



**general
purpose
committee**

**1
section**

environment

GENERAL PURPOSE COMMITTEE - ENVIRONMENT

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ENVIRONMENT

Meeting Date: 28 March, 2000

Item: 104

ITEM: 104 **Motor Showroom - Lot 102 DP849449 70 Macquarie Street, Windsor**

FILE NUMBER: MA161/00/EVD/ENC28LAX.V18

Applicant: Calcorp Pty Ltd
Applicants Rep: Mr Robert Calvert
Owner: Mr & Mrs Turl
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 State Environmental Planning Policy Number 11
 Section 117(2) Directions
 Environmental Planning and Assessment Model Provision 1980
Area: 930.5m2
Zone: Business Special 3(b)
Advertising: Surrounding owners/occupiers notified
Date Received: 16 February 2000

Key Issues: - Permissibility of development
 - Traffic
 - Access
 - Character of the area
 - Design

Action: Delete Clause 42 of HLEP 1989 in order to permit the proposed development.

REPORT:

Introduction

Council has received an application for a motor showroom on 70 Macquarie Street, Windsor.

The proposed development is presently prohibited by Hawkesbury Local Environmental Plan 1989. The matter is being reported to Council for consideration to alter HLEP 1989 to permit the proposed use.

Background

The subject property is Lot 102 DP 849449, 70 Macquarie Street, Windsor. The property was created by the subdivision of Lot 10 DP 631286 in May 1995. This subdivision created lots 101 and 102 DP 849449.

In 1991 Council rezoned Lot 10 DP 631286 from Residential 2(c) to Business Special 3(b). The rezoning also prohibited the use of the property for the purposes of a bus depot, car repair station, motor showroom, panel beating and spray painting undertaking, service station, truck depot or any other purposes which is, in the opinion of Council, similar to any of those purposes.

The site was zoned to enable the construction of two fast food outlets on the property. One outlet has been constructed (Red Rooster) the remainder of the site is undeveloped. Since the rezoning of the property it appears that commercial interest in further developing the site for fast food outlets has reduced whilst commercial interest in developing the site for motor showrooms has increased. This is partly evident in the applicant's proposal and the number of enquiries received by Council to establish a motor showroom on the land.

The Proposal

The applicant proposes to construct a motor showroom to be used for the display, sale and servicing of new and used motor cycles. The building is to be the new site for Hawkesbury Honda who presently occupy premises in Richmond.

The site is located on the eastern side of Macquarie Street and is immediately north of the property occupied by Red Rooster (Lot 101 DP 849449). The property has an area of 930.5m² and benefits from a right-of-carriageway over the Red Rooster property.

The applicant proposes an L shaped building with an area of 667m². The building has two storeys consisting of a showroom and sales area, workshop, staff room and amenities on the ground floor and a showroom, office and store on the first floor. The building presents as single storey with colorbond roof and projecting fin walls to Macquarie Street. Stepped fin walls along the side elevations gives the building a 1.5 - 2 storey appearance when viewed from the north and south. The maximum wall height is approximately 7.5m. The front, rear and most of the northern elevation is to be built to the property boundary. A 2.5m wide awning is proposed to overhang the footpath. The building is architect-designed and provides an appropriate urban design response to the site.

The applicant proposes to use the existing driveway on Lot 101 and the right of carriage way to gain vehicle access to the site. 11 car parking spaces are provided as well as motor bike parking

The business will employ five persons and the proposed hours of operation are 8.00 am to 5.30pm 6 days per week.

Surrounding Landuses

Surrounding landuses consist of residences immediately to the north and east. Further to the north is a Integral energy substation and disused service station. To the south is Red Rooster and a car yard. To the west is Macquarie Street, a car park, Coles, Pizza Hut and a church.

Surrounding zonings are Residential 2(c) and Special Uses 5(a) - Electricity Substation to the north. Residential 2(c) to the east. Business Special 3(b) to the south. Business General 3(a) and Business Special 3(b) to the west. All but one motor showroom (Windsor Toyota) along Macquarie Street is within the land zoned 3(a) or 3(b). Windsor Toyota is zoned 2(c), part of their site enjoys exiting use rights with the remainder being subject to an enabling clause within HLEP 1989 to permit motor showrooms on that site.

Statutory PositionProvisions of Hawkesbury Local Environmental Plan 1989

The property is zoned Business Special 3(b) under Hawkesbury Local Environmental Plan 1989 (HLEP 1989).

The zoning table for the 3(b) zone is provided below:

1. Objectives of zone

The objectives of this zone are -

- (a) to promote office development to meet the optimum employment and social needs of the City of Hawkesbury;*
- (b) to permit non-commercial development within the zone where such development is compatible with the commercial character of the locality;*
- (c) to ensure that there is adequate provision for car parking facilities within the zone;*
- (d) to minimise conflicts between pedestrians and vehicular movement systems within the zone; and*
- (e) to preserve the historic character of the City of Hawkesbury by protecting heritage items and by encouraging compatible development within and adjoining historic buildings and precincts.*

2. Without development consent

Nil.

3. Only with development consent

Any purpose other than a purpose included in item 4.

4. Prohibited

Industries other than light industries; institutions, junk yards; liquid fuel depots; offensive or hazardous industries; road transport terminals; shops.

The proposal falls into the definition of a “motor showroom”. HLEP 19898 defines “motor showrooms” as:

a building or place used for the display or sale of motor vehicles, caravans or boats, whether or not motor vehicle accessories, caravan accessories or boat accessories are sold or displayed therein or thereon;

The proposal also contains a workshop area which, if it was independent of the motor showroom, would be defined as a “car repair station”. Since the workshop is ancillary to the main use of the property, being a “motor showroom”, the additional categorisation of the proposed use as a “car repair station” is not necessary.

Both “motor showrooms” and “car repair stations” are ordinarily permissible within the 3(b) zone subject to development consent.

Clause 42 of HLEP 1989 is a special provision relating only to this property. Clause 42 states:

(1) This clause applies to land being Lot 10, DP 631286, Macquarie Street, Windsor.

(2) A person shall not carry out development on land referred to in subclause (1) for the purposes of a bus depot, car repair station, motor showroom, panel beating and spray painting undertakings, service station, truck depot or any other purpose which is, in the opinion of the Council, similar to any of these purposes.

Only one other similar restriction applies to land within the City that is zoned Business Special 3(b). This site is Lot A DP 900446, corner of Macquarie and Brabyn Street, Windsor (the former Motor Registry site). This site has been developed for the purposes of small business/factory units.

Other relevant provisions of HLEP 1989 are:

Clause 18 Provision of Water, sewerage etc, services

Sufficient and satisfactory services for the purposes of water, sewerage, drainage and electricity can be provided to the site.

Clause 22 Development fronting a main or arterial road

Macquarie Street 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.*

Comment: The proposed use of the premises for the purposes of a motor showroom is compatible with the existing character of the area which is dominated by motor showrooms, fast food outlets, car parks and retail uses.

- (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.*

Comment: The proposed development will not generate significant additional traffic relative to the capacity and safety of Macquarie Street. The proposed development is infill development not ribbon development.

- (c) *Any building should be sited and designed to be of an appropriate scale, so as to maintain the character of the area, to minimise disturbance to the landscape, not to intrude into the skyline and to maintain an overall pattern of building development that is consistent with the character of the area.*

Comment: The scale, height and bulk of the proposed building is greater than the adjoining residences to the north and east. However, the character of this section Macquarie Street is dominated by commercial activities. The scale, bulk and height of the building is compatible with the surrounding commercial development consisting of motor showrooms, fast food outlets, Integral Energy sub-station, supermarket, etc. The building will not unreasonably intrude into the skyline or create a significant disturbance of the landscape.

- (d) *Any building should be setback, from the nearest alignment of the main or arterial road, the distance to be determined by the Council having regard to:*

- (i) *the nature, scale and function of the building;*
- (ii) *the maximisation of sight distances for drivers, including visibility of points of access;*
- (iii) *the minimisation of distractions to drivers; and*
- (iv) *any possible need to alter the road alignment in the future*

Comment: The proposed building has a zero setback from the property boundary to Macquarie Street. The grass verge in front of the property is approximately 3.5m wide. A 2.5m deep awning is to be constructed over the grass verge. The nature and function of the building requires high exposure to passing traffic. The scale of the building is larger but still compatible with surrounding commercial development. An existing Integral Energy sub station building to the north of the site also has a zero metre setback from the Macquarie Street property boundary. This building is approximately 6.5m high (ridgeline). Integral Energy plan to demolish this building within the near future as part of their redevelopment of the site.

The proposed zero setback and overhanging awning will not unreasonably impact upon driver's sight distance or cause distractions to drivers. There are no plans to alter the alignment of the eastern side of Macquarie Street within the vicinity of the site.

- (2) Not applicable
- (3) *Direct vehicular access from any land to a main or arterial road is prohibited. However, if, in the opinion of the Council, there is no reasonable alternative access to the land from another road, the Council may consent to access to a main or arterial road if such access will be located and designed so as to minimise potential traffic hazards.*

Comment: Vehicle access to the site is via the existing driveway on the adjoining Lot 101. This driveway has been suitably located and designed to minimise potential traffic hazards. No reasonable alternative access exists.

Clause 25 Development of flood liable land

The subject site has land levels of approximately 15.8m - 16.8m AHD, the driveway has a minimum height of 15.5m AHD. The 1 in 100 year flood event level is 17.3m AHD. The site is not in the main floodway and is generally only effected by flood water inundation as a result of backwater flooding from the Hawkesbury River and South Creek. Access to the site during major flood events will generally not be needed and any isolation of the site caused by flooding does not make the site unsuitable. The proposed building is to be constructed of flood compatible materials and will comply with the minimum land and floor height standards for the area. It is concluded that the proposed development satisfies Clause 25 of HLEP 1989.

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 has been referred to Council's Local Traffic Committee for consideration.

The Local Traffic Committee has not raised objection to the proposed development.

Section 117(2) Direction and EPA Model Provisions 1980

The proposal and required amendment to HLEP 1989 is generally consistent with the Section 117(2) directions of the EP & A Act 1979, relevant SEPPs and SREPs and the EPA Model Provisions 1980.

Community Consultation

Surrounding property owners and occupiers were notified of the proposal. One (1) letter of objection was received from the neighbour immediately to the north..

A summary of the concerns raised is provided below:

- concerned about the proximity of the building to the property boundary

- overshadowing
- the development will result in the loss of landscaping along northern boundary of Lot 102
- inconvenience of noise and dust during construction
- access to neighbouring property may be required during construction
- potential for nighttime security and lighting to intrude on privacy

The adjoining residence is located approximately 5m from the front boundary and 1.2m from the property boundary with Lot 102. The dwelling has three windows which face the development site. These windows are for a bathroom and two bedrooms. Dense landscaping is located in front of the dwelling and to the rear of the property.

Planning Assessment

Context and Setting (issue raised by objector)

The character of Macquarie Street in the vicinity of the site is dominated by a mix commercial uses. The proposed use of the property for the purposes of a motor showroom is consistent with existing surrounding uses and the dominant character of the area.

The scale of the proposed building is greater than that of the residences to the north and east, however, it is consistent with the surrounding non-residential development. The applicant proposes suitable architectural treatments and variations of the facades to break up the bulk and height of the building and to add visual interest. On balance the design, height, bulk and scale of the proposed building is considered suitable given the intended use and the surrounding pattern of development.

The proposed building will cause overshadowing of the property in the late afternoon of mid winter. Shadowing will mainly fall onto an area already in shadow as a result of the residence, shed and existing landscaping. Opaque glass brick windows are proposed on the northern elevation of the building hence the privacy of the residents will not be affected. These may be replaced by blank recesses, depending on final design and discussion. Windows facing the residences to the east are approximately 20m from the eastern boundary and views to adjoining rear will be filtered by proposed landscaping. It is therefore concluded that privacy of residents to the east will not be significantly effected.

Access, transport and traffic

Access to the site is via an existing driveway and right of carriageway on Lot 101. The proposed access is satisfactory. The proposed development will not significantly increase traffic demands or create additional traffic hazards on Macquarie Street.

The proposal satisfies the relevant matters for consideration under Clause 22 of HLEP 1989 and Council's Local Traffic Committee has raised no objection to the proposal.

Landscaping / Flora and fauna (*issue raised by objector*)

The proposed development will require the removal of landscaping along the northern and eastern boundaries. This landscaping is not significant and no objection is raised to its removal

The removal of the landscaping will not effect threatened or endangered flora and fauna, ecological communities or critical habitat as listed under the Threatened Species Conservation Act 1995.

Noise and vibration (*issue raised by objector*)

Activities within the proposed workshop have the potential to impact on surrounding neighbours in terms of offensive noise. The design of the building with concrete panels and minimising opening directly facing onto adjoining residential property seeks to reduce the potential for offensive noise emissions. The premises will need to comply with the EPAs Noise Control Guidelines at all times.

If the development application was approved, noise and vibration created during construction and use of the site can be controlled by conditions of consent and suitable site management.

Air and Microclimate

The proposed use of the premises does have the potential to emit hydrocarbon based odour. Taking into consideration the surrounding landuses, traffic from Macquarie Street, the design of the building and the requirements of the EPA and WorkCover it is concluded that these emissions will not significantly impact upon occupants of surrounding properties

Natural hazards

The site is below the 1 in 100 flood event level for the area. The likelihood of flooding does not make the site unsuitable for the proposed development.

Safety, security & crime prevention (*issue raised by objector*)

The building has been designed to minimise the potential of theft, particularly by way of ram raid. It is considered that the periodic inspection of the property by security personnel, if required, will not impact upon the privacy of the surrounding neighbours.

Economic impact of the locality

It is anticipated the proposed development will have a positive economic impact.

Site design and internal design (*issue raised by objector*)

The proposed site and internal design is satisfactory given the intended use. Sufficient car parking and vehicle manoeuvring areas have been provided. The scale of the development, location of the building and awning, amount of site coverage, and landscaping is considered satisfactory.

Construction (issue raised by objector)

If the application is approved suitable conditions of consent can be imposed to control construction activities include hours of construction, noise, erosion and sedimentation, dust etc.

Access to neighbouring properties in order to undertake the construction and maintenance of the building is to be negotiated between the applicant and property owners as need be.

Cumulative impacts

The proposed development is compatible with the dominant surrounding landuses and no significant negative cumulative impact is foreseen. It is anticipated that hours of operation and the likely amount of traffic generated by the proposal would be less than the previously proposed second fast food outlet which was the basis of the initial rezoning.

Submission and Public Interest (issue raised by objector)

The concerns of the resident to the north have been addressed in this report and where appropriate can be ameliorated by conditions of consent if Council was to approve the development.

As stated above it appears that commercial interest in the site for the purposes of a fast food outlet has decreased whilst commercial interest in motor showrooms along Macquarie Street, particularly on this property, has increased. The proposal represents an appropriate infill development on land zoned for business/commercial uses.

Conclusion

The proposed development is not inconsistent with objectives of the Business Special 3(b) zone or relevant provisions of HLEP 1989.

The site is suitable for the proposed development and will not have significant adverse environmental impacts.

Ordinarily, the proposed activity would be permissible on the subject land by way of its Business Special 3(b)) zoning. However, the present structure of HLEP 1989, as a result of Clause 42 prohibits the proposed development. It is recommended that Clause 42 be deleted from HLEP 1989 in order to allow the site to be developed for the purposes of a motor showroom.

RECOMMENDATION:

That:

1. Council resolve to prepare a draft Local Environmental Plan to delete Clause 42 of HLEP 1989.
2. Council resolve not to undertake an environmental study with respect to the proposed amendment.

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3. Upon gazettal of the local environmental plan the development application MA161/00 be determined by delegated authority.

ATTACHMENTS:

AT-1 Locality plan

AT-2 Site plan

AT-3 Architect's perspective

oooO END OF ITEM 104 Oooo

ITEM: 105**Lot 24 DP270194 No. 79 Peel Parade****FILE NUMBER:**

M 82/00 and SA45/97/EVD/ENC28LBX.V07

REPORT:**Introduction**

A development application has been received proposing to erect a single storey brick veneer dwelling with concrete slab on ground. The property is affected by mandatory restrictions on cut and fill imposed by Council via a Community Management Plan.

This matter is reported to Council as the subdivision approval was determined by Council originally and agreement to this variation will set a precedent for other lots within the estate.

Background

Consents were issued in 1997 for a rural subdivision, which created the subject lot. This followed an amendment to Hawkesbury LEP 1989 (Clause 41A) to permit subdivision to a minimum lot size of 5,000m² in connection with the development of a golf course.

To prevent significant alteration of the landform and to protect the scenic quality of the area, a number of mandatory restrictions were included in the Community Management Statement for the subdivision. In particular, condition No. 29 of the Community Plan for this subdivision states:

"The owner of a lot will ensure that no cut and fill operations take place on land with a slope in excess of 10 percent."

This restriction applies to all properties within the estate.

Site Assessment

A site inspection of the subject land reveals that cutting and filling of the lot has already been carried out. This is in contravention of the Community Management Statement and no previous consent has been issued by Council for these earthworks. The property is 7,500m².

The subject land slopes away from Peel Parade. Contour details supplied with the application indicate the natural slope of the land is approximately 17%. The excavation is approximately 3.5m deep and creates a level platform of approximately 450m².

The height of the proposed dwelling from finished ground level to the apex of the roof is 4.9m. A section through the property is included as Attachment 3.

Conclusion

Although the earthworks were carried out without approval, it is considered that siting the dwelling

in this manner will result in a better outcome in terms of visual impact; than strict compliance with the restriction. The proposed dwelling would sit lower and further into the site, thereby reducing the impacts on views from adjacent/higher properties. The dwelling will also be less visible on the prominent Peel Parade ridge line. It is therefore considered appropriate in the circumstances not to require restoration of the site but to allow the dwelling to be constructed on the existing site (cut and filled) level.

RECOMMENDATION:

That:

1. Council agree to the variation to the management plan restriction as the proposal will have a lesser visual impact.
2. The development application be determined under delegated authority, subject to treatment/landscaping of the cut/filled areas being carried out prior to the issue of a construction certificate for the dwelling.

ATTACHMENTS:

- AT-1** Locality Plan
AT-2 Site Plan
AT-3 Section Plan

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LOCALITY PLAN

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SITE PLAN

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SECTION PLAN

oooO END OF ITEM 105 Oooo

ITEM: 106 **Two Storey Duplex - Cnr Lot 1 DP662568 No. 32 Cox Street, South Windsor**

FILE NUMBER: M 1766/99/EVD/ENC28LBX.V17

PREVIOUS ITEM: 83, GPC Section 1 - Environment (29.02.2000)

REPORT:

On 29 February, 2000, the General Purpose Committee, exercising its delegation as full Council, resolved to grant approval for a single storey duplex at Cnr Lot 1 DP662568 No. 32 Cox Street, South Windsor subject to a number of conditions. The conditions include the payment of Section 94 contributions for open space, recreation and community facilities totalling \$2,138 (two thousand one hundred and thirty eight) and sewer headworks contributions of \$4,820 (four thousand eight hundred and twenty).

The applicant contends that the building erected on the property has been occupied as two separate flats for many years and that two sewer charges are currently paid on the property. Council records confirm that two sewer connections have existed since at least 1996, however no headworks contributions have been paid nor has any approval been issued for the dwelling to be occupied as two separate flats.

The applicant has now provided a letter from a long term neighbouring resident which states "I have lived at Bell Street, Windsor South for thirty years and all that time 32 Cox Street, Windsor South has been a dual occupancy".

On the basis of this new information supplied by the applicant it appears that the conversion of the dwelling into two flats occurred prior to the need for approval. Accordingly it is recommended that the requirement for payment of contributions for Section 94 contributions and sewer headworks be waived.

RECOMMENDATION:

That the applicant be formally notified that Council does not require compliance with Conditions 7 and 12 of development consent issued on 1 March, 2000, for the payment of Section 94 contributions and sewer headworks charges.

ATTACHMENTS:

There are no supporting documents for this report.

Oooo END OF ITEM 106 Oooo