



general
purpose
committee

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section

environment

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ITEM: 104 **Regional Skateboard Park - Lot 133 DP752032 Windsor Street, Clarendon (Ham Common)**

FILE NUMBER: M1286/01/EVD/ENK27NAX.V14

PREVIOUS ITEM: 42, GPC Section 2 - Infrastructure (31.07.2001)

PREVIOUS ITEM: 42, Ordinary (14.08.2001)

Applicant: Hawkesbury City Council
Applicants Rep: N/A
Owner: Hawkesbury City Council
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Zone: 6(a) - Open Space (Existing Recreation)
Date Received: 17 October 2001

Key Issues: - Security
 - Anti-social behaviour
 - Noise
 - Parking

Action: Approval subject to conditions

REPORT:

Introduction

The application proposes the construction of a skateboard park on the land zoned 6(a) within Bicentennial Park (Ham Common) that is adjacent to Racecourse Road. This report will assess the proposal and based on the assessment, recommends approval subject to a number of conditions.

Background

The provision of skateboard facilities within the Hawkesbury City area has been the subject of numerous reports to Council over recent years.

Council, in considering a report on the matter, resolved on 14 August 2001 as follows:

“That Council, in principle, adopt the following:

- 1. The skate park facility at North Richmond be located adjacent to the existing skate bowl on Council land in William Street. This would be of a beginners street style with an area of approximately 12 metres x 22 metres.*

2. *The regional skate facility be built at the eastern end of Ham Common adjacent to the station, shops and carpark.*
3. *Council seek support from the youth and community in relation to design, construction and management.*
4. *Council write to the Minister and the Department of Sport and Recreation seeking an extension of time for the Grant funding given the difficulty Council is having obtaining a suitable site for this facility.*
5. *A further report be prepared for the next General Purpose Committee meeting outlining details of possible use of the William Street site and associated costs.”*

The proposal is being funded by grants obtained from NSW Sport and Recreation Regional Sports Program. A further report on the funding arrangements is contained in the business paper.

The Proposal

The skateboard park will comprise of the following facilities:

- 1 x 1m high quarter pipe
- 2 x 1.2m high flat bank
- 1 x 500mm high transition ramp
- 1 x 1.8m high flat bank
- 4 x 1.5m high quarter pipe
- 2 x 850mm high fun box bank
- 1 x 200mm high manual pad
- 1 x 256mm slide rail
- 1 x 1m spine quarter

The facilities will be contained in an area with dimensions of 20m x 30m. A layout and location of the park is attached to this report.

The proposed park will also involve removal of some vegetation and reshaping of the area.

Site Description

The site forms part of the Bicentennial Park which has been developed by Council over many years to provide a range of facilities for various groups in the community for both active and passive recreation.

The proposed skatepark will be located near the corner of Racecourse Road adjacent to the existing cafe and florist/gift shops. The proposal does not involve any lighting and as a result, is likely to be used only during daylight hours.

Statutory Position

The site is zoned Open Space (Existing Recreation) 6(a) under the provisions of Hawkesbury Local Environmental Plan 1989. The park is a recreation area and the proposal is permissible with consent in the zone. The proposal is also consistent with the zone objectives especially “*to encourage the development of public open spaces in a manner which maximises the satisfaction of the community’s diverse recreation needs*”.

Community Consultation

The adjoining land owners in the vicinity of the skateboard park as well as the proprietors of the adjacent shops have been notified of the proposal and given a copy of the application and plans. All parties have been given the opportunity to discuss the proposal with Council officers, make a submission and attend and address the General Purpose Committee meeting prior to the matter being considered.

Planning AssessmentSuitability of Site

The proposed location being within Bicentennial Park is considered appropriate. The skateboard park has been located close to Windsor Street, Richmond to ensure adequate visibility is maintained. The park is centrally located to the main urban areas in the Hawkesbury City area. The location is also in close proximity to public transport (rail/bus) as well as carparking.

The proposed park would compliment and enhance the existing range of recreational facilities provided within Bicentennial Park.

Security/Anti-Social Behaviour

The park’s location close to the road (Windsor Street/Richmond Road) will ensure it is very visible, which is crucial from a security viewpoint.

Council officers have discussed the skatepark location with the local police who have indicated their support for the location. The provision of no lighting in the park will also help maintain security to local businesses in the night as the park will only operate during daylight hours.

It is also considered that the high visibility of the park, and it being located in an open area, will help deter any anti-social behaviour from the park users.

Noise

The noise likely to be generated is not considered to be significant given the location of the park to the road and the traffic volumes and noise currently generated which would be greater than the noise produced by the park users.

Carparking

The local shop proprietor has raised a concern over the issue of adequacy of parking and the current situation. There is currently a carparking area available adjacent to the Clarendon railway station which is used by commuters and shop patrons. Ample on street parking is also available along Windsor Road/Richmond Road adjacent to the skatepark.

It is considered due to its nature and the age group attracted to the facility, it is unlikely that there will be a significant impact on the availability of carparking in the vicinity.

Conclusion

The proposed park will provide a much needed facility that has been previously identified for the youth of the Hawkesbury area.

The location, being close to public transport and carparking will help make it easily accessible from the main urban areas of Windsor, South Windsor, Bligh Park, Richmond and North Richmond. The park's location will help in deterring any potential anti-social behaviour and improve security. It is unlikely the proposal will have any significant impact on the local area.

RECOMMENDATION:

That the application be approved subject to the following conditions:

General

1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans submitted with Development Application No. MA1286/01 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.

Prior to Commencement of Work

4. Toilet facilities are to be provided at or in the vicinity of the work site for construction workers.
5. A sign must be erected in a prominent position:
 - (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.
- 6. A protective barrier must be erected around the work site and the public place.
- 7. Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of litter, vegetation debris or other water borne pollutants in accordance with Council's Development Control Plan 1/94 - Soil Erosion and Sedimentation. The enclosed warning sign shall be affixed to the sediment fence/erosion control device at all times.
- 8. The applicant or person having the benefit of this development consent must give at least two days notice prior to commencement of works to Council of the intention to commence works. This notice is to be given in accordance with form 7 of the Environmental Planning and Assessment Regulation 1998.
- 9. The applicant shall advise Council of the name, address and contract number of the principle certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1997.

During Construction

- 10. 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; and
 - (b) on completion of the structure.
- 11. All trucks entering or leaving the site shall have their trays suitably covered to prevent spillage from the truck onto the road.
- 12. Dust control measures, eg vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
- 13. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.

Use of the Site

- 14. Provision of suitable garbage bins in the vicinity of the skateboard park.

ATTACHMENTS:

AT-1 Locality plan

AT-2 Layout plan

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Locality plan

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Layout plan

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ITEM: 105 **Assistance with Legal Costs****FILE NUMBER:** GL001/005 Pt3/GMA/ENK27NAX.G05

REPORT:

The Local Government and Shires Association have written requesting assistance in respect of legal costs incurred by Griffith City Council. The background surrounding the case and the reason for the request is as follows: During the late evening and early morning in the winter months of 1999 the owner of an orchard property at Lake Wyangan operated a front control fan to prevent, or at least limit, frost damage to the citrus orchard on the property. The occupants of adjoining rural residential properties complained to the Council about the noise made by the fan and, as a result, Council served the owner of the property with a notice under the *Protection of the Environment Operations Act* . It required the owner to limit the noise omitted by the fan to a specific level at all times. This requirement was later varied to be limited to night time operation only. The owner appealed to the Land and Environment Court against the issue of the notice. The Court initially held that the notice was valid and had been validly served and that it had power to vary it. Later it varied the notice by limiting the prohibition on the fans operation to between 10.00 pm on one day and 7.00 am the following day. No order was made as to costs but the Council incurred costs of \$43,900 in defending its position.

The Executives of the Local Government Associations have decided the matter was one of sufficient significance to warrant support because it highlighted the increasing problem, particularly in rural areas, of conflict between those who derive their primary income from the land and those who elect to live in rural areas as a lifestyle choice rather than as a means of deriving income. The Association advised that the case is being used as a basis for seeking State Government action to allow this sort of matter to be resolved in future without the cost and inconvenience of litigation. Hawkesbury's contribution would be \$377.

RECOMMENDATION:

That the Local Government and Shires Association be advised that the Council is prepared to contribute its share towards the costs of Griffiths City Council's legal expenses and, in doing so, has incurred itself considerably more costs in similar matters. The details of Hawkesbury's matters be provided to the Association to assist in obtaining action from the State Government in this matter.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 105 Oooo

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ITEM: 106 **John Morony Correctional Centre**

FILE NUMBER: GR120/004 Pt 6/GMA/ENK27NAX.G01

REPORT:

The Council, on a number of occasions, has raised the issue of signs at the John Morony Correctional Centre, indicating the locality as "South Windsor". After some correspondence, the following has been received from the Commissioner of Department of Corrective Services:

"The Minister for Corrective Services, the Hon John Watkins, has asked me to respond further to his letter of 24 September 2001 to clarify the issue of signage at the John Morony Correctional Complex.

"I can advise that the road signs on the Northern Road have been replaced and now read "John Morony Correctional Complex".

"A further sign will be erected inside the Complex at an approved location near the main entrance which will identify all the facilities within the Complex. This further signage will be part of the signage package for Dillwynia Correctional Centre and will be installed in due course.

"I trust the above information clarifies the situation for you."

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 106 Oooo

ITEM: 107**Jet Skis****FILE NUMBER:**

GR060/011 Pt6/GMA/ENK27NAX.G03

REPORT:

A question was raised earlier this year regarding the banning of jet skis on Sydney Harbour and the increase that is occurring, probably as a result, on the local waterways. The following is a response received from the Chief Executive of the Waterways Authority in this matter.

“I refer to your letter of 20 July 2001 regarding the Government’s recent banning of jet skis or personal watercraft (PWC) from operating on Sydney Harbour.

As you would be aware, the introduction of new rules in relation to PWC, including the banning of these craft from Sydney Harbour, is in response to increasing concerns from community and environmental groups regarding the impacts of PWC on other waterway users and aquatic wildlife. These concerns are reflected in the types of complaints that are received by the NSW Waterways Authority, the NSW Water Police and members of Parliament.

As well as enforcing the Sydney Harbour ban, I can assure you that the Authority will closely monitor the use of jet skis and user behaviour on other waterways such as the Hawkesbury River. Monitoring and enforcement activities will be bolstered by the recruitment of additional Waterways Authority Boating Service Officers and through the Authority’s ongoing collaboration with the Water Police. Where necessary, additional measures to deal with the PWC operation will be incorporated into the Authority’s boating plans of management.

In the interim, the Government will consider any council proposals for the establishment of PWC exclusion zones on a case by case basis. Criteria for the establishment of such zones include heightened community concern with regard to safety, nuisance and environmental issues arising from PWC use.”

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 107 Oooo

ITEM: 108**Land known as Hollands Paddock Car Park****FILE NUMBER:**

P0731/400 Pt3/EVD/ENK27NBX.V02

REPORT:

Council has received a request from Pirasta Pty Ltd, the owner of the land known as Hollands Paddock Car Park, to obtain Council's consent as owner of two parcels of land to allow that company to submit a Development Application for a supermarket and speciality shops with undercover parking on the carpark land. The two parcels of Council land are:

- No 10 New Street being part lot 30 and part lot 31; and
- parkland off The Terrace known as corner lot 3 DP750096 town of Windsor

Advice was obtained from Council's solicitors concerning Council's role in the process of the Development Application where it is land owned by Council is to be used as part of a DA. The advice from the solicitors indicate that Council should not unreasonably withhold its consent as owner to allow Development Application to be processed and to allow the DA process to determine the appropriateness or otherwise of the development.

In respect of the two parcels of land the property in New Street is owned by Council freehold and is zoned commercial. The applicant proposes to use this land as an exit driveway for cars exiting the development.

The property in the parkland off The Terrace which has the current driveway across to the Hollands Paddock Carpark is an old systems title owned by Council which is zoned open space. Council's property register indicates this land is classified as operational.

Advice was obtained again from Council's solicitor on the status of this land given its zoning. The advice indicates that notwithstanding the resolution of Council to classify this land operational it is in fact community; as the land is zoned open space it must be classified as community unless reclassified by specific resolution of Council via an LEP process. The driveway across this land was constructed in the 1970s to service the carpark, which at that time Council leased from the Sydney Water Board. There is no adverse possession of this land by the new owners of the carpark and therefore they have no rights over this driveway. The owners of the carpark propose to develop a supermarket using this as their principal means of car access to the development and have requested therefore for Council to give consent as owner.

Council's solicitor has advised that given the fact that the land is classified as community and there is no adverse possession in order for Council to give consent as owner the land must be reclassified operational, an LEP process gone through to achieve this classification which includes a public hearing.

Consultants on behalf of Pirasta Pty Ltd in a letter dated 9 November 2001 have provided details of how they consider access should be achieved to the development including the widening of Johnson Street to provide access for heavy vehicles to the loading dock on the proposed supermarket. This diagram indicates that the solution to allow semi-trailers to use Johnson Street to access a loading dock does not appear satisfactory an alternative solution may be to use additional land from the parkland. A detailed design will need to be carried out.

The essential question for Council to resolve at this stage is whether it wishes to embark upon the reclassification process of the land between the current driveway and Johnson Street, including the driveway itself that is currently used as parkland. This process involves the preparation of a Draft Local Environmental Plan which will have the effect of reclassifying this land; its exhibition; the holding of a public hearing on this proposal; the preparation of a report on a public hearing to Council and Council's resolution on whether or not to proceed with the classification. If Council resolves to proceed with reclassification that plan is then forwarded to the Department of Planning to be made like any other Local Environmental Plan and upon gazettal of that plan that land is automatically classified operational. At this stage Council can then resolve to give consent as owner over this land to allow a Development Application to proceed.

In light of the diagrams supplied by Colston Budd it would seem appropriate that should reclassification take place it should be the area of land between the southern side of the current driveway service in Hollands Paddock Carpark and Johnson Street to ensure appropriate designs can be prepared for this land to be used as access to any proposed supermarket.

Council is also in possession of a letter from landowner adjacent to the land off Johnson Street who has a property developed into housing units whose vehicular access is via the Hollands Paddock Carpark, that is, land owned by Pirasta Pty Ltd. They have raised the issue that the proposal shown to them by the proponents would mean that their property is surrounded on two sides by the building and loading dock area, and they take great objection to this concept.

It would appear therefore there is significant redesign to be done or negotiation between proponents and landowners to overcome these difficulties before the Development Application can be put to Council. Also the issue of owner's consent must be resolved before such an application can be made.

It would seem appropriate at this stage to allow appropriate investigations of alternative loading solutions for a proposed supermarket to take place and for Council to use this time to achieve the appropriate classification of the area land that may be used to help solve these problems. In this regard then it is considered that Council should prepare a Local Environmental Plan to reclassify the land between the southern side of the existing driveway to Johnson Street in the parkland adjacent to the Hollands Paddock Carpark in Windsor.

RECOMMENDATION:

It is recommended therefore that:

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1. Council pursuant to Section 54 of the Environmental Planning and Assessment Act and in accordance with the Best Practice Guidelines prepare a Draft Local Environmental Plan to effect the reclassification of that area of land bounded by the southern side of the driveway on the parkland adjacent to Hollands Paddock Carpark, The Terrace and Johnson Street.
2. That Council engage the services of a consultant town planner with appropriate qualifications to hold the public hearing to be held in conjunction with this LEP preparation.
3. Council advise the Department of Urban Affairs and Planning accordingly.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 108 Oooo

ITEM: 109 Penalties Notice Offences - Environmental Planning and Assessment Act 1979 and Regulations 2000**FILE NUMBER:** GE20/029/EVD/ENK27NBX.V04

REPORT:**Introduction**

The Environmental Planning and Assessment Act 1979 (as amended) and Environmental Planning and Assessment Regulation 2000 now contain a range of penalties relating to development consents and the use/occupation of premises.

The purpose of this report is to make recommendations to Council regarding the issuing of infringement notices for specific offences.

Types of Penalties

Some of new penalty provisions are summarised in the table below.

Short Description of Offence	Penalty
Development not carried out in accordance with consent	\$600
Failure to cease use of premises for prohibited purpose	\$1500
Failure to demolish/remove unlawful building	\$1500
Failure to cease activity threatening life/public health/public safety	\$1500
Failure to comply with order to cease use of premises or evacuate premises	\$1500
Failure to comply with order to use premises or not enter premises	\$1500

The Regulation also contains a number of penalties relating the fire safety requirements, certificates and statements. These penalties range from \$100 to \$1500. A full extract of the Penalty Notice Offences is attached to this report.

Many of these penalties were not contained within the previous Regulations of 1994. The new penalties now allow for Council to take prompt action, via the issuing of the infringement notice, with respect to the above offences. Under the previous Regulations the usual course of action for Council was to issue orders against the offender and then decide whether or not to prosecute the offender through the Local Court or at the Land and Environment Court. This is a rather time consuming and costly process with no guarantee of costs being awarded to Council or fines being imposed on offender.

The new penalty system will be implemented through SEINS (Self Enforcement Infringement Notice System). In summary the process involves Council issuing an infringement notice to the offender. The infringement notice is then sent to SEINS who act as the collection agency for Council. The infringement notice is similar in format to a parking/speeding infringement notice and provides details of the offence, the fine, a date by which the fine is to be paid, as well as the recipients rights to appeal the notice.

A sample of typical breaches of development consents are as follows:

- development not in accordance with approved plans;
- commencing works prior to the applicant obtaining a Construction Certificate;
- commencing works prior to submission of the name and licence number of the licensed contractor/builder;
- ineffective or non existent erosion and sedimentation control devices and/or dust control devices;
- spillage/tracking of dirt/mud/debris onto roads;
- carrying out of works outside of approved hours of operation/construction;
- burning of demolition/construction material on the site;
- non-existent site works signage;
- non-compliance with the Building Code of Australia;
- non-provision of parking spaces and/or landscaping.
- occupation of building prior to submission of Sydney Water, Integral Energy, Telstra, and fire safety certificates;

Issuing of Notices

In the case of breaches of development consents, Council could issue an infringement notice at the time of the offence being observed. The reason being is that the offender would have prior knowledge of what is required via the conditions contained within the development consent.

In the case of the other mentioned penalties, Council would first have to inform the offender in writing, via letter or caution notice, of the offence and provide some timeframe by which to comply with a specific direction. If the offender does not demonstrate compliance with the direction by the specified date then Council could issue an infringement notice.

The issuing of each infringement notice will need to be treated on a case by case basis however some basic protocols can be adopted to give direction to appropriately delegated Council staff.

Therefore, in general, it is recommended that for a first offence, offenders be given a minimum of 24 hours to rectify a specific breach and that if upon expiration of the specified time period effective rectification works/actions have not been implemented the offender be issued with an infringement notice. For repeat offenders, it is recommended that they be issued with an on the spot infringement notice at the time of the offence being observed.

Due to the varied nature of offences and the circumstances in which they will be committed it is recommended that authority to vary time frames for compliance be delegated to the Director Environment and Development. Infringement notices would be issued by appropriate staff.

RECOMMENDATION:

That the following procedure for the issuing of penalty notices under the provisions of Schedule 5 of the Environmental Planning and Assessment Regulations 2000 be adopted:

1. First time offenders be given a minimum of 24 hours to rectify a specific offence. If upon expiration of the specified time period effective the offence has not been rectified to the satisfaction of Council the offender be issued with an infringement notice.
2. Repeat offenders be issued with an on the spot infringement notice at the time of the offence being observed.
3. Authority to vary time frames for compliance be delegated to the Director Environment and Development.
4. Authority to issue infringement notices be delegated to appropriate staff members.

ATTACHMENTS:

AT-1 Penalty Notice Offences

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Penalty Notice Offences

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Penalty Notice Offences

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ITEM: 110 **Windsor Leagues Club Proposed Rodeo Test Event - 15 December 2001, Lot 1 DP879466, No. 698 George Street, South Windsor**

FILE NUMBER: MA1470/01/EVD/ENK27NBX.V10

PREVIOUS ITEM: 50, GPC Section 1 - Environment (29.05.2001)

REPORT:

Introduction

A Development Application was received on 16 November 2001 to hold a rodeo “test event” to be held on 15 December 2001. In view of the lodgment date of the Application there will be insufficient time for the Application to be dealt with by Council at a General Purpose Committee meeting. Therefore the purpose of this report is to advise Council of the Application and to recommend that it be determined under delegated authority.

Background

Council will recall that the Windsor Leagues Club was prosecuted earlier this year in the Local Court for conducting a rodeo at 698 George Street, South Windsor without the consent of Council and contrary to an Order issued by Council.

Since the prosecution, discussions have been held between the Leagues Club and Council officers as to the information required for lodgment of a Development Application. In particular the lack of a report from a traffic consultant was the major factor in refusal of the previous Application.

The Windsor Leagues Club lodged an appeal against the prosecution in the Penrith District Court which was due for hearing on 22 November 2001. At the time of writing this report, solicitors acting for the Leagues Club advised that they were seeking deferment of the appeal until a date early in the new year.

The Proposal

Discussions were held with the applicant’s solicitors on 13 November 2001 and a town planning consultant, who has recently been engaged. It was clear, during those discussions that there was insufficient time to prepare a traffic report to lodge an application to be determined in time for the event proposed on 15 December 2001. An option was suggested that an application for a one off (test event) could be made and the applicant could engage specialist traffic and noise consultants to attend the event so as to prepare data for a subsequent application for the ongoing annual rodeo event.

In summary, the applicant seeks approval to hold a one off rodeo on 15 December 2001. The rodeo will be held between the hours of 5.00pm and 10.00pm. A temporary rodeo ring will be set up in the south eastern corner of the existing football field and it is anticipated that the total number of people attending will

be 3,000 (three thousand). Portable toilets will be provided on the eastern side of the field. Carparking will be provided on site and temporary overflow parking will be available on vacant land and the Bede Polding College sports ground land on both corners of Mileham Street and Rifle Range Road. A total of 1415 (one thousand four hundred and fifteen) carparking spaces will be provided. The Club intends to provide 8 (eight) experienced parking attendants. It is proposed that the event will have amplified music and announcements/commentary. The PA system will be directed away from residential development. A brief fireworks show will conclude the evening's proceedings. In relation to noise and traffic issues, the Club will undertake the following measures:

- Advertising in local media and letterbox drops to local residents.
- An acoustic consultant will attend the event and take measurements to aid in future management of the event.
- Traffic management information will be obtained.
- Police concurrence will be obtained.
- Appropriate signage to direct motorists to the site and the parking areas will be provided.
- Disabled access and amenities will be provided.

Conclusion

It is considered that the proposal as submitted for a one off event may be acceptable on the basis that a range of management and monitoring measures will be utilised and data collected may be used for a future "permanent development approval".

RECOMMENDATION:

Following public notification, consideration of any submissions received and assessment, the Application be determined by the Director of Environment and Development under delegated authority.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 110 Oooo

ITEM: 111**Hawkesbury-Nepean Local Government Advisory Group****FILE NUMBER:**

GR060/075Pt04/EVD/ENK27NBX.V07

REPORT:

The Hawkesbury-Nepean Local Government Advisory Group met on Thursday 25 October 2001 at Penrith City Council. This Group is the Committee of local Councils within the catchment of the Hawkesbury-Nepean whose role is to advise the Department of Land and Water Conservation (DLWC) on issues concerning the management of the catchment area. The Committee has evolved from the old Local Government Reference Group that advised the Hawkesbury Nepean Catchment Management Trust (HNCMT). The group is chaired by Councillor Robert Bell of Gosford City Council.

At its meeting on 25 October 2001 the Committee adopted guidelines for funding criteria for the lower Hawkesbury Nepean rehabilitation works funding. This is a sum of money allocated by the Department each year for works to take place on the lower river that is below Warragamba Dam to replace the funding initially allocated to the old HNCMT.

In the current financial year, that is, before June 2002, there is \$680,000 available for expenditure or allocation and in subsequent financial years the fund will extend to \$1 million.

In order to prepare criteria against which projects could be tested, the Committee has prepared funding criteria and any proposal for funding would need to meet one or more of the following areas to be eligible.

- Land degradation, erosion and sediment control
- Salinity
- Remnant vegetation management
- Riparian management (including in stream)
- Habitat management
- Pollutant management
- Environmental flows
- Biodiversity management
- Groundwater
- Wetland management
- Weed and pest control

Not only will the projects need to be tested against this funding criteria, there is also partnership criteria, both of which are used to demonstrate that the ongoing maintenance or continuation of these works are an integral part of any proposal.

Proposals must also demonstrate significant on-ground benefits against the targets set out in the *Draft Strategic Plan for the Management of the Hawkesbury-Nepean Catchment and River System* published by the Trust, the *Statement of Joint Intent for the Hawkesbury-Nepean River System* that

arose out of the Hawkesbury Healthy Rivers' Commission Report, and the catchment blueprint which is currently being prepared by the Department.

Expressions of interest for funding will close on 15 January 2002 and it is therefore necessary to resolve to participate in this program as soon as possible. The funding is for works on the ground only and it is considered that there are two major areas that this Council may wish to apply for funding.

These are:

1. Aquatic weed control, particularly alligator weed, and
2. Revegetation of bank and stabilisation works currently on Council's Works Program.

1. Aquatic Weed Control

There appears to be some consensus among the Committee members that the suppression of alligator weed would receive a high priority for funding from this project. It is therefore suggested that a joint proposal between this Council, Hawkesbury River County Council, and the other constituent Councils be made for a substantial grant for the assistance in the suppression of alligator weed. The grant could be used to commence the program in this year, and in subsequent years be funded on a dollar for dollar basis between the Department and the constituent Councils on the County Council. Such a program would need to be prepared in close consultation with the Hawkesbury River Council.

2. Riparian vegetation and bank stabilisation works

Council currently has a program for the improvement of riparian vegetation and bank stabilisation. It is difficult, given the fact that Council has already allocated a budget for this year, but there may well be projects that were suitable to receive additional boost of funding from this source of grant funds and an appropriate funding program presentation should be made to this program to obtain more funds. It may also be possible to obtain grant funding for the post closure rehabilitation of the Blaxlands Ponds into a wetland rehabilitation area. This would be a permanent solution to the use of the ponds in times of emergency for septic disposal and the ongoing long term management.

It would seem imperative therefore that Council should submit funding proposals to this grant for funding and, in view of the time table required, it must be done with all haste.

RECOMMENDATION:

That Council participate in the Lower Hawkesbury Nepean Rehabilitation Works Funding Programs for this and subsequent years by making submissions to the Department of Land and Water Conservation by 15 January 2002 in the areas of:

1. Alligator weed suppression in conjunction with the Hawkesbury River County Council.
2. River bank vegetation stabilisation in accordance with Council's current works priority.

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Meeting Date: 27 November, 2001

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ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 111 Oooo

ITEM: 112 **Temporary Food Stalls****FILE NUMBER:** GL079/001 PT2/EVD/ENK27NBX.V08

REPORT:**Background Information**

Community values are changing, to the point where the preparation of food in the open is increasingly being looked upon as undesirable. It is generally accepted that food prepared and sold in temporary situations, or with the use of temporary facilities, is an ideal situation for an outbreak of food borne illness, particularly as large quantities of food tend to be involved.

In recognition of the high risk involved, Councils should maintain an effective registration and inspection regime for such activities. Surveillance is essential during the operational phase to ensure compliance is given to temperature control requirements, food handling techniques and the general protection of food. Registration and approval is an effective way of ensuring that Council Environmental Health Officers are aware of temporary food outlets and are able to input, when necessary, into the establishment and set up phase so that problems are detected early.

The Australian Institute of Environmental Health has established a Temporary Food Premises Code which attempts to strike a balance between the hygiene requirements of the Food Act Regulations and community expectations. The Code relies heavily on requirements relating to the nature of the food and the conditions under which it is sold.

The Code established four categories of temporary food premises. Two types are defined, temporary food stalls and mobile food stalls. Information on temporary food stall categories can be obtained from Council's *Information for Food Stall Holders Brochure*.

For the purpose of this document, the definition of a 'temporary structure' is:

- "a) *a booth, tent, or other temporary enclosure, whether or not a part of the booth tent or enclosure is permanent; and*
- b) *a mobile structure."*

What is Proposed

Council may wish to adopt the requirements outlined in the Australian Institute of Environmental Health "Temporary Food Premises Code" and Food Standards Code. Council may adopt these requirements through the registration and inspection of temporary food premises.

Preparation of food for sale in any buildings, vehicles or stalls for public consumption must comply with guidelines set out in Council's "Information for Food Stall Holders" brochure. Food vendors are encouraged to read the requirements of the Food Standards Code in collaboration with the said brochure.

All food traders intending to sell food would need to fill out a registration of *Temporary Food Premises and Food Vending Vehicles Application form*. This document would then need to be completed and sent to Council where a stall registration number would be issued. Receipt and acknowledgement of registration will be sent back to the vendor and must be retained on the food premises during operation within the Hawkesbury City Council local government area. Registration would last for one year. Once the period of registration lapsed, a new application form would need to be completed and sent to Council.

It is proposed to set a registration fee of \$82.65 (eighty two dollars and sixty five cents) and a re-inspection fee of \$62.00 (sixty two dollars). (This is the current fee adopted by Council for "fixed" food premises).

RECOMMENDATION:

That:

1. The registration of temporary food stalls and the like be adopted by Council in accordance with the procedures set out in this report.
2. A fee of \$82.65 (eighty two dollars and sixty five cents) per annum and a re-inspection fee of \$62.00 (sixty two dollars) be included in Council's fees and charges, after the required advertising and seeking of public comment, as required by the Local Government Act 1993.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 112 Oooo

**ITEM: 113 Proposed Amendment to Hawkesbury Local Environmental Plan 1989 -
Change Definition of "general store"****FILE NUMBER:** GT225/003 PT13/EVD/ENK27NBX.V09

REPORT:

A recent WSROC Environmental and Strategic Planners Committee Meeting brought to the attention of member Councils, a recent decision of Justice Sheahan in the Land and Environment Court relating to the definition of "general stores".

In summary, Justice Sheahan found in the matter of *Maryland Development Co Pty Ltd v Penrith City Council and Anor* that, based on the information presented to Penrith City Council, it was open for the Council to categorise a supermarket with a floor area of some 3800sqm as a "general store".

This categorisation of Penrith City Council and finding of Justice Sheahan changes the somewhat traditional planning view that (i) a "general store" is typically a small shop in rural/semi-rural setting which sells a wide range of goods and may also include the sale of fuel/rural or farming merchandise, and the provision of postal facilities/dry cleaning service, and (ii) a supermarket is not a "general store" and therefore a "shop".

The finding essentially states that determining factor of whether or not a shop/supermarket is a "general store" is the range and variety of goods offered for sale and not the size of the building, the volume of individual goods displayed, the predominance or non-predominance of particular product lines, or the location the premises.

Implications for Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The implications of this findings are as follows.

HLEP 1989 adopts the Environmental Planning and Assessment Model Provisions 1980 definition of a "general store" as being:

a shop used for the sale by retail of general merchandise and which may include facilities of a post office.

as well as the Model Provisions definition of a "shop" as being:

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

Note: The definitions of "general store" and "shop" in the *Maryland* case are slightly different however the findings of the Court can still be applied to the definitions adopted by HLEP 1989.

HLEP 1989 also adopts Clause 28 of the Model Provisions which states:

- (1) *A person shall not erect or use a building for the purposes of a general store on an allotment of land within a rural zone, where such allotment has a frontage to a main or arterial road or is less than 800 metres from any other allotment of land on which is erected a shop or a general store.*
- (2) *A person shall not erect or use a building for the purposes of a general store in any zone referred to in subclause (1) of this clause closer to the alignment of a road other than the building line fixed in respect of any adjoining premises, where no such building line has been fixed, closer to such alignment than the distance generally applying in respect of other premises having frontage to such road.*

Clause 9 of HLEP 1989 permits "general stores" in the Rural 1(a), 1(b), 1(c), 1(c1), 1(d), Residential 2(a), 2(a1), 2(c), Business 3(a), 3(b), Industry 4(a), 4(b), Environmental Protection (Scenic) 7(d) and 7(d1) zones.

By contrast "shops" are only permissible in Business 3(a) and 3(b).

Clause 22 of HLEP 1989 prohibits both "general stores" and "shops" which have direct vehicular access to a main or arterial road and are in the Rural 1(a), 1(b), 1(c), 1(c1), 1(d), and Environmental Protection (Scenic) 7(d) and 7(d1) zones.

Hence, the finding of Justice Sheahan, creates the potential for large scale stand alone supermarkets to be permissible in Rural, Residential, Industrial and Environmental Protection (Scenic) zones. Given current land prices and development costs, the areas most likely to be targeted for such development are those areas which are either zoned Rural or Environmental Protection (Scenic).

To gain approval a proponent would still have to submit a development application to Council for consideration and given the typical size and scale of such developments it is difficult to conceive how such a development would be consistent with the individual objectives of the above mentioned zones or be compatible with the character of the area in which it is proposed. The development of this type of business in these areas would also be contrary to the recommendations in the Our City Our Future study to confine future retail and commercial development to established centres.

Proposed Amendment to HLEP 1989

One solution to stop large scale supermarkets being permissible under the guise of a "general store" is to change the definition of a "general store" to include a maximum permitted gross floor area. It is interesting to note that Penrith City Council previously had such a provision which restricted the gross floor area of any building or part of any building used or intended to be used for a general store to 200sqm.

Based on what one may consider to be a traditional general store, it would seem that a building with a gross floor area of 200sqm would be of a sufficient size to carry out the functions of a traditional general store.

It is therefore recommended that a new definition of "general store" be inserted into HLEP 1989 which defines a "general store" as:

a shop used for the sale by retail of general merchandise, which may include facilities of a post office, and where the gross floor area of the building or part of any building used or intended to be used for those purposes does not exceed 200 square metres.

RECOMMENDATION:

That Council resolve to prepare a Draft Local Environmental Plan using the Best Practice Guidelines which amends Hawkesbury Local Environmental Plan 1989 by inserting into Clause 5 the following definition of "general store":

*"**general store**" means a shop used for the sale by retail of general merchandise, which may include facilities of a post office, and where the gross floor area of the building or part of any building used or intended to be used for those purposes does not exceed 200 square metres.*

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 113 Oooo

ITEM: 114 **Draft local environmental plan 8/98 - Amendment 108 to Hawkesbury Local Environmental Plan 1989**

FILE NUMBER: LEP8/98/EVD/ENK27NBX.V11

REPORT:

Background

The Hawkesbury Sustainable Agriculture Development Strategy (HSADS) was completed in 1997 following a recommendation of Council from the Our City Our Future Strategy in November 1995. A Steering Committee was set up for HSADS consisting of Councillors, Government Agencies and local agricultural interests/residents to oversee the project.

A number of recommendations were prioritised and adopted from HSADS by Council at its meeting of 28 July 1998. This included the preparation of a draft local environmental plan to amend Hawkesbury Local Environmental Plan 1989 (HLEP 1989) to implement the recommendations of HSADS. The draft local environmental plan is known as draft Amendment 108.

The aim of both the HSADS and the subsequent draft amendment 108 to HLEP 1989 was to retain existing agricultural activities as well as encourage new activities to locate in appropriate zones. It did not recommend changes to zone boundaries nor minimum allotment sizes for subdivision. The investigation of alternative subdivision solutions is still to be carried out, however Council has subsequently resolved not to approve any amendments to HLEP1989 that increase the number of allotments in the rural areas and therefore there are no changes to the subdivision rules in this amendment.

Draft Amendment 108

Draft Amendment 108 amends HLEP 1989 by:

Amending the zone objectives in the rural and environmental protection zones

The HSADS proposed to incorporate future character statements for each of the rural and environmental protection zones. The character statements have been translated into zones objectives. These objectives reinforce the role of each zone; that is the protection of agricultural pursuits or the preservation of a residential nature. The name of each zone also seeks to establish this role, hence the deliberate use of new names and zone colours. The use of the words "Environmental Protection" replaces current Environmental Protection Zones along the river corridor and escarpment areas and is required to fulfil Department of Urban Affairs and Planning (DUAP) requirements.

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Amending the name and colour of the zones on the maps

The colours of the zones on the maps will be changed and the maps are displayed on the notice board at this meeting. The following zone names will be changed:

Current Zone	Proposed zone - Draft Amendment 108
Rural 1(a)- Colo, Colo Heights/Singleton Road	Environmental Protection-Mixed Agriculture
Rural 1(b)	Mixed Agriculture
Rural 1(c)	Rural Living
Rural 1(c1)	Rural Living
Environmental Protection 7(d) – Bilpin	Environmental Protection- Agriculture Protection
Environmental Protection 7(d) Macdonald Valley, St Albans etc.	Environmental Protection-Mixed Agriculture
Environmental Protection 7(d1)	Environmental Protection - Agriculture Protection
New Zone	Rural Village

Amending the land use matrix

Major amendments to the land use matrix include removing inappropriate uses such as hotels, motels and childcare centres from the Environmental Protection-Agricultural Protection zone. This land contains the most fertile prime agricultural land and the HSADS recommended that activities that compromise the use of the land for agriculture should not be permitted within this zone.

Notwithstanding the above, it is important to allow for low key tourist facilities in the Environmental Protection zones as they have the potential to create understanding and education for agricultural activities as well as supplement incomes. A new definition has been created and is called “*rural tourist facility*”.

Draft amendment 108 also removes “*intensive agriculture*” from the rural living zones. Under the provisions of HLEP 1989, “*intensive agriculture*” is defined as follows:

intensive agriculture means intensive animal production or intensive horticulture;

intensive animal production means the holding of goats, poultry or other livestock in a confined area to be reared or fattened wholly or substantially on prepared or manufactured feed and, without limiting the generality of the above, includes:

- (a) the use of a poultry farm;
- (b) the use of a feedlot;
- (c) fish farming (which may consist of or include farming of crustaceans); or
- (d) the use of a piggery;

***intensive horticulture** means the growing of plants or fungi involving any of the following:*

- (a) *hydroponics;*
 - (b) *artificial housing;*
 - (c) *crop protection structures;*
 - (d) *market gardening;*
 - (e) *orcharding; or*
 - (f) *the growing of field flowers.*
- (3) *Despite any other provision of this plan, a person may carry out development for the purpose of intensive agriculture on land to which this clause applies only with development consent. However, this subclause does not require consent for the growing of produce or the keeping of livestock or poultry that the Council is satisfied are grown or kept only for the personal consumption or enjoyment of the occupier of the building or place at which they are grown or kept.*
- (4) *The council, in determining an application for consent required by this clause shall take into consideration the following matters:*
- (a) *the need to protect the quality of downstream watercourses;*
 - (b) *the need to conserve native vegetation;*
 - (c) *the need to protect environmentally sensitive areas, such as wetlands, riparian zones, endangered ecological communities and threatened species within the meaning of the Threatened Species Conservation Act 1995;*
 - (d) *the need to protect the amenity of the area from noise, spray drift, odour or any other potentially offensive sources; and*
 - (e) *the need to limit the impact of development on flood liable land.*

The rural 1(c) and 1(c1) zones are currently set aside for a predominately rural residential style of living but still allows consent to be given to this class of activities. The HSADS recommended that intensive agriculture be discouraged in these zones due to the smaller lot sizes located in these zones and the potential for conflict with the rural residential land uses.

It is important to note that existing farming activities within the Rural Living zones will not be affected by the proposed amendments, nor do they need to re-apply for approval. The proposed amendment will only relate to new establishments/proposals for intensive agriculture.

An anomaly exists in the proposed land use matrix whereby agriculture is a prohibited land use within the Rural Living zones. Discussions have been held with the members of the Hawkesbury Harvest Group and it was agreed that the plan could be amended to permit agriculture as Local Development (requiring development approval) within the Rural Living zones rather than being a prohibited development.

The Section 65 Certificate will need to be referred back to DUAP to reflect this amendment. Preliminary discussions with DUAP indicate that is an acceptable amendment to the draft plan.

Exhibition of Draft Amendment 108

DUAP were requested to provide a Section 65 Certificate to allow public exhibition of the draft local environmental plan in September 1999. Following minor amendments to the maps and draft instrument, the Section 65 Certificate was issued on 29 August 2001.

Council has previously resolved to exhibit the plan for a period of three months and it is anticipated that this period will commence in April 2002.

Conclusion

The implementation and exhibition of the draft amendment 108 will further demonstrate Council's commitment to maintaining and encouraging new agricultural activities in the Hawkesbury. Given the importance of agriculture in the City, it is recommended that the draft plan be amended as outlined above and referred to DUAP for a new Section 65 Certificate.

RECOMMENDATION:

That:

1. The draft local environmental plan be amended to allow "*agriculture*" within the Rural Living zone.
2. The Department of Urban Affairs and Planning be requested to amend the Section 65 Certificate to allow agriculture within the Rural Living zone.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 114 Oooo

ITEM: 115 **Review of Council Policy for the Application of State Environmental Planning Policy No. 1 to Rural Subdivisions**

FILE NUMBER: GT190/001, GT225/013/EVD/ENK27NBX.V12

PREVIOUS ITEM: 132, GPC Section 1 - Environment (26.05.1998)

REPORT:

Introduction

On 9 June 1998 Council adopted a policy for applying State Environmental Planning Policy No. 1 - Development Standards (SEPP No. 1) for rural subdivisions (Policy Number PEU0018Z).

The purpose of this report is to provide Council with an opportunity to review the policy and recommend an additional clause.

Report

On 9 June 1998 Council resolved as follows:

- “(a) *Council adopt the following guidelines for consideration of applications for rural subdivision which rely on State Environmental Planning Policy No. 1 for approval:*
- (i) *applications which propose 1 (one) undersized lot only which is within 10% of the minimum allotment size, be determined by Council staff under delegated authority;*
 - (ii) *applications involving more than 1 (one) undersized lot and/or a variation greater than 10% from the minimum, be considered and determined by Council where they can demonstrate that the standard is unreasonable or unnecessary in the attainment of the relevant objects of the Act; and*
 - (iii) *applications which do not demonstrate that the standard is unreasonable or unnecessary, be refused by Council staff under delegated authority.*
- (b) *Regular industry clients be advised accordingly.”*

Prior to the adoption of this policy, a number of inappropriate subdivision applications for undersized lots were being lodged. The applicants often requested the application to be dealt with in Council, which resulted in considerable frustration of staff, Councillors and respondents to applications.

Adoption of the policy allowed staff to provide clear advice to prospective applicants, that inappropriate applications would be refused under delegated authority and applications which demonstrated merit would received appropriate consideration.

Overall the policy has been implemented successfully. However, due to the wording of the policy, applications to re-subdivide existing undersized lots are referred to Council regardless of whether the application is contentious. Council would be aware that there are many existing allotments in our rural areas which were created prior to the current planning provisions and do not meet the minimum lot sizes specified in Hawkesbury LEP 1989. Where applicants propose very minor adjustments, these are dealt with as boundary adjustments and the use of SEPP No. 1 is not necessary. However, where an applicant proposes to re-configure the allotments a subdivision application and SEPP No. 1 objection is required.

Conclusion

It is considered appropriate to amend Council's policy so that applications for re-subdivision of existing undersized lots can be determined under delegated authority where there are no contentious issues.

RECOMMENDATION:

That Council resolve to adopt the following addition to Council Policy PEU0018Z for the application of State Environmental Planning Policy No. 1 to rural subdivisions.

- (iv) *Applications to re-subdivide existing undersized allotments, where no additional entitlements will result and where there are no unresolved objections, be determined by Council staff under delegated authority.*

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 115 Oooo