subdivision by adjustment of boundaries

13. (1) *Nothing in this plan prohibits consent being granted for a subdivision of land by adjustment or relocation of common boundaries provided that:*
- (a) *no additional allotments are created; and*
 - (b) *no allotment becomes, as a consequence of the adjustment or relocation, capable of subdivision under this plan; and*
 - (c) *the number of undersized allotments resulting from the subdivision does not exceed the number of undersized allotments before the subdivision; and*
 - (d) *the number of dwelling-houses capable of being erected, as a consequence of the adjustment or relocation, does not exceed the total number permissible prior to that adjustment or relocation.*
- (2) *Subclause (1) does not apply to land that includes or consists of allotments smaller than 450 square metres.*
- (3) *Subclause (1) does not apply to land that includes or consists of allotments derived from or forming the whole or part of land resulting from the closure of part or all of a road, irrespective of when that closure occurred.*
- (4) *Subclause (1) does not apply to land within Zone No. 7(e).*
- (5) *Subclause (1) does not prevent the subdivision of any allotment that was, prior to the adjustment or relocation of boundaries of other lots, capable of subdivision under this plan.*

- (6) *In determining an application for consent for a subdivision in accordance with this clause the Council must consider:*
- (a) *whether the size, shape, or topography of the land would restrict the erection of a dwelling on any of the lots created; and*
 - (b) *whether the land is capable of on-site effluent disposal where no reticulated sewerage system is available.*
- (7) *Nothing in this plan prohibits subdivision by the opening of a public road.*

The following observations are made concerning this clause:

1. There is no restriction on the amount of adjustment that can take place. Council when last considered amendment to this Clause at its meeting on 20 September 1997 received a report that contained the following: *"It is not recommended that reference to 'relocation of common boundaries' be removed from this clause as it would unnecessarily limit subdivision to only minor adjustments. Often there is legitimate reasons for varying boundary adjustments for more than 'minor adjustment'".*

It will appear therefore that Council in considering its latest variation to this Clause which was gazetted in January 1999, consider the prospect of limiting the amount of subdivision allowed or variation allowed but resolved not to.

Boundary adjustments can only take place where there are no additional allotments created; no allotment comes capable of subdivision as a result of the adjustment; the number of undecided lots remain the same after the subdivision; and the number of dwelling houses capable of being erected remains the same after the subdivision.

2. The clause cannot apply to small lots.
3. It does not apply to parcels of land created as a result of road closures.
4. It does not apply to land zoned Environmental Protection Zone 7(e).
5. It does not prevent the adjustment of boundaries where subdivisible lots are involved.
6. It creates additional issues to be considered.
7. It does not prevent the opening of a public road.

There appears to be two major issues arising from this Clause firstly, there is no limit in the size of the adjustment, secondly, lots that are capable of subdivision under current clauses can be made more capable as a result of boundary adjustments thus creating additional allotments.

Clause 13(6) inserts some matters for consideration for Council when determining applications for boundary adjustment. It is considered that these should be expanded to include consideration of the distribution of lot sizes in the immediate locality; the impact on the environment of the boundary adjustment, the dwelling house location, and the construction of access to dwelling house. By inserting these matters of consideration, Council will retain the flexibility to deal with a wide range of subdivision by boundary adjustment but will place the onus on the applicant to prove that the adjustment is in fact environmentally more appropriate than the current lot configuration. Thus overcoming one of the major criticism of this Clause.

There is nothing in Clause 13 to prevent land that is currently capable of subdivision becoming more capable by the adjustment of boundaries, thus allowing the creation of additional allotments. Although the Clause deals quite extensively with the provisions of making no additional allotments as a result of adjustment it does not deal with the case when a lot becomes more capable of subdivision, ie to say, increases sufficiently in area to allow additional lot to be subdivided under normal subdivision clauses. It is considered that adjustment to this Clause is required to prevent this happening in the future.

RECOMMENDATION:

It is recommended therefore that pursuant Section 54 of the Environmental Planning and Assessment Act, Council resolve to amend Clause 13 of Hawkesbury Local Environmental Plan 1989 by:

1. Inserting provisions to prevent additional lots being created under this Clause.
2. Inserting matters for consideration in Clause 6 that include the environmental consequences of the adjustment, the access to the lots and the surrounding lot sizes.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 102 Oooo

ENVIRONMENT**Meeting Date: 28 March, 2000****Item: 103****ITEM: 103 Development Application Activities - July 1999 to February 2000****FILE NUMBER:** GE020/029/EVD/ENC28NBX.V14**REPORT:****Introduction**

The purpose of this report is to provide Council with an insight into the number of applications and level of construction activity within the City.

Report

The following table summarises the level of activity from 1 July, 1999 to 29 February, 2000 and gives a comparison for the same period for the previous year.

Period	Number of Development Applications Received	Number of Development Applications Determined	Number of Construction Inspections
1/7/99 to 29/2/2000	1,412	1,313	3,417
1/7/98 to 28/2/99	1,131	1,045	3,177

It is noted that for the 1999/2000 period 14 development applications were refused, which represents 1% of all determinations, and two refusals have resulted in appeals to the court. It is also noted that 41 applications (3%) were reported to Council for determination and the remaining 97% of applications were determined by staff under delegated authority. It is also noted that the level of activity compared to the same period the previous year is significantly higher.

Conclusion

This information is reported to provide a clearer understanding of the overall level of development activity.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 103 Oooo