



general
purpose
committee

1
section

environment

GENERAL PURPOSE COMMITTEE - ENVIRONMENT**Table of Contents****Meeting Date:** 26 February 2002**Page 2**

ITEM	SUBJECT	PAGE
SECTION 1 - ENVIRONMENT.		
10:	Torrens Title Subdivision of Lot 70, DP791877, No. 708 East Kurrajong Road, East Kurrajong MA612/01/EVD/ENB26NAX.V01	3
11:	Tourist Facility - Installation of 3 (three) prefabricated cabins and conversion of an existing shed to a manager's residence, 1389 St Albans Road, Central MacDonald MA1474/01/EVD/ENB26NAX.V06	13
12:	Truck Depot - Lot 492 DP751665, 42 Browns Road, Wilberforce MA1066/01/EVD/ENB26NAX.V02	31
13:	Proposed Rezoning at Lot 342 DP1012378 - No. 261 Tennyson Road, Tennyson P2002/912/EVD/ENB26NAX.V04	42
14:	Hawkesbury Development Control Plan DCP1/99/EVD/ENB26NBX.V08	52
15:	Draft Policy - Temporary Food Stalls GL079/001Pt02/EVD/ENB26NBX.V03	61
16:	Unauthorised Demolition of Building and Removal of Trees - 35 Elizabeth Street, North Richmond P507/85/20/EVD/ENB26NBX.V05	63
17:	Windsor Road Upgrade - Urban Design Guidelines GT225/021/EVD/ENB26NBX.V07	65
18:	Brothel Task Force DCP002/97/EVD/ENB26NCX.V09	69

oooO END OF TABLE OF CONTENTS Oooo

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: 10

ITEM: 10 **Torrens Title Subdivision of Lot 70, DP791877, No. 708 East Kurrajong Road, East Kurrajong**

FILE NUMBER: MA612/01/EVD/ENB26NAX.V01

Applicant: S and A Van Der Kroef and N D Vander Reyden
Applicants Rep:
Owner: As above
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 Sydney Regional Environmental Plan No. 20 (No. 2-1997)
 State Environment Planning Policy No. 1
Area: 8.42ha
Zone: Rural (c1)
Advertising: 14-28 August 2001
Date Received: 30 May 2001

Key Issues: - Less than minimum lots size for subdivision
 - Effluent disposal
 - Impact on flora and fauna

Action: Approval

REPORT:

Introduction

The applicant seeks approval for a two lot torrens title subdivision of Lot 70, DP791877, 708 East Kurrajong Road, East Kurrajong.

This matter is being reported to Council as one of the lots is less than the minimum lot size required in the Rural 1(c1) zone, being 4 ha. The variation is more than 10% and therefore requires the concurrence of the Department of Urban Affairs and Planning. This report will detail the proposal, the current statutory situation and provide an assessment of the application in accordance with Section 79C (1) of the Environmental Planning and Assessment Act 1979.

The Proposal

The applicant seeks consent for the subdivision of one lot into two lots, with areas of 5.01ha and 3.41ha. The proposed size of Lot 2 is less than the minimum lot size required in the Rural 1(c1) zone, being 4 ha. The variation is more than 10% and therefore requires the concurrence of the Department of Urban Affairs and Planning.

Subject Land

The existing lot is L-shaped and has frontage to East Kurrajong Road and Tennyson Road and contains two small dams and one large dam. The site was originally used for grazing and is presently covered with grass and regrowth vegetation, consisting of wattle and eucalypts.

A track from Tennyson Road provides access to an existing levelled site on Lot 2. The watercourse to the dam is piped under the track.

Statutory PositionHawkesbury Local Environmental Plan 1989*Clause 9 and 9A*

The property is zoned either Rural 1(c1) under HLEP 1989. Subdivision of the properties is permissible subject development consent.

It is considered that the proposed subdivision is consistent with the objectives of the Rural 1(c1) zone.

Clause 11 Rural Subdivisions - general provisions

Clause 11(2)(d) requires that, except for subdivision by way of boundary adjustment, land created in the Rural 1(c1) zone must have an area of at least 4ha and have a satisfactory ratio of depth to frontage.

Both proposed lots have a satisfactory ratio of depth to frontage and the boundaries have been positioned along existing fencing and in alignment with existing boundaries of an adjoining lot (Lot 4, DP 253128). The new boundaries consider the location of the large dam in order that it be retained wholly within one lot.

The proposed lot sizes are 5.01 ha and 3.41ha respectively. The smaller lot is some 15% below the minimum of 4 ha.

State Environmental Planning Policy 1

The applicant has lodged an objection under State Environmental Planning Policy 1 (SEPP1), requesting variation to Clause 11(2)(d), related to the minimum lot size for Rural 1(c1) zones.

The applicant's objection to the standard is primarily due to the location of the existing dams on the property, one of which is approximately 1.3ha in area.

"... The proposed subdivision wishes to preserve the whole of this dam within the one property to support the existing primary production activity and to maintain irrigation and runoff wholly within the remaining property facing Kurrajong Road. It is also considered that placement of this dam within one property would avoid possible future disputes over water rights or water contamination as a result of runoff.

The proposed subdivision is surveyed to measure 3.41 ha and is kept as much as possible to conform to the minimum prescribed lot sizes. Having regard for the existing conditions of the locality, dams, fencing, access and property alignments, we would appreciate your favourable consideration of this application."

Department of Urban Affairs and Planning

As the extent of variation sought is more than 10%, the application was referred to Department of Urban Affairs and Planning for concurrence of the Director General. Concurrence was received on 9 October 2001.

Comment: The argument for the variation to the allotment size in this case is considered reasonable and meets the planning objectives of maintaining dams wholly within one property in preference to allotment boundaries cutting through dams.

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

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, recommended strategies and development controls which are to be considered in the assessment of a development application.

It is considered that the proposal is consistent with the aims of the plan as well as the general and specific planning policies, recommended strategies and development controls outlined in Parts 1, 2 and 3 of SREP No. 20 (No. 2).

Development Control Plan - Soil Erosion and Sedimentation

Soil erosion and sedimentation controls are to be implemented during works required for the subdivision in accordance with the provisions of this DCP.

Development Control Plan - Public Notification of Development Proposals

The aim of this DCP is to identify under what circumstances development proposals will need to be advertised and the means by which it will be advertised to provide for public participation.

The adjoining neighbours were notified of the application, and one submission was received.

Community Consultation

The application was publicly exhibited for the period 14 to 28 August 2001. One submission was received raising concerns regarding potential removal of vegetation for a distance of 30m from the existing fenceline, and the erection of structures close to the fenceline, creating increased stormwater runoff.

It is considered that, given the size of the rural allotments, any stormwater from additional structures and clearing of vegetation will be minimal and not likely to affect adjoining properties. The flora and fauna report, described below, recommends that structures be built in existing cleared areas.

Planning Assessment

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

Impact on the Environment*Context and setting*

The proposed lots are similar in shape and size to the existing mix of lots which surround the development site. The proposed subdivision will not affect any historical subdivision pattern or affect significant views or vistas from surrounding properties. The size, shape and topography of the additional lot created is sufficient to allow for the erection of a dwelling.

Surrounding properties are mainly used for rural-residential purposes. The future development of the proposed lots will not significantly impact upon the amenity presently enjoyed by surrounding neighbours.

Access, transport and traffic

The existing dwelling has access off East Kurrajong Road and an existing cleared track from Tennyson Road provides access to the proposed house site on the southern lot.. The vehicle accesses to the individual sites are considered satisfactory in terms of likely traffic generated by each lot, construction requirements and site distances.

The access track to the dwelling site for the southern lot off Tennyson Road crosses a watercourse leading to one of the dams. The watercourse is piped at this location. As the track and pipe are existing and no additional works are proposed, the development is not considered as "integrated development" being within 40m of a watercourse. Should the application be approved, a condition will be imposed regarding restriction of additional works to the existing access track from Tennyson Road.

Public Domain

Section 94 contributions are to be imposed on this development to ensure that adequate provision can be made for the provision of open space, recreational facilities and community facilities likely to be used by the future residents.

Utilities, Soils, Air and Climate

Utilities such as telephone, and electricity services can be supplied to the proposed lots.

With regard to effluent disposal, the report prepared by Geotechnique Pty Ltd dated 16 July 2001 found that the site is suitable for effluent disposal provided that:

- Effluent is distributed evenly across the entire disposal area.
- Adequate buffer zones are provided.
- A dish drain provided upslope of the disposal area to divert runoff.
- Irrigation of effluent is not carried out during wet weather.
- Installation of a moisture sensor to divert effluent to tanks during wet weather.
- Plants requiring acidic soil conditions be planted in disposal area.

Should the application be approved, a condition will be imposed which requires the recommendations of the report be carried out in full.

Flora and fauna

A report prepared by Jason and Katarina Anderson, dated July 2001 found that the vegetation on the site is in moderate condition and the fauna habitat is in poor to moderate condition and has moderate conservation significance.

The results of the eight part test indicate that there will be no significant effect on any threatened species, habitats or populations, or on the endangered ecological community. Therefore, a Species Impact Statement is not required.

The report recommends the following to minimise impacts:

- The minimum of vegetation be cleared to facilitate the development. Development should occur on already cleared areas and the access road.
- If any *Allocasuarina* requires removal, it should be replaced by *Allocasuarina torulosa* at a ratio of 1:3.

Should the application be approved, a condition will be imposed which requires the recommendations of the report be carried out in full.

Waste, Energy, Noise and vibration, Construction

Council garbage collection waste services can be provided to the site. The design of the subdivision achieves satisfactory performance in terms of energy efficiency. The subdivision will not create offensive noise pollution or vibration. Work required for the construction of the subdivision is not expected to unreasonably impact upon surrounding neighbours and will be controlled by way of conditions of consent relating to erosion and sedimentation control, hours of construction, waste management etc.

Natural hazards

The subject site is within a high bush fire risk area, however, it is considered that the nature of bushfire risk does not make the site unsuitable for the proposed subdivision.

Suitability of the site for the development

The constraints of surrounding landuses do not make this development prohibitive. The proposed subdivision will not lead to unmanageable transport demands. Adequate services and utilities are available to the site. There are no known hazardous landuses/activities nearby. Ambient noise levels are suitable for the subdivision. The site is not critical to the water cycle of the catchment. The subdivision will not impact upon critical habitats and threatened species, populations, ecological communities and habitats. The site attributes such as size, shape, slope are conducive to the subdivision.

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

Public Interest

Based on the above assessment of the application, it is concluded that the proposed development will be in the public interest

It is recommended that the proposed development be approved.

RECOMMENDATION:

- A. That Council support the applicant's objection under State Environmental Planning Policy No.1 to the provisions of Clause 11 (2)(d).
- B. 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 (prepared by Teerman Newton Richmond Pty

Limited numbered 13644 dated 18 September 2001, as amended on 17 December 2001) submitted with the application 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.

Prior to Subdivision Certificate

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

(a)	Open Space and Recreation	\$1,553.00
(b)	Community Facilities	\$ 219.00
(c)	Roads and/or Intersections	
(d)	Public Car Parking	
(e)	Trunk Drainage	

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

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

4. The creation of easements to drain water over the site of drainage discharge from roads 4m wide and 10m long free of cost to Council.
5. Payment of a linen release fee of \$206.60. This amount is valid until 30 June 2002.
6. Submission of a Certificate from Integral Energy that satisfactory arrangements have been made for the provision of electricity to each of the resultant lots of the subdivision.
7. Submission of a Certificate from an approved telecommunications provider that satisfactory arrangements have been made for the provision of cables for telephones through the subdivision.
8. The submission of the plan of subdivision, together with 4 (four) exact copies thereof, suitable for lodgement with the Registrar General.

9. The creation of a restriction on use of land requiring that all development on the lots be confined to:
- The recommendations of the flora and fauna report, prepared by Jason and Katarina Anderson, dated July, 2001 are to be carried out in full.
 - The recommendations of the geotechnical and water balance report prepared by Geotechnique Pty Ltd dated 16 July, 2001 are to be carried out in full.
 - Future dwelling siting and construction shall comply with '*Planning for Bushfire Protection*' prepared by Planning NSW and AS3959-1999 '*Construction of Buildings in Bushfire Prone Areas*'.
 - All access roads are to have the following:
 - Minimum trafficable width 4m with a 1m strip on each side kept clean of bushes and long grass.
 - Capacity sufficient to carry fully loaded firefighting vehicle.
 - Minimum clearance of 4m to any overhanging obstructions, including tree branches.
10. The location of the house site, disposal and buffer areas are to be defined on the final plan of subdivision.
11. Provision of a gate allowing access between the two lots and East Kurrajong Road. In this regard, the location of the gate is to be discussed with Rural Fire Services - Bushfire Mitigation Officer, prior to its construction.

ATTACHMENTS:

AT-1 Locality Plan

AT-2 Subdivision Layout

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **10**

Locality Plan

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **10**

Subdivision Plan

oooO END OF ITEM 10 Oooo

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: 11

ITEM: 11 **Tourist Facility - Installation of 3 (three) prefabricated cabins and conversion of an existing shed to a manager's residence, 1389 St Albans Road, Central MacDonald**

FILE NUMBER: MA1474/01/EVD/ENB26NAX.V06

Applicant: Transplan Architects
Applicants Rep: Mr Terry Gates
Owner: Parrihart Pty Ltd
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 Sydney Regional Environmental Plan No. 20 (No. 2 - 1997)
Area: 17.5ha
Zone: Environmental Protection (Scenic) 7(d)
Advertising: 3 to 25 January 2002
Date Received: 19 November 2001

Key Issues: - Effluent disposal
 - Flooding
 - Traffic
 - Character of the area
 - Use of the site
 - Unauthorised development
 - Visual impact
 - Noise

Action: Approval

REPORT:

Introduction

The applicant seeks approval for a tourist facility at 1389 St Albans Road, Central MacDonald.

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

The Proposal

The application is for the installation of 3 prefabricated cabins, the conversion of an existing shed into a manager's residence and the conversion of a small split log shed into a reception office for the tourist facility. The cabins are to be used for short term tourist accommodation.

The cabins are ex-Olympic cabins containing 2 bedrooms, bathroom, dining, living room and kitchenette. The cabins are constructed of weathertex walls and corrugated Colourbond roofing. The walls of the cabins are to be painted a mid green colour, the roofs are to be grey. 2 - 6 persons are expected to occupy each cabin at any one time.

The cabins are to be located in a cleared portion of the site which varies in height from 12m - 15.5m AHD (average slope of 11 degrees). The cabin setbacks to the property's boundary with St Albans Road are a minimum of 7.98 metres, however, verandahs are to be attached to the front of the cabins thus reducing the setback to a minimum of approximately 6m.

The existing shed which is to be converted to a managers residence is located to the south of the cabins and is to be provided with 2 car parking spaces, reception office, laundry, bathroom, bedroom, kitchen and dining /lounge. The shed is constructed of corrugated sheet metal roofing, spilt hardwood logs, timber windows, weatherboard walls. A smaller split log shed is to be used as a reception office, the shed is located immediately to the south-east of the manager's residence.

The cabins are to be connected to an ECOMAX waste water disposal system. The shed is connected to an existing aerated waste water treatment system.

Guest parking is proposed for 6 cars. Vehicle access to the site is to be via an existing access driveway of St Albans Road.

Background

In March 2001 the 3 cabins were transported to the property and stored in the lower portion of the site adjacent to the MacDonald River. In April 2001 the owner of the property was served with a Notice of Intention to Serve an Order which, inter alia, required the removal of the cabins from the property. The owner then wrote to Council in May 2001 advising that a development application for the cabins was being prepared and would be submitted by July/August 2001.

Council received a development application for 3 tourist cabins, a substantial residence and waste water treatment systems on the lower portion of the site adjacent to MacDonald River. This application was public exhibited and 4 submissions and a petition with 109 signatures were received. The application was refused on 24 September 2001 primarily due to the development's proximity to the MacDonald River and the resultant environmental impacts.

The applicant has now submitted this current application which provides for a relocation of the cabins, manager residence and waste water treatment system to the other side of St Albans Road where the land is higher and further from the river.

Subject Land

The subject land is 1389 St Albans Road, Central MacDonald. The property is irregular in shape with an area of 17.5ha. The property is traversed by St Albans Road with approximately 30% of the property to the north-east of St Albans Road and the remainder being the to the south-west of St Albans Road. The

lower portion of the site adjoins MacDonald River and consists of substantially cleared river flats. Land to the south-west of St Albans Road is higher, varying in height from 9m to 140m AHD. Towards St Albans Road this portion of the property and is substantially cleared with the remainder of the site being bushland.

St Albans Road is an arterial road. The 1 in 100 flood event level is approximately 11m AHD. The property is within a high bush fire risk area.

Statutory Position

Hawkesbury Local Environmental Plan 1989

The property is zoned Environmental Protection (Scenic) 7(d). "Tourist facilities" are permissible within the 7(d) zone.

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

The subject site falls within the MacDonald River Catchment Area and is within an area having "Scenic Significance Beyond the Region" (Landscape Unit 4.1.6 MacDonald River Valley).

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, recommended strategies and development controls which are to be considered in the assessment of a development application.

Relevant matters for consideration are total catchment management, environmentally sensitive areas, water quality, water quantity, flora and fauna, riverine scenic quality, agriculture/aquaculture and fishing, recreation and tourism, building works or land uses within conservation area sub-catchments, recreational facilities, land uses in or near the river, land uses in riverine scenic areas, sewerage systems or works.

It is considered that the proposal is consistent with the aims of the plan as well as the general and specific planning policies, recommended strategies and development controls outlined in Parts 1, 2 and 3 of SREP No. 20 (No. 2).

Development Control Plan – MacDonald Valley

Relevant provisions of this DCP relate to siting, and building design and materials. A summary of these provisions is provided below:

Siting

Development should be located on natural benches below ridge lines. On slopes greater than 10 degrees split level or pole construction is to be used. All buildings should be sited to provide buffer zones and access from all sides in the event of fire.

Building Design and Materials

New buildings need not follow historic styles and designs. Roofs should be gently pitched (12-21 degrees) rather than flat. The installation of fixed roof sprinkler systems is recommended.

Preferred roofing material is corrugated iron. Preferred external wall materials are ironbark slabs, hardwood boards, weatherboard, sandstone and corrugated iron.

Doorways should be positioned in protected elevations, window openings kept to a minimum in exposed elevations. It is recommended that all windows be protected by hinged shutters, ventilation openings screened with metal gauze.

Community Consultation

The application was publicly exhibited for the period 14 - 28 July 2000.

Three submissions were received. Relevant submissions were concerned about:

- (a) the cabins are presently on the site without Council approval
- (b) concern cabins will be used to house workers required for a future nursery on the site
- (c) unclear about the purpose of the development
- (d) photomontages are not accurate
- (e) the shed is presently being used as a residence
- (f) impact of earthworks to establish cabin site
- (g) proposed landscaping is insufficient
- (h) impact on low density rural character of the area
- (i) potential waste water contamination of groundwater and seepage to St Albans Road
- (j) adequacy of existing and proposed waste water treatment systems
- (k) new development should not detract from the scenic and historic character of the area or impact upon the river
- (l) no facilities are provided for the guests
- (m) cabins should be located at a cleared platform higher on the property
- (n) need for erosion and sedimentation control and concern about increase in stormwater run-off
- (o) impact of flooding on the site
- (p) impact of visitors on MacDonald River and safety of visitors crossing St Albans Road to access the river flats
- (q) noise
- (r) concerned about occupancy rate of cabins and maximum number of person on site at anyone time

Planning Assessment

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

Impact on the Environment *(also raised by respondents)**Location, Context and setting*

The MacDonald Valley may be characterised as having a substantially low density broad acre rural character. Within this valley there is a wide variety of land uses including and range of new and older style dwellings, mixed agricultural uses, tourists facilities and tourist attractions. The scenic quality of the area is defined by these land uses as well as the natural beauty of the river and bushland. The use of this property for a tourist facility is consistent with the existing land uses throughout the valley and is based on promoting the rural/scenic character of the locality.

Visually, two major concerns of this development are that the cabins are in a cluster and their proximity to St Albans Road.

Locating buildings used for short term accommodation in clusters or small groups is not an uncommon occurrence throughout the City. This is evident in the clustering of caravans/manufacture homes in caravan parks and the clustering of cabins/amenities buildings in educational establishments, religious retreats and tourist facilities throughout the City. The environmental benefits for clustering include reducing the amount of land cleared/disturbed for the proposes of cut and fill, clearing vegetation, creating fire protection zones and providing access tracks.

Whilst the cabins are close to St Albans Road it considered that the resultant development would not have such a visual impact as to be out of character with the area or land similarly zoned. Throughout the valley and other areas zoned 7(d) dwellings and building associated with educational establishments, religious retreats and tourist facilities can be found with reduced setback to arterial and local roads. In many respects this is due to cleared flat land being located adjacent to these road with steeper densely vegetated land behind. The main determinant in considering whether or not the cabins will have an unacceptable visual impact will be height, bulk, scale, and colour. The cabins are single storey and of light weight construction. The cabins have articulated roofline and facades thus reducing their perceived bulk and scale. The applicant proposes to paint the external walls in a mid green to blend with the colours of the existing landscape as well as to provide addition landscaping around the cabins. Overall the appearance of the cabins is compatible with the site and other dwellings/buildings throughout the valley.

The suggestion of relocating the cabins to a cleared levelled platform to the west of the cabin site has been considered by the applicant. In response the applicant has advised that this area is not of sufficient size to cater for the cabins. This location would also require substantial removal of vegetation immediately to the south-west for the creation of fire protection zones.

The location of the cabins, parking area and improvements to the existing shed will not significantly impact upon the amenity presently enjoyed by surrounding neighbours, their views or visual and acoustic privacy, nor will it significantly impact on adjacent land uses.

In summary, it is considered that the position of the buildings, the choice of colours and landscaping is sensitive to the constraints of the site and the character of the area, and achieves satisfactory compliance with Clause 5 of the Model Provisions, zone objectives (a), (b) and (e), Clause 22 (a), (c), and (d), and Clause 24 (3) of HLEP 1989.

Access, transport and traffic

The proposed development is not “traffic generating development” as defined by State Environmental Planning Policy No 11. The peak traffic movements created by the development are expected to be during weekends and school holidays. The traffic movements generated by the development will not be beyond the existing capacity and safety of St Albans Road.

The applicant proposes to use an existing vehicle driveway off St Albans Road to access the development. No other reasonable alternative access to the property is available. The location and design of the driveway and proposed parking area are appropriate for the development and provided the pavement is properly maintained is considered satisfactory for the expected movements.

It is considered that given the limited volume of traffic passing the site each day and the good sight distances within the vicinity of the site the safety of the visitors crossing St Albans Road to access the lower river flat portion of the property will be satisfactory.

Effluent Disposal (issue also raised by respondents)

The applicant proposes to install an ECOMAX waste water management system to serve the cabins. The ECOMAX system relies on a septic tank and two constructed earth mound cells. The cells are constructed with soil imported to the site which have a high Phosphorous absorption capacity. The cells are also constructed with an underlying impervious membrane to prevent leaching to groundwater. An ECOMAX type system is generally recognised as the preferred system for environmentally sensitive areas due to the systems small irrigation area, high phosphorous and nitrogen removal, low maintenance needs and low running costs.

In general this type of system is considered satisfactory for the development and can be designed and constructed to cater for the maximum number of 18 persons using the cabins at anyone time. The collection tank is proposed to be located under the verandah of cabins 2 and the irrigation cells are proposed to be between the cabins and the front boundary. These locations are not appropriate due to servicing access restrictions, non-compliance with recommended irrigation area buffer zones and part of the irrigation cells will be below the 1 in 100 flood event level. In addition the size of the cells may not comply with manufactures specifications. This can be readily resolved by conditioning any consent such that cells are located behind the proposed cabins where there is sufficient cleared land above to 1 in 100 flood event level to install to collection tank and achieve recommended buffer zone. Full installation specifications for this site will also be required prior to any construction certificate being issued.

The shed, which is presently used as a residence, is connected to an existing aerated waste water treatment system. The applicant advises that this is a new system which replaced an old septic system which discharged directly onto the front paddock. The system was installed without Council approval in late 1999. Maintenance reports submitted to Council show that the system is operating effectively. This system will also require licensing from Council and be regularly inspected by Council staff.

It is considered that use of both waste water systems will not exceed "designated development" the 20 person equivalent threshold for "sewerage systems or works" This is because it is unlikely that the 3 cabins will be at maximum occupancy (i.e 18 persons) at any one time and as the manager's residence contains only 1 bedroom hence it is assumed that a maximum of 2 person will reside in the manager's residence. Further a condition can be imposed on any consent restricting the capacity of the sewerage systems.

Utilities, Water, Soils, Air and Climate

Utilities such as telephone, and electricity services can be supplied to the development subject to requirements of Integral Energy and Telstra. Water supply is to be portable with rainwater be collected off the roof of the buildings. 10,000L of this water will be made permanently available for fire fighting purposes.

It is considered that the sandy soil structure of the site does have the potential to create a soil erosion risk. To minimise this risk the applicant proposes a predominantly pier construction with a small cut (approximately 1.3m in height) which is to be retained by a hardwood retaining wall and revegetated. Stormwater run-off will be minimised by collecting rainwater off the roofs in tanks. Erosion and sedimentation controls and proposed landscaping will also minimise the environmental impact of erosion and stormwater run-off.

Flora and fauna

The applicant has submitted a flora and fauna assessment which addresses the provisions of the Threatened Species Conservation Act 1995. The report examined the likely impact of the proposed development on threatened flora and fauna and provided a number of recommendations regarding landscaping, the removal of weeds, rehabilitation of native vegetation along the river and prohibiting guests bringing domestic pets to the site. The report concluded that provided these recommendations were implemented the development would not have significant impact on threatened species known or expected to occur on the site. The recommendations of the report are considered satisfactory and can be included as conditions of consent.

The report also examined the likelihood of the site to contain "Core Koala Habitat" under State Environmental Planning Policy NO. 44. The report concluded that the site did not contain such habitat.

Landscaping in front of the cabins will consist of fire resistant trees and shrubs up to 1.5m in height. Beds for the landscape areas are to be sourced from the excavated materials obtained from the minor earthwork required for the installation of the cabins.

Energy, Noise, Construction, Waste (also raised by respondents)

The design and materials used in the construction of the cabins and converted sheds achieves satisfactory performance in terms of energy efficiency. It is considered that the development will not create offensive noise pollution due to the limited number of guests expected on the site at any one time and no noisy recreational activities are proposed as part of the development.

Works required for the installation of the cabins, primarily minor earthworks for benching and piling, will not unreasonably impact upon surrounding neighbours and will be controlled by way of conditions of consent relating to erosion and sedimentation control, hours of construction, waste management etc.

Council presently provides the property with a garbage collection service. Any increase in collection requirements will need to be met at the expense of the landowner.

Natural hazards (also raised by respondents)

The subject site is within a high bush fire risk area. The cabins are to be located in a substantially cleared area on a north-east facing slope. In front of the cabin is St Alban Road with substantially cleared river flats beyond. Land to the rear and side of the cabins is substantially cleared of sufficient depth to provide required fire protection zones. Some minor clearing works around the manager's residence and reception office will be required to achieve recommended fire protection zones. It is considered that the development can readily achieve compliance with Council's Bush Fire Mitigation Policy with respect to building construction, vegetation management, access for fire-fighters etc. It is therefore concluded that the nature of bushfire risk does not make the site unsuitable for the proposed development.

The 1 in 100 flood event level for the area is approximately 11m AHD. The cabins are to be located on land above 11.5m AHD and will have finished floor level of 13.5m to 14m AHD. In the event of heavy rains and/or flood event it is unlikely that the site will be occupied. There is sufficient land well above the 1 in 100 flood event level to provide refuge for any occupants. The development complies with Clause 25 of HLEP 1989 and it is considered the nature of flooding does not make the site unsuitable for the proposed development.

Social and economic impact in the locality

No significant change in the social structure of the immediate area is anticipated as a result of this development and no significant negative social impact is anticipated. It is considered that the tourist facility will have a positive economic impact for the Hawkesbury, in particular the MacDonald Valley region.

Site design, Internal design, and cumulative impacts

The design, construction and siting of the cabins achieve satisfactory compliance with the provision of the MacDonald Valley DCP and are sensitive to the site's attributes, surrounding natural environment, and the existing and future amenity of neighbours.

It is considered that no significant negative cumulative impact will arise as a result of the development.

Suitability of the site for the development

The constraints of surrounding land uses do not make this development prohibitive. The proposed development will not lead to unmanageable transport demands. Vehicle access and parking arrangements are satisfactory. Adequate services and utilities are available to the site. There are no known hazardous land uses/activities nearby. Ambient noise levels are suitable for the development. The site is not critical to the water cycle of the catchment. The development will not impact upon critical habitats and threatened species, populations, ecological communities and habitats.

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

Public Submissions

Relevant planning related concerns raised by the objectors have been addressed in the above report. Other issues however comment:

Unauthorised installation of the cabins

The cabins were installed on the property without Council approval. This application seeks approval to relocate the cabins and use of the cabins for a tourist facility.

Use and Occupancy of Cabins

Some respondents have raised concern that the cabins will be used for the permanent accommodation of rural workers or for up to 60 backpackers.

The application clearly states that the cabins are to be used for tourist accommodation with occupancy being 2 - 6 persons per cabin. This can be addressed by way of condition of consent.

Lack of Facilities for Guests

Some submitters have noted that no formal facilities or activities are to be provided for the guests. The provision of these facilities or activities are not necessary for the cabins to be used for tourist accommodation. The applicant advises that the guests will either be at the site for relaxation or use the site as a base to access other activities (eg golf, water sports, shopping, dining) throughout the valley.

Accuracy of Photomontages

Concern has been raised that the accuracy of the photomontages. The applicant claims the photomontages provide an accurate representation of the development.

There is always a degree of interpretation in photomontages or artists impressions of developments. The photomontages and plans submitted with the application provide a sufficiently accurate representation of proposed development.

Public Interest

Based on the above assessment of the application it is concluded that the proposed development will be in the public interest

Conclusion

The development demonstrates satisfactory compliance with the provisions of HELP 1989, SREP No. 20 (No. 2- 1997), Threatened Species Conservation Act 1995 and relevant Council Development Control Plans.

The tourist facility is sensitive to the constraints of the site and will not significantly impact upon the environment or amenity enjoyed by surrounding landowners/occupiers. Key matters such a visual impact, effluent disposal, noise, traffic, flooding, bushfire risk, erosion and sedimentation and location have been adequate addressed by the applicant and/or can be controlled by condition of consent.

It is recommended that the proposed development be approved.

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 take place in accordance with the plans submitted with the application, as amended in red and as modified by these further conditions.
2. To ensure the external appearance of the development is not intrusive or offensive, and does not degrade the visual quality of the surrounding area, the development shall be completed in accordance with the approved colours and finishes and shall not be altered.
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. All buildings shall comply with the requirements of Planning for Bush Fire Protection prepared by Planning NSW 2001 and AS 3959 - 1999 Construction of Buildings in Bush Fire Prone Areas.
6. The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) in order to assess their responsibilities and liabilities with regards to the provision of access for all people.

Prior to Issue of Construction Certificate

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

The Construction Certificate shall be obtained prior to the commencement of any earth works or building works.

7. Submission and approval of a detailed landscape management plan. The plan is to be consistent with the concept landscaping shown on the approval plans, the landscaping shown on the photomontages submitted with the application, the recommendations of the flora and fauna assessment prepared by Ozwide Fauna Consultancy dated October 2001, the provisions of *Planning for Bushfire Protection*, NSW Planning, December 2001.
8. Submission of an "Application to Install a Sewerage Management Facility" accompanied by full manufacturers and installers plans and specification. Note the proposed location of the ECOMAX collection tank and irrigations cells are unsatisfactory and are to be relocated to the south-west of the cabins.
9. Detailed engineering plans and specifications relating to the work shall be submitted.
10. Details demonstrating that the proposed buildings will comply with the Building Code of Australia are to be submitted to Council.
11. Details demonstrating that the proposed manager's residence will comply with the Council's "Code for the Construction and Fitting Out of Food Premises" are to be submitted to Council.

Prior to Commencement of Works

12. 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.

13. 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.
14. Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of litter, vegetation debris or other water borne pollutants in accordance with Council's Development Control Plan 1/94 - Soil Erosion and Sedimentation. The enclosed warning sign shall be affixed to the sediment fence/erosion control device at all times.
15. 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.
16. 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.
17. The name and licence number of the licensed contractor/builder who has been contracted to do or intends to do the work must be submitted to Council in writing by the owner prior to the commencement of any work relevant to this approval.

During Construction

18. All building work must be carried out in accordance with provisions of the Building Code of Australia.
19. 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) foundations;
 - (d) external drainage lines, prior to backfilling;
 - (e) on completion of the structure; and
 - (f) landscaping.
20. All roofwater shall be drained to the water storage vessel/s.

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: 11

21. 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.
22. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by running water to be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or road surface.
23. All demolition, construction and associated work necessary for the carrying out of the development being restricted to between the hours of 7.00am and 6.00pm on Mondays to Fridays and between 8.00am and 4.00pm on Saturdays.
24. No burning of demolition or construction material being carried out on the site.
25. The site shall be kept clean and tidy during the construction period and all rubbish shall be removed from the site upon completion of the project to the satisfaction of this office.
26. A sign is to be erected adjacent to the access point to the site for the duration of the site works stating the following:
 - (a) owner of site and address;
 - (b) person/company carrying out site works and phone number;
 - (c) consent number and date of approval; and
 - (d) approval duration of site works.
27. Any building or part thereof to be used for the purpose of storage, preparation or sale of food for human consumption shall be constructed in accordance with the requirements of the Food Act 1989 and Regulations thereunder and Council's Food Premises Code.

Prior to Issue of Occupation Certificate

28. 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.
29. The cabins are to be connected to a fully installed and approved ECOMAX waste water treatment system.
30. The following documentary evidence is to be obtained prior to the issue of any Occupation Certificate, whether by Council or an accredited certifier:
 - (a) A written clearance from Integral Energy, stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.Separate documentary evidence from Integral Energy shall be provided stating that the requirements of that Authority have been met with regard to the nearby high voltage transmission line.

Use of the Site

31. The cabins are to be used for short term tourist accommodation only.
32. No more than 6 persons are to be accommodated in each cabin at any one time. The combined number of persons residing in the manager's residence and accommodated in the cabins are not to exceed a combined total of 20 persons at any one time.
33. Guests of cabins are not bring domestic pets onto the site.
34. 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.
35. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
36. All landscaping shall be permanently maintained in a good condition and in accordance with the intent of the landscaping plan.
37. No advertising structures to be erected, displayed or affixed on any building or land without prior approval. Any unauthorised advertising structure will be removed at the expense of the advertiser.
38. No signs shall be displayed on the footpaths, pedestrian ways, roadways or in the vicinity.
39. All waste materials to be stored and disposed of at regular intervals.

ATTACHMENTS:

- AT-1** Locality Plan
- AT-2** Site Plan
- AT-3** Site Sections
- AT-4** Elevations Caretaker's Cottage
- AT-5** Photomontages will be displayed at the meeting.

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **11**

Location Plan

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **11**

Site Plan

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **11**

Site Sections

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **11**

Elevations Caretakers Cottage

oooO END OF ITEM 11 Oooo

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: 12

ITEM: 12 **Truck Depot - Lot 492 DP751665, 42 Browns Road, Wilberforce**

FILE NUMBER: MA1066/01/EVD/ENB26NAX.V02

Applicant: D and M Brown
Applicants Rep: Mr Warren Wilson
Owner: Mr Stanley Brown
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 Sydney Regional Environmental Plan No. 20 (No. 2 -1997)
Area: 11.3ha
Zone: Rural 1(b)
Advertising: Adjoining owners and occupiers twice. Three submissions (first exhibition),
 two submissions (second exhibition)
Date Received: 10 September 2001

Key Issues: - Traffic generation
 - Noise
 - Privacy
 - Dust
 - Character of the area
 - Visual impact

Action: Approval subject to conditions

REPORT:

Introduction

Council has received an application to use an existing shed at 42 Browns Road, Wilberforce for the purposes of a truck depot.

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

Subject Site

The property has an area of 11.3 ha and is zoned Rural 1(b). It is currently developed by way of two dwellings (one being a rural workers cottage), numerous sized sheds, two dams and mixed agricultural uses. One of the metal sheds proposed to house the truck measures approximately 11m long by 7.5m wide. The area including the shed proposed for use with the truck depot is located behind the dwelling in

the centre of the property and is approximately 260m from Browns Road. The closest dwelling to the proposed development is located 130m north of the proposed development. All other dwellings in the vicinity of the subject property are at least 300m from the proposed truck depot area.

The property is regular in shape with the western boundary adjoining rural-residential properties and the northern and eastern boundaries adjoining large parcels of land used for agricultural purposes as well as rural residential. The southern boundary adjoins an unformed road.

Background to Current Application

Unauthorised works and use of the property came to Council's attention as a result of a complaint received in 2000. The owners of the land were operating a small concreting business on the site for a number of years from the dwelling and shed close to Browns Road. As a result, development application MA449/00 was lodged which proposed the truck depot to be located within the shed closest to Browns Road. MA449/00 was later withdrawn by the applicant as a result of discussions with Council staff so the applicant could consider alternative areas for the proposed truck depot on the site, hence the current application locating the truck depot behind the dwelling in the centre of the property.

Approval History

Colo Approval 68A/281/73 approved a dwelling on the site.

Development Consent No. 163/89 dated 9 May 1989 was issued for a rural workers dwelling as property was being used for agricultural activities.

Building Permit No. B694/89 dated 31 May 1989 issued for the above rural workers cottage.

Building Permit No. B 795/92 dated 11 August 1992 was issued for the construction of a farm shed measuring 12.3m x 7.6m.

Building Certificate No. C91/00 dated 7 April 2000 for the extensions carried out on existing shed.

There are a number of sheds on the property which appear to be quite old with no records of approval. The property has been used for agriculture for quite some time.

Proposed Truck Depot

The applicant proposes to use an existing shed and an area immediately surrounding the shed for the purposes of a truck depot.

The applicant operates a concreting business and the truck depot is for the purposes of storing 1 (one) 3 (three) tonne table top truck, 1 (one) 2 (two) tonne concrete pump truck, an office, and the associated storage of formwork, equipment and fuel (2 (two) X 1200L tanks). The applicant has advised verbally that he will not be fuelling trucks on site and the fuel tanks are not to be included in the application.

Three employees are proposed, with parking for the employees located near the shed. The proposed hours of operation are 6am to 6pm Monday to Saturday. The truck and employee vehicles are to enter and exit the site via an existing entrance near the corner of Browns and Cobcroft Roads.

No servicing or washing of vehicles on the site is proposed.

A site plan is attached to this report.

Statutory Situation

The property is zoned Rural 1(b) under Hawkesbury Local Environmental Plan 1989. "Truck depots" are permitted within the Rural 1(b) zone.

The property falls within the *Cattai River Catchment Area of Sydney Regional Environmental Plan No. 20* (No.2 - 1997).

Public Notification

The application was on public exhibition from 5 - 19 June 2001 in accordance with Council's Public Notification of Development Proposals DCP. Three submissions were received.

A summary of the concerns raised in the submission is provided below:

- no objection to the present proposal but concerned about other future development on in locality;
- visual, dust and noise impacts;
- concerned about proposed 6am start;
- concerned about past operations of applicant re previous applicant and non compliance with agreements between himself and Council;
- if proposed truck depot approved then existing truck depot on same property should cease operation;
- increase in traffic;
- contrary to character of the area;
- loss of property value.

The application was further notified for fourteen (14) days until 11 February 2002 due to the applicant omitting the concrete pump truck from the application. As a result of the second notification period two (2) submission were received from Numbers 19 and 28 Evans Road. The concerns raised in this submission included:

- Owner currently breaches Council requirements and concerned will not comply with conditions of development consent.
- Condition of Browns Road unsuitable and is unsafe.
- Truck Depots not suitable for rural areas and should be in industrial areas.
- Noise.
- Owner using the two dwelling sites on the property to operate the business.

The concerns raised by the respondents are addressed in the assessment below.

Planning Assessment

A full assessment is available on the file. The following assessment covers the major issues only.

Provisions of Hawkesbury Local Environmental Plan 1989

The land is zoned Rural 1(b). The development is defined as a truck depot and is permissible within the zone with development consent. It is considered that the proposal is consistent with the objectives of the zone.

Fuelling of Vehicles

The applicant has fuel tanks adjacent to the north western shed which were intended to be moved to the proposed truck depot area in the centre of the property. The applicant has advised that no fuelling of the truck or vehicles will be carried out on site and that the fuel tanks will be removed from the site. It is recommended that a condition be imposed to require the removal of these fuel tanks from the property within a given timeframe and that no fuelling of vehicles related to the truck depot are to be carried out on site.

Noise and Hours of Operation *(issue raised by respondents)*

The locality surrounding the site is characterised as a quiet rural area where daytime and evening background noise levels would be expected to be quite low. The activity's noise sources will primarily be vehicles entering and exiting the site and the preparation of vehicles (i.e loading equipment and warming up).

The residence immediately to the north is the most affected by the operations of the truck depot. Constant or unrestricted movement of trucks and extended idling periods would have the potential to create a significant amount of noise above the background noise level. When the previous application was proposed near the northwest corner of the property noise monitoring was carried out at the nearest receptor being 60m from the proposed truck depot area, noise levels at this point exceeded EPA noise requirements. The applicant has now proposed to move the truck depot area to the centre of the property where noise levels can be expected to be lower at the boundary and the nearest affected resident is 130m to the north. There is scattered vegetation and pig pen areas between the truck depot area and the nearest residence.

The impact of noise will also be a function of the hours of operation of the truck depot. The applicant proposes 6am to 6pm Monday to Saturday.

It is considered that the proposed truck depot area is at a suitable distance from residences to ensure that noise levels are not exceeded at the boundary. However, it is considered that loading of trucks with formwork, machinery and equipment should only take place between 7.00am and 6.00pm. Conditions of consent relating to noise and hours of operation will be imposed to ensure this is not breached.

Access, Traffic and Dust *(issue raised by respondents)*

Access to the shed is presently via a dirt and rock driveway that is of a sufficient size to provide adequate access, parking and manoeuvring areas for vehicles. Given the likely truck and employee vehicle movements the existing driveway should be constructed of an all weather surface. This is unlikely to generate excessive dust and there are no directly adjoining neighbours to the access road which are likely to be affected.

The applicant turns off the property onto Cobcroft Road which leads to Putty Road. No right turn onto Browns Road will be required for the truck associated with the truck depot. The right turn onto Browns road is not necessary and it would affect neighbouring residences along Browns Road. The requirements of a left turn only from the property will be imposed as a condition of consent.

Visual Impact and Privacy *(issue raised by respondents)*

Neighbouring residences with a view of the truck depot are located approximately 130m to the north. This resident did not lodge a submission in relation to the proposal, and the views currently observed by this residence would not alter as a result of the proposal as all the structures are existing on the site.

It is considered that the appearance of two trucks, associated equipment storage plus the employees vehicles will not significant impact upon the visual and privacy amenity presently enjoyed by the neighbours.

Character of the Area (*issue raised by respondents*)

The general character of the area is that of a quiet rural residential area. Surrounding properties primarily contain single dwellings, scattered stands of remnant vegetation, dams, and are typically used for rural residential living or agricultural purposes.

It is considered however that the proposed operation of truck depot suitably controlled by way of conditions of consent will not be inconsistent with the character of the area and that the rural residential living style of the area will be maintained and preserved.

Compliance with DA conditions (*issue raised by respondent*)

Concern was raised that the applicant has not in the past complied with Council requirements so they do not feel confident that they will comply with conditions of development consent.

As of 12 January 2002 Council has the power to issue fines for non compliance with conditions of consent.

Conclusion

The truck depot has been operating at the site in limited form for some time and has adversely impacted upon the amenity of the closest residents. These impacts have largely been caused as a result of the uncontrolled nature of the truck depot.

It is however considered that the adverse impacts of the development can be controlled by way of modifying the applicant's operations and conditions of consent. The applicant has also assisted in trying to overcome concerns of the neighbouring residences by relocating the proposed truck depot to the centre of the property.

It is recommended that the development application for a truck depot be approved subject to conditions.

RECOMMENDATION:

That the application for a truck depot at 42 Browns Road, Wilberforce be approved subject to the following conditions:

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 WD and BL Wilson numbered 1027 (two sheets) dated September 2001 and Plan A) submitted with Development Application No. MA1066/01 and any supportive documentation, except as otherwise provided by the conditions of this consent.

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

2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
3. This consent only approves the storage of 1 (one) table top truck and 1 (one) concrete pump truck which is to be parked within the nominated shed and adjoining area.
4. Movement of vehicles associated with the truck depot, including employees vehicles, are to occur only between the hours of 6am and 6pm, Monday to Saturday. The running of the truck engines is only permitted for 10 (ten) minutes prior to leaving the property and 5 (five) minutes upon return.
5. Loading and unloading of formwork, materials and machinery shall take place only between the hours of 7am and 6pm Monday to Saturday.
6. All items ancillary to the operation of the truck depot are to be stored within the shed or directly adjacent to the shed.
7. No washing or servicing (other than checking water levels and tyre pressures, and changing/checking oil, lubricants, coolants) of vehicles associated with the truck depot is to occur on site.
8. All lubricants, coolants, oils etc are to be stored in bunded areas within the shed. Waste liquids are to be collected and disposed of to the satisfaction of Council.
9. Oil, lubricants, coolants and hydraulic fluid spills or stains are to be removed by an approved absorbent material and disposed of at an authorized waste depot. The absorbent material is to be kept in good supply at all times.
10. Trucks are to exit the property to the left only and not right along Browns Road.
11. The development shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood with respect to noise, vibration, odour, dust, waste water, waste products or otherwise.
12. The development shall be conducted in such a manner that the LA(eq) noise levels, measured at any point in accordance with the current NSW EPA's Industrial Noise Policy, do not exceed 5dB(A) (LAeq) above background noise levels with respect to noise amenity of residential dwellings and associated outdoor areas.
13. Storage of chemicals and petrochemicals such as cleaners and oil shall be contained in an area using an approved Bunding material at all times.

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **12**

14. All internal access roads are to be constructed of an all weather surface and maintained at all times so as to minimise dust nuisance and tracking of mud off the property to Councils' satisfaction.
15. All materials except for peg bins are to be stored under cover.
16. Where possible, the trucks are to enter the site free of dust, sand, concrete residuals which have potential to pollute the air and the waterways.
17. The truck depot should not be used for storage of raw materials at any time.
18. There shall be no mechanical repairs, panel repairs, painting or sanding of vehicles, or parts thereof, permitted at the premises. Washing of vehicles is not to be conducted at the site.
19. No operation of the business associated with the truck depot is to be carried out in the shed adjacent to the dwelling at the north west of the property. The parking of a small utility for the resident's personal use is permitted.
20. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
21. All landscaping shall be permanently maintained in a good condition and in accordance with the intent of the landscaping plan.
22. The premises shall not be used in any manner which may create objectionable noise under the provisions of the Noise Control guidelines, (Noise Control Act).

ATTACHMENTS:

- AT-1** Locality Plan and Location of Respondents
AT-2 Site Plan
AT-3 Site Plan

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **12**

Locality plan and location of respondents

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **12**

Site Plan

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **12**

Site Plan

oooO END OF ITEM 12 Oooo

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **13**

ITEM: 13 **Proposed Rezoning at Lot 342 DP1012378 - No. 261 Tennyson Road, Tennyson**

FILE NUMBER: P2002/912/EVD/ENB26NAX.V04

Applicant: Linda Hardaker
Applicants Rep: Not advised
Owner: L J Hardaker
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 Environmental Planning and Assessment Act 1979

Area:
Zone: Rural 1(b)
Advertising: Not applicable
Date Received: 25 January 2002

Key Issues: - Land use conflict
 - Rural character
 - Effluent disposal

Action: Not support rezoning

REPORT:

Introduction

An application has been received requesting Council to rezone land at 261 Tennyson Road, Tennyson to enable a 9 (nine) lot subdivision based on an equestrian theme.

Proposal

The application proposes a 9 (nine) lot subdivision (8 [eight] lots under community title subdivision) and incorporates the following:

- 6 (six) lots comprising of 0.75 hectares each.
- 1 (one) lot of 2 hectares incorporating 3 (three) equestrian arenas:
 1. 60m by 20m covered dressage arena
 2. 60m by 20m outdoor dressage arena
 3. 70m by 40m outdoor show jumping arena
 4. Warm up track, managers residence and stabling facilities.
- 1 (one) community lot consisting of an entrance way, fencing, roads and streetscape.

- 1 (one) torrens title lot with dual access from Tennyson Road and the proposed internal road.

The proposed subdivision layout is attached to this report.

Applicant's Justification

The applicant suggests that this proposal is the most effective use of the land for the following reasons:

- *"Land size - a 10 hectare property cannot produce a constant income from day one that would compare to the envisaged income of the proposed development.*
- *Water - we have no water mains adjacent to the property, and with only one small dam, we will be reliant on bore supply. With experience in Real Estate in the area, and fielding agricultural land buyer enquiries on a daily basis, the common essential requirement is water supply.*
- *Rates.*
- *Agriculture has turned to turf farming.*
- *Fruit better suited to Bilpin climate, or along river.*
- *Farmers experts state, not only can you "not make a living out of 10 hectares, but you can never afford to pay off the land, and would need to rely on other avenues to do so.*
- *Hobby farms are a thing of the past and were never really farmed! Usually a tax deduction for the Pitt Street (70's and 80's)."*

The applicant also suggests that benefits will lie with the owners of lots 1-7 through the commercial set up of bed and breakfast accommodation on each individual site. The other benefits are for groups who will be offered use of the facility such as local schools, Riding for the Disabled, specialist coaches and tourists/riding enthusiasts.

Comment: Many of the reasons raised above are general comments which are not based on any detailed investigations. The issues raised are addressed in the report below.

Statutory Situation

Hawkesbury Local Environmental Plan 1989

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

- (a) *to primarily provide for agricultural uses and animal establishments;*

- (b) *to ensure that development does not create unreasonable demands, in the present or in the future, for provision or extension of public amenities infrastructure;*
- (c) *to prevent the establishment of traffic generating development along main and arterial roads; and*
- (d) *to ensure that development maintains the rural character of the locality and to minimise disturbance to the landscape through clearing, earthworks and access roads.*

The minimum lot size for subdivision within the Rural 1(b) zone is 10 hectares and the subject land has no capability to create additional lots. Furthermore, the proposed development is inconsistent with the zone objectives.

It is important to note that the proposed tourist accommodation and equestrian uses component of this proposal is currently permissible in a Rural 1(b) zone and may be defined as a tourist facility, recreation area and/or animal establishment under the provisions of HLEP 1989.

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

The provision of Sydney Regional Environmental Plan No.20-Hawkesbury Nepean River (No.20-1997)(SREP20) apply to the subject land. The aim of the 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.

Under the provisions of SREP 20, the specific planning policies and recommended strategies should be taken into consideration in the preparation of each environmental planning instrument. The planning strategies relevant to this proposal are for rural residential development and require consideration of the following:

- (a) *Give priority to agricultural production in rural zones*

Comment: The proposal for rural residential development will result in the fragmentation of agricultural land.

- (b) *When considering a proposal for rezoning or subdivision of land which will increase the intensity of development of rural land so that effluent equivalent to that produced by more than 20 people will be generated, consider requiring the preparation of a Total Water Cycle Management Plan.*

Comment: The application does not provide any details concerning the disposal of effluent for the proposed development.

- (c) *Maintain or introduce appropriate separation between rural residential use and agricultural used on the land that is proposed for the development.*

Comment: The proposed lots are smaller than surrounding lots and have the potential to create land use conflict with existing and future land uses. These issues will be discussed further in the planning assessment.

- (d) *Do not locate development in areas identified for future urban purposes in the Metropolitan Strategy.*

Comment: The land is not identified for future urban purposes.

- (e) *Consider the suitability of the land for keeping livestock, whether or not for commercial purposes, and appropriate mitigating measures to prevent land degradation.*

Comment: The land has a medium slope and is traversed by an un-named watercourse. The proposed equestrian use has the potential to degrade the land through the gradual erosion as ground cover is removed and the resulting compaction of the soil. The application does not address the management of the land in this regard.

- (f) *Consider the ability of the land to accommodate on-site effluent disposal.*

Comment: The application does not address the issue of effluent disposal.

- (g) *Consider any adverse environmental impacts of infrastructure associated with the development concerned.*

Comment: The proposed development has the potential for environmental impacts due to the additional hard surfaces, earthworks, hooved animals and effluent disposal areas. The management of the environmental impacts of the proposed development has not been addressed by the applicant.

Section 117(2) Ministerial Directions

In considering this proposal Council must consider the Section 117(2) Directions under the Environmental Planning and Assessment Act 1979. Direction G7-Existing general provisions is relevant to this proposal and requires the general provisions relating to agricultural land be maintained “*unless the council can satisfy the director that any particular provision or area should be varied or excluded having regard to the provisions of s5 of the Act*”.

Section 5 of the Act contains the objects of the Act and includes encouraging “*the proper management, development and conservation of natural and artificial resources including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and better environment.*”

The proposed development fails to encourage the proper management, development and conservation of agricultural land and is therefore inconsistent with the Objects of the Act.

Planning Assessment

Subject land

The subject land is irregularly shaped and has an area of 9.069 hectares. The main road frontage of the site is to Murrays Road and secondary access (7.14m wide) to the unformed section (adjacent to the formed section) of Tennyson Road.

The land is relatively clear of vegetation and slopes moderately from the western boundary to the eastern and northern boundaries. An un-named watercourse also traverses this part of the site. A second un-named watercourse runs along the south eastern boundary of the site

A weatherboard residence was approved (MA1177/00) on the subject land. Whilst work has commenced on the site, a Construction Certificate has not been issued for the approved dwelling.

Surrounding Development

Surrounding development consists of predominately larger rural properties. Whilst some small lots exist along Tennyson Road reflecting an historical pattern of subdivision, the majority of the lots range from 8-9 hectares to 10-12 hectares.

Character of the area

The locality is characterised by large rural properties, many greater than 12 hectares. The area has significant rural views and vistas and is dominated by rural development, rather than rural residential development.

The proposed development is best described as rural residential development and will significantly alter the character of the area and is inconsistent with the objectives of a Rural 1(b) zone.

Provision of services

The application does not consider the effluent disposal for the site. Given the environmental characteristics of the site, particularly the 2 (two) watercourses, waste water management is considered to be an important issue.

The applicant's justification has highlighted the lack of services, including water supplies and has failed to address these issues in the application.

Traffic

Access to the proposed subdivision and subsequent commercial development is via a private road from Murrays Road. Murrays Road has a sealed surface of approximately 3m, suitable for single lane traffic only.

The increased traffic movements generated by the proposed development, including use of the facility by schools, coaching, clinics and private lessons/functions will significantly impact on Murrays Road and the intersection of Tennyson Road.

It is considered that there is insufficient information relating to the capacity of the local traffic network to absorb the additional traffic generation from the proposed development.

Environmental Management

The proposed development has the potential for significant environmental impacts due to the additional hard surfaces, associated earthworks, hoofed animals (on small lots) and effluent disposal areas. The capability of the site and management of the environmental impacts of the proposed development has not been addressed by the applicant.

Shaping Western Sydney

Shaping Western Sydney is the Planning Strategy for Western Sydney released by the former Department of Urban Affairs and Planning, now Planning NSW, in 1998. The Strategy provides for protecting Western Sydney's natural boundaries and protecting long term viability. It also recommends that the area north and west of the Hawkesbury River remain part of Sydney's bushland/rural fringe.

The proposal it is not consistent with Shaping Western Sydney as it proposes further fragmentation of land that is considered to be agriculturally viable. The application does not address the provisions of this document.

Hawkesbury Sustainable Agricultural Development Strategy

The Hawkesbury Sustainable Agricultural Development Strategy was completed in 1997 and provided for the retention of agricultural activities within the City, as well as encouraging new pursuits to appropriate zones.

The Strategy also attempts to prevent further fragmentation of rural land and to this end, it did not recommend any changes to the current subdivision rules or minimum allotment sizes for subdivision.

The subsequent amendment to HLEP 1989 to implement the recommendations of HSADS (concerning landuse) is known as draft Amendment 108 and has now been certified for public exhibition by Planning NSW. It is anticipated that draft Amendment 108 will be publicly exhibited in April 2002.

Draft Amendment 108 amends name of the Rural 1(b) zone to Mixed Agriculture which contains the following objectives:

- (a) *To encourage existing sustainable agricultural activities;*
- (b) *To ensure that development does not create or contribute to rural land use conflicts;*
- (c) *To encourage agricultural activities that do not rely on highly fertile land;*
- (d) *To prevent fragmentation of agricultural land;*
- (e) *To ensure that the agricultural activities occur in a manner that do not have a significant adverse effect on water catchments, including surface and groundwater quality and flows; land surface conditions and important ecosystems such as streams and wetlands, and occur in a manner that satisfy best practice guideline/best management practices;*
- (f) *To promote the conservation and enhancement of local native vegetation including the habitat of threatened species, populations and ecological communities by encouraging development to occur in areas already cleared of vegetation;*
- (g) *To ensure that development retains or enhances existing landscape values which includes a distinctive agricultural component;*
- (h) *To prevent the establishment of traffic generating development along main and arterial roads;*
- (i) *To control outdoor advertising so that it does not disfigure the rural landscape;*
- (j) *To ensure that development does not create unreasonable or economic demands, or both, for provision of extension or public amenities or services;*

Whilst the current proposal may encourage the equestrian industry in the locality, this can be carried without fragmentation/subdivision of the land. It is therefore considered that the proposed rezoning to allow a 9 (nine) lot subdivision is inconsistent with recommendations with HSADS.

Conclusion

Rezoning land for a one off subdivision of this nature is considered to be poor planning practice as it fails to take account of the broader planning objectives and creates an undesirable precedent. The application fails to consider the critical environmental impacts on the land and the broader planning implications of the proposed development.

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **13**

The most appropriate manner of providing additional rural residential allotments is via a review of rural land strategies, such as HSADS. As mentioned above, HSADS did not recommend any changes to the minimum allotment sizes for subdivision.

The proposed development is considered to be an over development of the site and has the potential to significantly impact the natural environment in terms of waste disposal and land degradation, as well as increase land use conflict with surrounding properties.

It is therefore recommended that the application to rezone Lot 342 DP1012378 - No. 261 Tennyson Road, Tennyson the land not be supported.

RECOMMENDATION:

That the application to rezone lot 342 DP1012378 - No. 261 Tennyson Road, Tennyson to allow a nine lot subdivision not be supported.

ATTACHMENTS:

AT-1 Proposed subdivision layout

AT-2 Locality map

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **13**

Proposed subdivision layout

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **13**

Locality map

oooO END OF ITEM 13 Oooo

ITEM: 14 **Hawkesbury Development Control Plan****FILE NUMBER:** DCP1/99/EVD/ENB26NBX.V08

REPORT:**Introduction**

Council at its meeting of 13 November 2001 resolved to place the Hawkesbury Development Control Plan (DCP) on exhibition for an additional period of 28 days. The purpose of this report is to consider the submissions and finalise the DCP.

Public Exhibition

The draft DCP and Engineering Specifications were placed on public exhibition from 17 December 2001 until 18 January 2002 and was advertised in the Hawkesbury Gazette three times during this period.

The draft DCP was sold for a fee of \$12.00 for either a hard copy or CD and was available at Council's web site. Copies were forwarded free of charge to persons who made a submission during the previous exhibition period.

Submissions

During the exhibition submissions were received and are summarised below:

1. Brian McKinlay

The submission raised the following issues:

- *Fire Resistant Trees*
Conflict between species and resistance to fire.
- *Setback*
Rural zoned land should have a setback for any structure of 30m to retain landscape values.
- *Private Open Space*
Minimum standards should be set.
- *Communal Open Space*
Should include Multi Unit Housing.

- *Flooding, Landscaping and Contaminated Land*
Lots should have access above the 1% AEP during flood time and not necessarily permanent access.
- *Residential Street Design*
Parking on cul-de sacs should be located on site.
- *Rural Lot Size And Shape*
No reference made to flood affected properties.
- *Effluent Disposal*
Components of a Household Aerated Wastewater Treatment System should be stated, including wet weather storage, type of system and design philosophy.
- *Engineering Specifications*
Minor corrections were suggested.

Comment:

The bushfire, flooding and rural setbacks are later in this report. In relation to private open space and communal open space, the DCP applies to the construction of Multi Unit Housing. The section has been reworded to make this requirement clearer.

Flooding and flood evacuation from private land is an extremely important consideration in the assessment of development applications and it is considered that access above the 1% flood level should be a permanent one, rather than only in times of flood.

In relation to effluent disposal, a separate chapter is currently being prepared and will cover the issues raised by this submission. This chapter will be exhibited and reported to Council under a separate report.

The suggestions to the engineering specifications have been considered and in most cases the minor corrections/amendments were made to the specifications.

The submission also requests that applications that do not comply with the requirement of the DCP should be not be accepted until all issues are covered.

2. RE & PA Collis - Drafting Services

The submission is summarised as follows:

- *Height*
No provisions for building two storey homes on the flood plain.

- *Setbacks*
The internal setback for internal lots of 9m is impossible to obtain due to depth of lots. Suggested that a 9m setback from existing dwelling.
- *Private Open Space*
Suggests that the 5m by 6m width is excessive for medium density sites and should be altered to 4m by 6m. The 4m minimum is impossible to achieve and should be 2.5m. Also courtyards should be allowed in the front setback as the exception to the rule.
- *Common Open Space* - (for multi unit proposals containing 5 or more units)
Suggests that this is double dipping as Council also levies for Section 94 Contributions.
- *Heritage*
The DCP does not mention heritage within the residential chapter and should make reference to liaison with Councils Heritage Advisor where a heritage item exists on site or adjoining site.
- *Energy Efficiency*
A scorecard system should be used rather than NatHERS assessment as it is more practical.

Comment:

The issues raised concerning the Building Height Plane height and flooding are addressed later in this report.

The Section 94 contributions relates to the provision of active open space and community facilities. The requirement for communal open space in the DCP attempts to provide passive recreation, encourage a sense of place for residents and improve the amenity within the development. There are several examples within the City where developers have voluntarily provided a communal area which is well utilised by residents.

The aims of the Residential Chapter of the DCP is to improve the design of residential development in terms of streetscape, site characteristics and amenity for residents and adjoining residents. The requirements for communal open space, private open space and setbacks for internal lots all attempt to achieve this and should be retained.

In order to receive the full benefits from the Sustainable Energy Development Authority (SEDA) in relation to rebates for solar hot water systems and the like, a NatHERS assessment is required and is preferable to the score card system.

3. J Hagar

- *Notification Chapter*
Development Applications should re-notified if changes are made to the proposal to allow adjoining owners to further comment.
- *Complying Development*
This chapter contains hours for construction work and it is suggested that these hours should be enforced.
- *Table Contents*
The first version was easier to follow.

Comment:

This submission relates primarily to Part A Chapter 3 - Notification Policy and amendments to this chapter are recommended below. In relation to hours of operation, Council from 1 January 2002 can now issue on the spot fines for non compliance with conditions of consent.

The Table of Contents will be comprehensive in the final document. Due to the technical difficulties experienced in compiling the document, this was not included in the current draft.

4. Roger Cutbill

The submission raises issues concerning landscaping in relation to bushfire and storm management.

Comment:

Bushfire issues are raised below.

Engineering Specifications

The specification has been formulated to replace the existing specifications for design and Construction and compliments the requirement contained within the DCP. One submission relates to the Specification as outlined above and minor corrections/amendments have been made accordingly.

Adoption of Hawkesbury Development Control Plan

The following table contains each chapter of the DCP, the proposed changes and a recommendation. Where the answer "minor" is given, this relates to formatting changes to improve the layout, consistency and readability, as well as typographical errors. It does not refer to wholesale changes to requirements/standards.

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: 14

Chapter	Amendments	Recommendation
Part A		
1. Purpose and Aims	No change	Adopt
2. General Information	Minor	Adopt
3. Notification	Minor – See report below.	Adopt
Part B		
1. Exempt Development	Minor	Adopt
2. Complying Development	Minor	Adopt
3. Notification	See report below	Adopt
Part C		
1. Landscaping	Minor – to link to other chapters.	Adopt
2. Car parking and Access	Minor – consistency with other chapters.	Adopt
3. Signs	Minor – reference to SEPP 64.	Adopt
4. Soil Erosion & Sedimentation Control	No change	Adopt
5. Bushfire Mitigation	See report below.	Re-exhibit
6. Energy Efficiency	No change	Adopt
Part D		
1. Residential Development	See report below	Adopt
2. Industrial Development	Minor - link to landscaping chapter.	Adopt
3. Subdivision	Minor - consistency with other chapters.	Adopt
4. Brothels	No change	Adopt
5. Telecommunications	No change	Adopt
6. Dam Construction	Minor	Adopt
7. Landfill	Minor	Adopt
8. Rural Sheds	No change	Adopt
Part E		
1. Kurrajong Heights Village	No change	Adopt
2. Macdonald Valley	No change	Adopt
3. Grose Wold	No change	Adopt
Appendices	Minor Consistency of definitions.	Adopt
Engineering Specification	See report	Adopt

Proposed Amendments

Part A Chapter 3 - Notification Policy

To clarify where development applications are re-notified if amended, the following should be inserted in the appropriate place under 3.3 of the Notification chapter:

“Where a Development Application has been notified in accordance with this chapter and amended prior to determination, the amended application will not be re-notified provided Council is of the opinion that the amended application differs only in minor respects to the original application”.

The submission by Mr Hagar outlined above also raised issues concerning the difficulty in deciding what is defined as “minor” in relation to a section 96(1) of the Environmental Planning and Assessment Act 1979 and suggests that any modification other than “minor” should be re-notified.

Section 96(1A) relates to modifications that involve minimal environmental impact and the Notification chapter does not require these applications to be modified. An example of a Section 96(1A) may be a modification to internal layout or alteration to exterior finishes and it is clear that the environmental impact is minimal. Section 96(2) relates to other modifications and the chapter requires these applications to be notified.

It is not considered necessary to further amend this chapter to notify Section 96(1A) modifications.

Part C Chapter 4 - Bushfire Mitigation

In January 2002 Planning NSW released “*Planning for Bushfire Protection - A Guide for Councils, Planners, Fire Authorities, Developers and Home Owners*”. The document was prepared by the Rural Fire Service in consultation with Planning NSW and replaced the 1991 document of the same name and Circular C10 “*Planning for Bushfire Prone Areas*” issued by the former Department of Planning in 1989.

This document, combined with the Australian Standard 3959-1999 - Construction of buildings in bushfire prone areas, sets up the framework for development and construction in bushfire prone areas. The principle consideration is for the protection of human life and property.

As a consequence, the Bushfire Chapter of the DCP should be formally repealed and re-written making reference to the new guidelines - “*Planning for Bushfire Protection*” and the Australian Standard. Applicants undertaking development within bushfire prone area are currently being referred to these two documents.

Part D Chapter 1 – Residential Development

The residential chapter introduced many new requirements to improve the standard of residential development within the City. Following the exhibition of the DCP and submissions received, some amendments to the chapter are proposed to further improve the standards as well as the use of the document.

Heritage Provisions

Until such time that a separate chapter for heritage provisions is prepared, it is recommended that aims and objectives relating to heritage be included in this chapter. The aims and objectives will relate to the consideration of European and Aboriginal heritage matters, including archaeology, as well addressing the heritage clauses of the HLEP 1989. This section will also require applicants and planners to liaise with Councils Heritage Advisor where development involves heritage items and properties adjoining heritage items.

General Exemptions to Building Height Plane

For a number of reasons the application of the building height plane is unreasonable in instances such as:

- Flood affected land- where a dwelling is allowable under the provision of HLEP 1989 but cannot be achieved due to the Building Height Plane.
- Narrow lots – where dwellings are proposed are on lots with a frontage of less than 14m.
- Use of chimneys, satellite dishes and aerals - generally constructed outside the Height Plane.

It is therefore considered that general exemptions to the Building Height Plane as outlined above be included within the DCP.

Setback to Internal Lots

Due to the historical pattern of subdivision, creating many lots with 35-45m deep, the proposed 9m setback for a dwelling in an internal lot may be excessive and limit development of this nature. Should this figure be reduced to 6m this would allow for the setback within the internal lot to be used for a courtyard where appropriate and still provide suitable amenity for residents of the internal lot.

The proposed amendments relax rather than extend the requirements of the DCP and it is therefore not necessary to re-exhibit the changes.

Rural Dwellings

One of the submission outlined above suggested that the DCP should contain requirements for rural dwellings on existing lots. This would contain provisions for setbacks, location of services, driveway, height and siting of dwellings. This issue is considered to be appropriate for inclusion in the DCP and should be prepared and exhibited with draft Amendment 108 as this contains the new zone objectives for the rural and environmental protection zones.

Part D, Chapter 4 – Brothels

The Report of the Brothels Taskforce was released in October 2001 and concluded if local planning controls are too restrictive, the effectiveness of the planning system in achieving the objectives of the 1995 Reforms (the Disorderly Houses Amendment Act 1995) will be undermined.

Hawkesbury Local Environmental Plan 1989 allows brothels (defined as commercial premise) in Commercial zones. Chapter 4 of the DCP sets out the locational criteria for brothels. The Report of the Brothels Taskforce and Planning NSW requires that planning instruments cannot be too restrictive so as to limit Brothels due to the locational criteria.

HLEP 1989 does not require amending as a result of the Report of the Brothels Taskforce, however, the locational criteria contained within the Chapter 4 may need to be reviewed to address the issues raised in the Report of the Taskforce.

Conclusion

The requirements of the DCP have now been effective since 17 December 2001 and applicants are now becoming more familiar with the DCP. Consolidation of the 18 former DCP's has meant that one document can now be referred to by planners, developers, applicants and the like in preparing and assessing development applications.

The relatively minor amendments outlined in this report will improve the content, structure, readability and clarity of the document. It is therefore recommended that the document be amended as indicated and each chapter be adopted.

It should be noted that Part B, Exempt and Complying, cannot become effective until the LEP is amended. This was reported to Council at its meeting in November 2001.

RECOMMENDATION:

That:

1. The following chapters be adopted:

Part A 1. Purpose and Aims 2. General Information 3. Notification	Part D 1. Residential Development 2. Industrial Development 4. Brothels 6. Dam Construction 7. Landfill 8. Rural Sheds
Part B 1. Exempt Development 2. Complying Development	Part E 1. Kurrajong Heights Village 2. Macdonald Valley 3. Grose Wold
Part C 1. Landscaping 2. Car parking and Access 3. Signs 4. Soil Erosion & Sedimentation Control 5. Energy Efficiency	Appendices Engineering Specification

2. The bushfire Mitigation Policy/Development Control Plan be repealed in accordance with the provisions of the Environmental Planning and Assessment Act 1979.
3. Part D Chapter 1 – Residential Development incorporate guidelines for rural dwellings, including setbacks, location of services, driveway, height and siting of dwellings and these be prepared and exhibited with the draft amendment 108.

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **14**

4. The current DCP is corresponding with the chapters listed in 1 above, other than 'Exempt and Complying', be repealed, in accordance with the provisions of the EPA Act 1979.
5. Notification in accordance with the provisions of the Act, given that this DCP, other than Part B, will be effective from the date the notice appears.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 14 Oooo

ITEM: 15 Draft Policy - Temporary Food Stalls**FILE NUMBER:** GL079/001Pt02/EVD/ENB26NBX.V03**PREVIOUS ITEM:** 112, GPC Section 1 - Environment (11.12.2001)

REPORT:

At its meeting of 11 December 2001, Council considered a report on Temporary Food Stalls and resolved that a further report be brought to Council after a draft of the policy has been prepared and distributed to Councillors.

The Draft Policy for Temporary Food Stalls has now been completed and forwarded to Councillors, and is reproduced below for consideration by Council:

Draft Policy - Registration of Temporary Food Stalls at Trade Events**Introduction**

Through an effective registration and inspection regime of temporary food stalls, consumers will be protected from the likelihood of food poisoning and contamination of food. It will also enhance the awareness of safe food practices amongst proprietors and food handlers.

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.

Due to the high risk involved, Council maintains an effective registration and inspection regime for such premises. Surveillance is essential during the operational phase, to ensure compliance is given to temperature control requirements, food handling techniques, and general protection of the public's health. Registration and approval are effective ways of ensuring that Council's Environmental Health Officers are aware of temporary food outlets, and are able to liaise with food handlers in the establishment and set-up phase so that public health issues are detected early.

What does the policy involve?

The policy involves the adoption of the requirements outlined in the Australian Institute of Environmental Health "Temporary Food Premises Code" and Food Standards Code. This requires food handlers to undertake registration and Council staff carry out the inspection of temporary food premises, which is already required by legislation.

Preparation of food for sale in any buildings, vehicles or stalls for public consumption must comply with the policy's guidelines set out in Council's "Information for Food Stall Holders" brochure.

All food traders intending to sell food are required 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's Environment and Waste Branch 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.

A temporary food premises fee of \$82.65 (eighty-two dollars and sixty-five cents) per annum is applicable. This includes one inspection per year at the venue and any subsequent inspection at the place where the food is prepared within the boundaries of the Hawkesbury City Council Local Government Area. Any re-inspections for recurring non-compliance shall incur a fee of \$62.00 (sixty-two dollars). The fees are to be set annually in Council's fees and charges, after the required advertising and seeking of public comment, as required by the Local Government Act 1993.

Who does the policy apply to?

This policy is designed to incorporate commercial food traders who are operating for a personal financial gain at venues. Examples include commercial traders at venues such as the Hawkesbury Show, Windsor Markets

Temporary food stalls that are held to benefit a non profitable charity or community groups which are engaged in fundraising activities would be exempt from paying any fees. In respect of the risks associated with temporary food stalls, charitable or community groups would still be registered and inspected.

Examples of exempt charitable and community groups include: Lions Clubs, Schools, Rotary Clubs, religious organisations, lobby groups and sporting clubs.

RECOMMENDATION:

The Draft Policy for Temporary Food Stalls, as contained within the report, be adopted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 15 Oooo

ITEM: 16 Unauthorised Demolition of Building and Removal of Trees - 35 Elizabeth Street, North Richmond**FILE NUMBER:** P507/85/20/EVD/ENB26NBX.V05

REPORT:

On 31 January 2002 Council staff were informed that a residence was being demolished at 35 Elizabeth Street, North Richmond. Council staff subsequently inspected the property and found that a dwelling had been partially demolished, a single storey slab barn measuring approximately 6m by 8m had been demolished and approximately 30 (thirty) trees had either been lopped to less than 1.5m in height or removed.

The property has recently been sold and the demolition works and tree removal were being carried out without approval under the instruction and direction of the new owners. Seven people jointly own the property. Mr John Catania, a part owner, has acted as a representative for the owners in discussions with Council.

At the inspection of the property Mr Catania was present and when questioned why the works were being carried out without consent he advised that he did not believe consent was required.

Hawkesbury Local Environmental Plan 1989 provides that development consent is required for the demolition of the dwelling and the barn. Council's Tree Preservation Order requires approval for the lopping/removal of the trees. The property is zoned Residential 2(a) and is not listed as an item of heritage significance under Schedule 1 of HLEP 1989.

Mr Catania was advised of the owner's obligation to obtain development consent for the works and advised to stop all works. To date no further works have occurred on the site and on 7 February 2002 the owners submitted a development application for the demolition works, tree removal and the construction of 12 villas/townhouses on the site.

The site was inspected by Council's Heritage Advisor on 14 February 2002 in the presence of the owners and preliminary discussions were held regarding incorporating the remaining significant portions of the dwelling into the proposed medium density development, and the potential for archaeological relics to be found on the site.

Council has been advised that the dwelling consists of an original dwelling possibly circa 1850 - 1860 surrounded by later additions and as the rear of the dwelling has been demolished an opportunity exists to at least preserve the front elevation of the original dwelling.

Pending the determination of the development application the owners have been notified to secure the site from unauthorised entry, tarp the remaining sections of the dwelling in order to prevent water inundation in storm events and not to carry out any further works on the site without obtaining prior approval from Council.

Council also has the option of prosecuting the owners for undertaking works without obtaining Council approval.

RECOMMENDATION:

That:

1. Council's solicitors be instructed to prosecute the owners and those responsible for the unauthorised demolition and tree removal.
2. The applicant be advised that any development proposal must incorporate and conserve the remainder of the original dwelling.
3. Any development application on this property be reported to Council for determination.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 16 Oooo

ITEM: 17 Windsor Road Upgrade - Urban Design Guidelines**FILE NUMBER:** GT225/021/EVD/ENB26NBX.V07

REPORT:**Introduction**

In March 2001, the NSW State Government announced that Windsor Road would be upgraded to four lanes from its intersection with Seven Hills Road to Windsor.

The Roads and Traffic Authority (RTA) have recognised that whilst the purpose of the upgrade is to ensure that the road serves a vital transport function, it should be designed to integrate as best as possible with the natural, built and community environment through which it passes.

The final working paper containing an Urban Design Framework for the upgrade to Windsor Road was prepared by Connybeare Morrison and Partners and Jackson Teece Chesterman and Willis for the RTA.

Urban Design Working Group

A working group was formed and represented by Hawkesbury, Baulkham Hills and Blacktown Councils, Planning NSW, Landcom, Department of Transport Council and the Urban Design Advisory Service.

Two stakeholder workshops were also held which included the above organisations as well as State Rail, Sydney Water, Integral Energy and State Transit.

The purpose of the framework was to develop strategies and design principles for the road and its interface with development occurring along the corridor which will:

- Maintain its performance as a transport corridor for road freight, private vehicles and public transport, for cyclists and pedestrians;
- Make it safe for its users, for those who live and work nearby and for those who must cross it;
- Retain its important historic identity and landscape qualities and make it a road that is enjoyable to use;
- Minimise the potential environmental impacts of noise, pollution and species loss;
- Integrate and form a recognisable "road address" and markers adjacent built environments;
- Provide good regional connections.

Through the Working Group and Stakeholder Meetings a number of threats to the road and its character were recognised and included:

- The growth of the undistinguished strip commercial development
- Continuous back fences to adjoining residential areas
- Loss of views to the Blue Mountains and the rural landscapes of the Cumberland Plain
- Loss of and failure to replace indigenous vegetation and associated fauna
- A proliferation of advertising adjacent to the road or within its visual catchment.
- Visual intrusion of overhead wire.

The Design Framework also recognises a number of opportunities to:

- Conceptualise Windsor Road as a heritage parkway, connecting the Macquarie Towns to Parramatta and serving as a gateway to the Blue Mountains.
- Develop a landscape along the road that connects the creek line vegetation that characterises the region and supports its indigenous flora
- Protect views and vistas to the mountains and the flood plain
- Ensure that the settings of historic building are properly protected and enhanced.

The document also recognises that the Windsor Road is important as a part of a system of roads, such as the Bells Line of Road and the Western Sydney Orbital.

Design Concept for Windsor Road - Heritage Parkway Concept

As a result of the issues raised above The Working Paper includes a framework and drawings that indicate ideas for detailed design consideration for the road corridor. The design objectives and framework are set out in the following table:

Objectives

- To create a distinctive character for the road that reflects and displays the unique characteristics of those sections of the Cumberland Plain through which it passes.
- To retain qualities in the road and visual catchment that reflect its history and allows users to appreciate them.
- To allow road users to experience the varied character of the Cumberland Plain through which the road passes.
- To retain and reinforce a "parkway" quality in road verges and median of the road in rural and parkland settings.
- To ensure that intersections, cycle ways, bus facilities and pedestrian crossings serve all sections of the community and are safe for their users.
- To minimise noise impacts on adjacent residential areas.
- To maintain safety on the road, in particular in residential areas.
- To avoid unpleasant visual clutter which frequently characterises arterial roads in particular in commercial and residential zones

Framework

- Establish a landscaping theme based on the use of Cumberland Plain Woodland trees and plant communities.
- Use development control powers to maintain areas of rural and natural landscape adjacent to and through which the road passes.
- Identify and exercise development control measures that protect key vistas.
- Identify and protect the curtilage of historic landscapes and buildings.
- Direct the road, where possible, to avoid compromising historic buildings or objects.
- Use Cumberland Forest Tree and understorey communities for landscaping the road.
- Use statutory development control powers to create scenic protection zones that conserve the visual integrity of rural landscapes in areas that are not proposed for urban development, are identified vistas or are land in rural use.
- Adopt a landscaping design based on the specific woodland character of the Cumberland Plain.
- Integrate each of these facilities into the detail design of the road and demonstrate existing or future connections.
- Establish likely future demands and reserve capacity for future expansion.
- Design to maximise "eyes on the street".
- Require adjacent housing to be sufficiently setback to comply with EPA noise criteria without the use of noise walls and to be designed to minimise noise disturbance to occupants.
- Require all adjacent residential development to be accessed from a frontage road separated from the main traffic lanes by a planted verge.
- Use statutory development control powers to direct and control the siting and design of roadside development, signage and advertising.

Objectives

- To clearly define the urban centres along the road and gateways to villages which are entered off it.
- To maintain the roads performance levels over time.
- To maximise the capacity of the road.

Framework

- Establish formal landscape design character.
- Design and adopt distinctive signage.
- Restrict access for the provision of frontage roads.
- Provide convenient, safe bus stops and shelters and priority for buses.

Implications of the Working Paper

The framework has some major implications for areas where development is occurring rapidly along the road corridor. For example, the suggested use of frontage roads instead of noise walls will alter the emerging character within the Rouse Hill Development Area. Within the Hawkesbury, the use of frontage roads has been encouraged since the development of the residential area in McGraths Hill, and later the commercial/industrial development.

As development occurs along the Windsor Road the framework should be considered and implemented by both Council and developers. In assessing development applications or preparing draft local environmental plans along the Windsor Road corridor the framework should be implemented where appropriate.

In relation to signage, the Hawkesbury Development Control Plan may need to address signage along Windsor Road specifically to incorporate the objectives of the Working Paper.

Conclusion

The objectives and design framework have the potential to enhance Windsor Road, particularly through McGraths Hill, the gateway to Windsor. Given the significance of Windsor Road in terms of a transportation corridor to and through the Hawkesbury, it is considered that the framework should be supported and implemented. It is therefore recommended that the Council strongly support the Working Paper to achieve the urban design outcomes along the Windsor Road corridor.

RECOMMENDATION:

That:

1. The information be received.
2. The Roads and Traffic Authority be advised that the framework and objectives of the Urban Design Framework are strongly supported.

ENVIRONMENT

Meeting Date: 26 February, 2002

Item: **17**

3. The objectives and framework be used in the assessment development applications and the preparation of draft local environmental plans along the Windsor Road corridor.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 17 Oooo

ITEM: 18 Brothel Task Force**FILE NUMBER:** DCP002/97/EVD/ENB26NCX.V09

REPORT:

The Local Government and Shires Associations of NSW have advised Council that the State Government has released a report on the Brothels Task Force. The Associations are distributing a copy of this report to all NSW Councils.

The Brothels Task Force was established by the NSW Attorney General and the Minister for Urban Affairs and Planning in January 2000 to monitor the regulation of brothels by local Councils and to assess the successful occupation of the safety programs for sex workers, their clients and the public.

The recommendations of the Task Force are:

1. Establish a Brothels Planning Advisory Panel which both local Councils and the Director General of Planning NSW will be able to refer Local Environmental Plans for advice.
2. Amend the Disorderly Houses Act 1943 to clarify the existing law concerning the evidence which is needed to determine that a premise is operating as a brothel.
3. Continue occupational health and safety programs for sex workers.

A copy of the report has been supplied to Council, together with a legal opinion by Senior Counsel. This is a consolidated Memorandum of Advice on planning laws and brothels within NSW which is a detailed legal opinion on the operation of planning law, particularly in respect of brothels. Further copies of both reports are available from the Planning NSW website.

As this Council receives relatively few applications for the establishment of brothels, the existence of the Advisory Panel may provide a worthwhile service should Council wish to review its current policy on the distribution and location of brothels within the City's area.

RECOMMENDATION:

The information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 18 Oooo