



general
purpose
committee

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section

environment

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ITEM: 1 Hawkesbury Nepean River System - Statement of Joint Intent for Integrated Environmental Management**FILE NUMBER:** GR060/079 PT2 folio 29/GMA/ENA29NAX.G01

REPORT:

As a result of the Healthy Rivers Commission Inquiry the Government has issued a Statement of Joint Intent for (SOJI) for sustainable management of the Hawkesbury Nepean River System. The Government approved strategies for river health are categorised into the following six (6) areas:

1. Regional Environmental Planning.
2. Environmental Management by Councils.
3. Riverine Corridor Protection.
4. Water Management.
5. Extractive Industry.
6. Data Management.

The Statement of Joint Intent, which is attached to this report, represents a binding commitment by State agencies and authorities to adopt an integrated management approach to information sharing and specific action on the approved management strategies. Some of these strategies are actions for which the 26 councils involved have primary or supplementary responsibility. While the Statement does not bind the councils directly, actions by them will be independently audited by the Commission.

The Statement requires the Department of Local Government to facilitate integrated environmental management arrangements by councils and state agencies and to encourage new revenue raising, including environmental levies, when appropriate. The main outcomes are strengthening of the environmental component of council management plans, strategic integration of objective setting and strategy development for environmental and other local government objectives and better State agency support for environmental management by councils. Importantly, the Statement means that State agencies and councils will have to better coordinate their strategies and programs for a cost-effective, integrated response to the river management problems identified by the Healthy Rivers Commission.

ENVIRONMENT

Meeting Date: 29 January, 2002

Item: **1**

All councils are now asked to review their current plans to ensure integrated environmental management is included in the 2002/2003 management plan and incorporated into any associated evaluation, strategic and operational reviews and objective setting processes. The councils are required to identify factors that contribute to, or detract from, achievement of the objectives and consider how council activities can be directed to maximise beneficial environmental outcomes while achieving other relevant goals. This may require new performance targets and operational accountabilities to be specified in some cases.

This is an important matter for the council and will be placed on the February strategic planning program.

RECOMMENDATION:

That:

1. The information be received.
2. This matter be placed on the agenda for the Strategic Planning Program to be held in February 2002.

ATTACHMENTS:

AT-1 Statement of Joint Intent for the Hawkesbury Nepean River System (distributed separately).

oooO END OF ITEM 1 Oooo

ENVIRONMENT

Meeting Date: 29 January, 2002

Item: 2

ITEM: 2 **Proposed Housing for Older Persons or People with a disability - 34
Beaumont Avenue, North Richmond**

FILE NUMBER: M1185/EVD/ENA29NAX.V07

Applicant: Falson & Associates Pty Limited
Applicants Rep: Mr Glenn Falson
Owner: Landmart Australia Pty Limited
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 Sydney Regional Environmental Plan No. 20 (No. 2-1997)
 State Environmental Planning Policy No. 5
Area: 1.644ha
Zone: Industry Light 4 (b)
Advertising: 21 December 2001 - 11 January 2002
Date Received: 2 October 2001

Key Issues: - Development of industrial land for residential purposes
 - Compliance with SEPP No. 5
 - Context and setting
 - Traffic
 - Noise

Action: Approval

REPORT:

Introduction

Council has received a development application for a housing development for older and/or disabled persons under the provisions of State Environmental Planning Policy No. 5 (SEPP No. 5).

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.

Background

An application for an aged and disabled housing development on this site was submitted to Council in September 2000. The application was for 125 dwellings. After much discussion between Council staff and the applicant, the application was refused on 13 July 2001.

Since this time the proponent has had further discussions with Council staff and reduced the development from 125 (one hundred and twenty five) dwellings to 77 (seventy seven) dwellings. There has also been considerable design improvements made.

The Proposal

The application consists of 77 (seventy seven) dwellings for aged persons and/or persons with a disability.

Dwellings comprise a combination of 42 (forty two) detached and attached dwellings of both single and two-storey configuration towards the front and middle of the site with a three-storey building containing 35 (thirty five) apartments behind. The 42 (forty two) dwellings have 3 (three) bedrooms each and the 35 (thirty five) apartments have 2 (two) bedrooms. The single and two storey dwellings will be face brick with tile roofs and coloured aluminium window surrounds. The 3 (three) storey apartments will be prefabricated "tilt-up" panels with colours to compliment the bricks on other buildings.

The development also includes a community hall, a pool, gymnasium and lift in the apartment building, a total of 121 (one hundred and twenty one) spaces for resident and visitor parking, landscaping and decorative fencing, and an internal access road.

The dwellings will be targeted primarily to fit and active persons whilst realising that the dwellings may also be used by independent older or disabled persons.

SEPP No. 5 allows for the accommodation of older people or people who have a disability, people who live with older people or people who have a disability, and staff employed to assist in the administration of and provision of services to the dwellings. SEPP No. 5 defines "older people" as persons aged 55 years or over, and "people with a disability" as people of any age who, as a result of having intellectual, physical, psychiatric or sensory impairment, either permanently or for an extended period, have substantially limited opportunities to enjoy a full and active life.

The applicant states that it is not proposed to provide on-site care facilities other than to provide the space within community buildings and the management on the site for visiting medical practitioners and other helpers/carers.

Two pedestrian pathways to the North Richmond shops are also proposed. One is proposed to go along Beaumont Ave and Terrace Road, the other is proposed via Heritage Park.

The dwellings will be available on a strata title basis with the operation of the site governed by a management plan. No plan of subdivision has been submitted with the application. The subdivision of the site will be subject to a separate approval.

Site and Locality

The site is located on the south-western side of Beaumont Ave, North Richmond, opposite the North Richmond Sporting Club and immediately to the north of the Hanna Match site. It can be described as "pie slice" shaped with a frontage to Beaumont Avenue of approximately 235m, a north-south depth of

approximately 140m and an east-west depth of approximately 160m. It has an area of 1.644ha and varies in height from 22.5m AHD to 24.5m AHD. The site is vacant and cleared of vegetation except for grasses and approximately 25 (twenty five) regrowth black wattles. It was previously owned by Telstra, who used it for the occasional storage of plant and equipment. To the east of the site is Heritage Park and then the Hawkesbury River, to the north-west is Open Space and to the west is partly developed industrial land.

Existing sewerage, electricity, gas, water, and telephone services are available to the site.

Statutory Position

Hawkesbury Local Environmental Plan 1989

Clause 9 and 9A

The property is zoned Industry Light 4(b) HLEP 1989.

The proposed development is permissible by way of the provisions of SEPP No. 5. This is discussed later.

The objectives of the Industry Light 4(b) zone are:

- “(a) to set aside certain land for the purposes of light industry within convenient distance of the urban centre of the City of Hawkesbury;*
- (b) to allow commercial and retail development for*
 - (i) uses ancillary to the main use of land within the zone;*
 - (ii) the display and sale of bulky goods; and*
 - (iii) the day-to-day needs of the occupants and employees of the surrounding industrial area; and*
- (c) to ensure that industrial development creates areas which are pleasant to work in and safe efficient in terms of transportation, land utilisation and services distribution.”*

Clause 18 Provision of water, sewerage etc. service

All relevant services are available to the site. Conditions of consent can be imposed requiring the upgrading of the services if required.

Clause 21 Danger of bushfire

The development site is within a low bushfire risk area. The nature of the risk does not make the site unsuitable for the proposed development.

Clause 37 Land affected by aircraft noise

The applicant has submitted an acoustic report demonstrating that the proposed development can comply with the provisions of AS2021.

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

The subject site falls within the Middle Nepean Hawkesbury River Catchment area. Approximately half of the site falls within a scenic area of regional significance. (Landscape Unit 3.4.1 - Yarramundi Weir to South Creek Junction).

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 specific planning policies and regional strategies relate to total catchment management, environmentally sensitive areas, water quality, water quantity, flora and fauna, riverine scenic quality, agriculture/aquaculture and fishing, urban development, recreation and tourism, metropolitan strategy. Relevant development controls are filling and landuses in riverine scenic areas.

It is considered that subject to proposed modification and conditions of consent (to be discussed later) 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 - 1997).

State Environmental Planning Policy No 5 - Housing for Older People or People With A Disability

SEPP No. 5 aims to encourage the provision of housing that will:

- (a) *increase the supply and diversity of housing that meets the needs of older people or people with a disability, and*
- (b) *make efficient use of existing infrastructure and services, and*
- (c) *be of good design*

The Policy applies to land zoned for primarily urban purposes, or that adjoins land which is zoned primarily for urban purposes, and on which development for dwelling houses, or residential flat buildings, or hospitals is permissible.

The site is zoned for urban purposes and is adjacent to the Norfolk Ave residential area. By way of Clause 46 of HLEP 1989 dwelling houses may be erected in the 4(b) zone if they are used in conjunction with an industrial use of the land. Hospitals are permitted land uses within the 4(b) zone by way of Clause 9 of HLEP 1989.

SEPP No. 5 does not apply to land defined as "environmentally sensitive land". SEPP No. 5 defines "environmentally sensitive land" as land identified in other environmental planning instruments by, inter alia, descriptions such as conservation and scenic (excluding land in scenic area adjacent to a residential zone, also identified as scenic, which permits development of two storey or more in height).

SREP No. 20 (No.2 – 1997) is therefore of relevance as it defines conservation area sub-catchments and scenic areas.

The site is within the Middle Nepean Hawkesbury River Catchment area and partly in a scenic area of regional significance. SREP No. 20 (No. 2-1997) does not define the Middle Nepean-Hawkesbury River Catchment area as a conservation area sub-catchment.

The site is adjacent to the Norfolk Avenue residential area (zoned Residential 2(a)) which is within the same regionally significant area. Two storey dwellings are permitted in Norfolk Avenue.

Given the above, the proposed development is permissible.

SEPP No. 5 contains a number of development criteria which must be taken into consideration. These are discussed below:

Location, facilities and support services

SEPP No. 5 requires Council to be satisfied that residents will have access to shops, banks and other retail and commercial services that the residents may reasonably require, community services and recreation facilities, and the practice of a general medical practitioner.

"Access" to these facilities and services is qualified by SEPP No. 5 as being within 400m from the site, or within 400m of a transport service that can take the residents to within 400m of the relevant facilities or services. This transport service must be available both to and from the site during daylight hours at least once per day from Monday to Friday.

The wording of SEPP No. 5 concerning the distance of the site from these services is unclear in that it does not state whether or not it is as the crow flies or walking/travelling distance and whether or not all of the required services and facilities must be within 400m of the site. It is assumed it is walking distance and that all of the above mentioned services must be within 400m of the site.

The applicant states that the site is within 380m of some of the services however, not all. Using the proposed pathway along Beaumont Ave and Terrace Road, the site is 380m from the northern corner of Bells Line of Road and Terrace Road, 415m from the closest shops (being a restaurant, beauty salon and real estate agent) and 585m from the entrance of the carpark for the North Richmond Shopping Village.

Hence, for Council to be able to approve the application, a transport service must be available to the site. The applicant has advised that the residents could operate a mini bus as part of the community management scheme and that the development is of sufficient size to cater for the mini bus service.

Council must also be satisfied that the residents will have reasonable access to home delivered meals, personal care and home nursing and assistance with housework. The applicant has provided a social services report which provides a detailed audit of off-site local amenities and services, aged care services, local groups and organisations, sport clubs and churches. The report also states that the applicant has agreement with a local GP, chemist and hairdresser for them to visit the site at least once per week. It is therefore considered that the applicant has adequately demonstrated that the abovementioned services presently exist in the area and would be reasonably available to the future residents.

All facilities and services provided as part of the development, in this case a pool, gymnasium and community hall, must be available to residents at the time of occupation. Council must also be satisfied that the development will be connected to a reticulated water system and have adequate facilities for the removal and disposal of sewage. These matters can be addressed by condition of consent.

Development Standards - access and useability

This part of SEPP No. 5 provides for a number standards relating to wheelchair access; road access; common areas; adaptability; identification; security; letterboxes; private car accommodation; accessible entry; doors and doorways; living rooms and dining rooms; kitchen; main bedroom; bathroom toilet; access to kitchen, main bedroom, bathroom and toilet; laundry; storage; surface finishes; electrical switches; and garbage.

The plans generally demonstrate compliance with these development standards. However two areas of non-compliance are noted.

Firstly, SEPP No. 5 requires that car parking, other than parking for employees, must not be less than 6m long by 3.2m wide. The 30 (thirty) space carpark behind the community hall does not comply with this provision as spaces are only 5.5m by 2.6m. This can be resolved by condition of consent and will be discussed in more detail later.

Secondly, the proposed community hall contains 3 (three) second storey meeting rooms which are only accessible by stairs, hence persons using wheelchairs cannot gain access to these rooms. This is contrary to Clause 13A(2)(c) however can be addressed by conditioning any consent such that these rooms are made available to persons in a wheelchair. The applicant has advised that a wheelchair travelator could be provided.

There are some other minor "fit-out" matters that either require clarification or additional detailed technical information. It is considered that these matters can be readily resolved by way of condition of consent.

Design Requirements

The objective of this part is to establish a process that encourages good design.

Design requirements include provisions relating to site analysis, design of residential development, visual and acoustic privacy, solar access and design for climate, stormwater, crime prevention, accessibility.

The proposal demonstrates satisfactory compliance with these provisions. One area of concern is the proposed path way through Heritage Park. Due to its varying slopes, limited surveillance, and potential for pedestrian/vehicle conflicts it is recommended that this path be deleted from the proposal.

Soil Erosion and Sedimentation DCP

Appropriate controls can be required as a condition of consent to ensure compliance with this DCP.

Contaminated Land Policy DCP

It is considered that the land is suitable in its present state for the proposed development. It is considered that a detailed site contamination is not required or a remediation action plan for Council to determine this application.

Community Consultation

The application was publicly exhibited for the period 21 December 2001 to 11 January 2002. No submissions were received. Panthers World of Entertainment, owners of the Hawkesbury Panthers North Richmond, have requested an extension to provide a submission. At the time of preparing this report their submission had not been received. It is expected that a representative of Panthers will address the General Purpose Committee meeting.

Planning Assessment

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

Impact on the Environment

Access, traffic and parking

Vehicular access to the site is proposed via 2 (two) 6m wide entrances off Beaumont Avenue towards the western end of the site. The western most entrance requires a right of carriageway over part of an adjoining site. The owner of this land has agreed to the proposed right of carriageway.

The development proposes 121 (one hundred and twenty one) car parking spaces. Under the provisions of SEPP No. 5, 99 (ninety nine) spaces are required, hence there is an extra 22 (twenty two) spaces provided. It is proposed that each dwelling is to be provided with a minimum of 1 (one) private car parking space which leaves 44 (forty four) spaces to be designated as visitor parking or as a second carparking space for some dwellings. The 44 (forty four) spaces are found in the 30 (thirty) space carpark behind the community hall, 4 (four) visitor spaces accessed off the driveway and 10 (ten) extra spaces under the apartment building.

As discussed above, the dimensions of the 30 (thirty) space carpark will need to be increased to 6m long by 3.2m in order to comply with the provisions of SEPP No.5.

The major travel path for vehicles entering or exiting the site would be through the Bells Line of Road/Grose Vale Road/Terrace Road intersection. This intersection is controlled by the RTA and it is understood that the RTA are presently investigating options to improve the capacity of this intersection.

The applicant has submitted a traffic impact assessment of the proposal prepared by Christopher Hallam & Associates Pty Ltd. The major findings of the report are:

- During the 7.30am – 8.30am morning peak the Bells Line of Road/Grose Vale Road/Terrace Road intersection is operating with the traffic flows being in excess of the capacity of the intersection. The rest of the morning peak and the afternoon peak periods are generally satisfactory.
- The likely peak traffic generated by the proposal is relatively low, the maximum forecast is 14 (fourteen) vehicles per hour for the 8.30am to 9.30am morning peak.
- The impact of the development at the Beaumont Ave/Terrace Road intersection would be minimal. The development will have a small impact on the operation of the Bells Line of Road/Grose Vale Road/Terrace Road intersection during 7.30am – 8.30am and a minimal impact on the rest of the morning peak and afternoon peak.
- The most western driveway will need to provide a 6m carriageway with a minimum of 0.3m kerbs on each side, plus a paved footpath of 1.2m width.
- That the vegetation growing in the road shoulder and edge of the site to the east of the second driveway (i.e the eastern driveway) be trimmed back to improve sight distances.
- The aisle width of the 30 (thirty) space carparking area is not satisfactory. We recommend a minimum width of 5.8m to serve spaces that are 2.6m wide.

The findings of the traffic report are generally supported. It is however recommended that the dimension of the 30 (thirty) space carpark be increased to 6m long by 3.2m wide (as per the provisions of SEPP No. 5) with an aisle width of 5.7m. Increasing the dimensions of the spaces, aisle width and the width of the western driveway, as per the traffic report recommendation, will result in the loss of about 6 (six) carparking spaces, require the reduction of the courtyard to Unit 28 and possibly the deletion of Unit 32. This can be addressed by condition of consent and the submission of amended plans prior to the release of the construction certificate.

Note: This application did not need to be referred to the RTA or Council's Local Traffic Committee however the previous SEPP No. 5 application for 125 (one hundred and twenty five) dwellings was forwarded to the RTA and Council's Local Traffic Committee for consideration.

The RTA did not raise an objection to the development on traffic grounds however, requested Council consider the cumulative impact of the development on the operation of the Bells Line of Road/Grose Vale Road/Terrace Road intersection and the possibility of levying a contribution from the developer for proposed improvements. The RTA also raised concerns about the safety of pedestrians away from the signalised intersections.

Council's Local Traffic Committee did not object to the proposed development.

Noise

The applicant has submitted a Noise Assessment prepared by RSA Acoustics in support of the application.

The report considered the impact of the existing noise generated by surrounding industrial development, aircraft noise and traffic noise. It found that the major noise influence was traffic noise from Bells Line of Road, with the local industry noise and aircraft noise having a lesser impact.

The report recommended a number a construction techniques and materials to be incorporated into the design of the development. It is considered that the recommendations can be readily incorporated into the development.

Context and setting

Surrounding development consists of a variety of uses including residential development, industrial development, a club and parklands.

Heights of surrounding development ranges from single and double storey to the north and west and three storey (equivalent height) to the south. The development proposes a mix of single, double and three storey buildings with associated landscaping and fencing. It is considered that the scale, bulk, size and form of the proposed works is not inconsistent with the surrounding built form in the locality or the existing scenic quality and features of the surrounding landscape.

Existing access to sunlight and visual and acoustic privacy enjoyed by surrounding land occupiers will not be detrimentally affected by the proposed development. The proposed use is compatible with surrounding landuses.

Public Domain and Utilities

The proposal provides for adequate private and public recreational opportunities on the site and has demonstrated that the residents will have reasonable access to recreational opportunities in the locality.

All relevant utilities are available to the site or can be provided by the relevant public utility.

Water, Soils, Air Quality

Water and sewer is to be provided to the site by Sydney Water. On-site detention of stormwater to the satisfaction of Council will be required as a condition of consent. It is expected that the proposed development will not adversely impact upon groundwaters, surface waters, or on the Hawkesbury River.

The soil structure is suitable for the proposed development. Due to the site's sandy nature, particular care will need to be taken by the development with respect to the minimisation of erosion and sedimentation. This can be addressed by way of condition of consent and monitoring of the site during construction.

It is considered that the existing air quality and microclimate in the locality is suitable for the proposed development.

Flora and fauna

The site is clear of vegetation except for grasses and approximately 25 (twenty five) regrowth black wattles.

It is considered that no known threatened or endangered flora and fauna, ecological communities or critical habitat as listed under the Threatened Species Conservation Act 1995 will be significantly affected by this proposal.

Waste and energy

Waste services can be provided to the site. The applicant has demonstrated that the proposed buildings and their layout demonstrates satisfactory energy efficiency.

Natural hazards and Technological hazards

The property is within a low bush fire risk area. The nature of bushfire risk does not make the site unsuitable for the proposed development.

The surrounding industrial uses are not expected to cause a significant or unmanageable risk to the future residents.

Safety and security

The development demonstrates by way of design, location and orientation of buildings and surveillance opportunities that the future residents will be provided with a safe and secure environment in which to reside. It is however recommended that the proposed pathway via Heritage Park be deleted due to concerns about the safety and security of persons using this path.

Social and economic impact in the locality

It is anticipated that the proposed development will have a positive social and economic benefit for the Hawkesbury.

Site design and internal design

Subject to the recommended amendments discussed above, it is considered that the design and layout of the proposed development is sensitive to the surrounding environment, existing and future amenity of neighbours, and the attributes of the site such as size, shape and slope.

Construction

The construction of the proposed works are not expected to significantly affect surrounding neighbours and can be controlled by conditions of consent.

Cumulative impacts

It is considered that the proposed development is compatible with the surrounding landuses and scenic quality of the area and hence no significant negative cumulative impact is foreseen.

Suitability of the site for the development

The constraints of surrounding landuses do not make this development prohibitive. The proposed development will not lead to unmanageable transport demands. Subject to amendments previously discussed, access to the site is satisfactory for the intended development. Required services and utilities are available to the site. Ambient noise levels are suitable for the development. The site is not critical to the water cycle of the catchment. The development will not significantly impact upon critical habitats and threatened species, populations, ecological communities and habitats. The site's attributes such as size, shape, and slope are conducive to the development.

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

Use of Industrial Zoned Land for Residential Purposes

The applicant has provided the following justification for developing this site for residential and not industrial purposes.

“There is still substantial vacant industrial land in Beaumont Avenue. The reasons for this are probably varied but would include a reluctance by industrialists to establish on the western side of the river due to flooding and transport issues; the smaller population available to support industry on the western side of the river in terms of staff and opportunities for sales; the availability of industrial areas on the eastern side of the river in more established business communities.

Whatever the reasons, it is clear that the land has been vacant for a long time. The recent decision by Telstra to sell the land is additional evidence of the absence of demand in this locality for industrial land.

In any case, should the subject development proceed, there is still significant vacant land opportunities existing should they be required.”

Disability Advisory Committee

The applicant and associated consultants attended Council's Disability Advisory Committee on 17 January 2002 to present the application and answer any queries. The Committee has provided the following comments:

The Committee is generally supportive of the application as now proposed. Access has been satisfactorily addressed. The Committee would like Council's support in lobbying the local bus operators to provide a more frequent service in this locality and to consider providing wheelchair accessible buses on all routes.

Section 94 Contributions

Council's Section 94 contribution plan provides Council with the ability to levy developers for contributions towards the provision of public services and facilities. Of relevance to this proposal are contributions for community facilities, park improvements, recreational facilities and drainage.

The contributions that would be required are \$199,627.00 (one hundred and ninety nine dollars six hundred and twenty seven dollars) for community facilities, park improvements, recreational facilities and \$13,691.00 (thirteen thousand six hundred and ninety one dollars) for drainage.

On 16 December 1997 the then Minister for Urban Affairs and Planning directed that for any development application to carry out development under State Environmental Planning Policy No. 5 Housing for Older People or People with a Disability, there are no public amenities or public services for which a condition referred to in Section 94 of the Act may be imposed.

The accompanying Circular issued with this direction advises that the Minister will consider submissions on waiving the direction for large scale housing development which, for example, would substantially increase the population of a small community.

It is recommended that Council make submissions to the Minister to recover the portion of Section 94 contributions, for facilities which are not provided on site.

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 application for housing for older persons or people with a disability generally demonstrates satisfactory compliance with State Environmental Planning Policy No. 5 and relevant Council guidelines. Areas of non-compliance can be addressed by condition of consent.

It is considered that the site is suitable for the proposed development and that the proposal is of a design which is sensitive to the site and broader locality.

The applicant has demonstrated that adequate services and facilities will be available to the future residents.

It is recommended that the proposed development to approved.

RECOMMENDATION:

That:

- A.** The application for proposed housing for older persons or people with a disability 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 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. Prior to construction of the approved development it is necessary to obtain Construction Certificate.
4. The proposed pathway through Lot 113 DP793863 and Heritage Park is not approved.
5. The 30 (thirty) space carpark behind the community hall is to be amended such that the dimensions of the car spaces are not less than 6m long by 3.2m wide with an aisle width of not less than 5.7m.
6. The stairs to the mezzanine meeting rooms in the community hall are to be fitted with a travelator suitable for wheelchairs.

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. Creation of the right of carriageway over Lot 1 DP 833495 for the western driveway.
8. Details, and where necessary amended plans, demonstrating that the proposed works comply with the Building Code of Australia; Clause 13A of State Environmental Planning Policy No. 5; and the findings and recommendations of *Noise Assessment for Proposed Retirement Village Development 16 Beaumont Ave, North Richmond*, prepared by RSA Acoustics dated August 2000 and *Traffic Impact Assessment of Proposed Retirement Village, 16 Beaumont Avenue, North Richmond*, prepared by Christopher Hallam & Associates Pty Ltd dated September 2001, except where modified by conditions of consent, are to be submitted to the Principle Certifying Authority for approval
9. The submission of engineering designs and calculations covering all works required by this consent.
10. The submission of a satisfactory Erosion and Sediment Control Plan (ESCP) prepared in accordance with the State Government guidelines titled "Managing Urban Stormwater: Soils and Construction (1988)".
11. Submission of proof of the payment of the Building Industry Long Service Levy.
12. A detailed landscaping plan is to be submitted to the Principle Certifying Authority for approval.
13. Details of the proposed front fencing are to be submitted to the Principle Certifying Authority for approval. In this regard fencing is to consist of masonry piers with decorative infill panels. Pre-painted solid metal fencing and/or pool fencing is not appropriate for the infill.
14. Details of the proposed colour scheme are to be submitted to the Principle Certifying Authority for approval.

Prior to Commencement of Works

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 4(b) of the Environmental Planning and Assessment Act, 1997.
17. A sign must be erected in a prominent position on any work site on which the erection or demolition of a building is being carried out:
 - (a) stating that unauthorised entry to the work site is prohibited; and
 - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

This condition does not apply to:

- (a) building work carried out inside an existing building; or
 - (b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
18. 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.
19. Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with the approved ESCP or SWMP. In the absence of any approved plan the work is to be in accordance with Council's Development Control Plan 1/94 - Soil Erosion and Sedimentation.

Note: Measures may include the installation of geofabric fencing, staked straw bale walls located on the contour down-slope of the construction, sediment detention basins, earthen contour banks and the like. The enclosed warning sign shall be affixed to the sediment fence/erosion control device at all times.

During Construction

20. All building work must be carried out in accordance with provisions of the Building Code of Australia.
21. Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.

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22. The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include, but are not limited to, water, sewerage, drainage, power, communication, footways, kerb and gutter.
23. The provision of conduit/ducts under new driveways to the requirements of Integral Energy, in accordance with Integral Energy drawing 049759H dated 14/7/1987. Conduit and ducting material is available from Integral Energy.
24. Construction of Council's standard heavy duty footways and layback vehicular crossings to suit the access to the site with a minimum width of 6m.
25. Construction of site drainage shall be carried out in accordance with Council's Guidelines for Stormwater Drainage Requirements for Commercial, Industrial and Medium Density Developments. On-site detention shall be provided to maintain all stormwater discharges up to the 1:100 year storm at predevelopment levels. The permissible site discharge to Beaumont Ave is to be restricted to that which would be generated by the development if that part of the site contained within catchment 6 as defined in Council Section 94 plan.
26. The surcharge path towards Heritage Park to be directed into the existing swale drain along the toe of the batter to the south of the property. Suitable scour protection is to be provided down the embankment and for any areas not already shaped and grasses.
27. The batter to the east of the eastern most access is to be cleared and shaped, under the supervision of Council, to provide adequate site distances.
28. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
29. All demolition, construction and associated work necessary for filling and construction being restricted to between the hours of 7am to 5pm Monday to Friday and 8am to 1pm Saturdays.
30. No burning of demolition or construction material being carried out on the site.
31. 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.
32. 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.

Prior to Issue of Occupation Certificate

33. 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.
34. Submission of a Fire Safety Certificate in accordance with the Environmental Planning and Assessment Regulations 2000.
35. The submission of a Certificate from Telstra Australia that satisfactory arrangements have been made for the provision of cables for telephones to the development.
36. A section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water web site www.sydneywater.com.au/customer/urban/index or telephone 13 20 92.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water\sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principle Certifying Authority.

37. The following documentary evidence is to be obtained:
 - (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.

38. The construction of a concrete path paving of 1.2m wide along the southern footway of Beaumont Avenue and the eastern footway of Terrace Road
39. The depth of the pool shall be prominently indicated at the deep and shallow ends by permanently fixed markers above the water line or, in the case of above-ground pools, on the outside of the pool.
40. A warning notice (incorporating resuscitation techniques) complying with the requirements of Section 17(1) and Regulation 8 of the Swimming Pools Act, 1992, shall be provided and maintained in a prominent position in the immediate vicinity of the pool.
41. Payment of Section 94 contributions as determined by the Minister of Planning.

The Use of the Site

42. Should "public entertainment" be proposed to be conducted upon the premises a separate application shall be lodged with Council for consideration under the requirements of the Local Government Act, 1993. Written approval shall be obtained from Council prior to the conduct of any public entertainment.
43. A bus service is to be provided for the use of the residents of the development in accordance with the provisions of Clause 12 (2) (b) of State Environmental Planning Policy No. 5.
44. All landscaping shall be permanently maintained in a good condition and in accordance with the intent of the landscaping plan.
45. The pool must comply with Department of Health NSW Public Swimming Pool and Spa Pool Guidelines, June 1996.
46. The pool is to be fenced in accordance with Swimming Pool Act 1992.
47. The kitchen in the Community Hall is to be registered with Council and have inspections conducted by Council Officers as required. The premises are to comply with the Food Safety Standards 2000 and Council's Code for the Construction and Fitting out of Food Premises (1993).
48. Any cooling tower is to be registered with Council and installed and maintained in accordance with the Public Health (Microbial Control) Regulation 2000.
49. All clinical waste generated by the development is to be disposed of at an appropriate licensed facility.
50. Submission of an annual Fire Safety Certificate in accordance with the provisions of the Environmental Planning and Assessment Regulations 2000.
51. The residents of the development are to be restricted to those permitted by State Environmental Planning Policy No. 5.
- B.** Council write to the local bus operators requesting that they "provide a more frequent service in this locality and to consider providing wheelchair accessible buses on all routes".
- C.** Council make submissions to the Minister of Planning for the levying of Section 94 contributions on this development in accordance with Council's Section 94 contributions Plan Review September 2001.

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ATTACHMENTS:

- AT-1** Site Plan
- AT-2** Site Analysis
- AT-3** Elevations

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Site Plan

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Site Analysis

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Elevations

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ITEM: 3 **Alterations and Additions to Existing Mushroom Compost Facility Lot 12 DP736138 and Lot 4 DP610341 84 and 112 Mulgrave Road, Mulgrave**

FILE NUMBER: M923/01/EVD/ENA29NAX.V05

Applicant: Elf Farm Supplies Pty Ltd
Applicants Rep: Mr Rob Tolson/Mr Terry Perram
Owner: RN & NR Tolson
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 Sydney Regional Environmental Plan No. 20 (No. 2-1997)
Area: 24.544ha
Zone: Rural 1(c)
Advertising: 30 November 2001 to 17 December 2001
Date Received: 10 August 2001

Key Issues: - Odour
 - Noise
 - Hours of operation

Action: Deferred commencement consent

REPORT:

Introduction

Council has received a development application to carry out building works (primarily enclosure works), install equipment and change operating procedures at an existing mushroom substrate production facility at Mulgrave.

This matter is being reported to Council due to the submissions received in relation to the application and Council's previous actions in relation to the operation of the composting facility. 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.

Background

Two development consents are of primary relevance to this application.

Firstly, DA218/90 being an approval for, inter alia, 21 composting tunnels, materials storage shed, and extension to mushroom composting shed. On 19 June 2001 Council granted approval for modification of the development consent to change the design and location of the proposed tunnels and associated ancillary structures.

Secondly, MA1538/00 being for, inter alia, erection of chimneys and landfill for the purposes of establishing a building platform.

MA1538/00, the modification to DA218/90, and this present development application are in response to Class 1 and 4 proceedings in the Land and Environment Court and resultant Court Orders made by agreement regarding the operation and environmental performance of the facility.

The Proposal

The application consists of the following:

Building Work

- Erect a new building to enclose a work area at the open (western) end of already approved composting tunnels. This is to be a colourbond clad building approximately 45m long (i.e the total width of the tunnels) by 25m wide by 12m high (ridgeline). The tunnels will open into this building thus enabling the handling of substrate by front end loader and conveyor systems to be undertaken in an enclosed space. Some minor filling and retaining walls (maximum height approximately 1m) will be required as part of these works to provide a uniform floor level.
- Extend a building from the eastern end of the tunnels to enclose the tunnel ventilation equipment. This is a colourbond extension extending the width of the tunnels and is the same height as the tunnels.
- Erect a colourbond enclosure measuring 4m high by 4.5m wide along the roof of the tunnels to enclose a conveyor.
- Extend the roof and walls over the existing storage area. Most of the storage area is already provided with a roof and walls. The extension is approximately 28m in length and is to be placed on top of the existing reinforced concrete walls.
- Replace the existing 2 (two) chimneys with a common chimney erected over the tunnel structure.
- Install and use a demountable office building currently stored on the site. This is an Ex-Olympics demountable building which is to be used for an office, staff amenities, toilets and storage.

Equipment Installation

- Install a substrate conveyor system. This system is to be located adjacent to, within and on top of the tunnels.

- Fit out part of the previously approved tunnel structure as a bio-scrubber. This is to be installed between tunnels 2 and 3. The applicant advises that the final design of the bio-scrubber is yet to be prepared however it is anticipated that it will consist of a moulded plastic or timber media with continuous water sprayers used to maintain the media in a wet condition. Water used in the scrubber is to be returned to the compost.
- Install tunnel ventilation equipment.

Operation Changes

- Alterations to the operations of the facility as a result of the proposed building work and equipment installation will include; the provision of the "air-under system" to all stages of the composting process; the enclosure of the most odorous stages of compost production including the capturing, scrubbing and exhausting of emissions and the enclosure of compost handling processes. No increase in staffing levels are proposed nor variation the approved weekly production of substrate (presently 600 tonnes per week - DA218/90).
- Eliminate current restrictions on hours of working. The applicant seeks approval for 24 hours operation. The current approved hours of operation are 6.00am to 6.00pm Monday to Saturday and 6.00pm to 12 noon on Sunday (DA218/90)

All new concrete is proposed to be unpainted. All new colourbond is to match the existing green colourbond on site. The demountable office is to be finished in an off white and mission brown colour.

A plan titled "Figure 3 Stage 2 Works" showing the extent of these works is attached to this report. A scheme of proposed operations is also attached to this report.

Statutory Position

Hawkesbury Local Environmental Plan 1989

Clause 9 and 9A

The property is zoned Rural 1(c) HLEP 1989.

The existing activity may be defined as an "identified land use" which is permissible within the Rural 1(c) zone.

The relevant objective of the Rural 1(c) zone is:

- (a) to primarily provide for a rural residential style;

The lands immediately adjacent to the site are also zoned Rural 1(c), Industrial 4(b) and Special Uses 5(b) Railway. Surrounding land uses include mixed industrial development, sewerage treatment works, railway and dog pound. Residential land is located approximately 500m to the west of the facility and the nearest

properties that could be defined as being primarily used for rural residential purposes are located 250m to the south-east of the facility. The proposed works seek to reduce the odour emitted from the facility. If successful, this will improve the amenity of the nearby residents and allow for a better rural residential living style.

Clause 18 Provision of water, sewerage etc service

Water and electricity services are presently provided to the property. Appropriate conditions relating to drainage are to be imposed on any consent issued. The new office/staff amenities building is to be connected to reticulated sewerage.

Clause 25 Development of flood liable land

The relevant provisions of Clause 25 are:

- (4) *Notwithstanding . . . a building that was lawfully situated on any land at 30 June 1997 may, with the consent of the Council, be extended, altered, added to or replaced if the floor level of the building, after the building works has been carried out, is not more than 3 metres below the floor height standard for the land immediately before the commencement day.*

Comment: The floor height standard for the area is 16m AHD. Most of the land to be developed has a height of 16m AHD.

- (5) *The Council shall, in the assessment of a development application, consider the flood liability of access to the land and, if the land is within a floodway, the effect of isolation of the land by flooding, notwithstanding whether other aspects of this clause have been satisfied.*

Comment: Most of the land to be developed has a height of 16m AHD. The 1 in 100 year flood event height for the area is 17.3m AHD. The frequency of flooding in the area in which the works are to occur is less than 1 in 50 years.

The facility is approximately 300m east of South Creek and not within the floodway of this Creek. Floodwater inundation would be substantially backwater with low velocity and shallow depth. The potential for flood damage would therefore be low.

The building works will not substantially change the existing evacuation procedure for the property in time of flood. A detailed evacuation plan would need to be included in an "Emergency Response Plan" which would be required as a condition of consent.

It is considered that the nature of the flooding and the site's location do not make the proposed works unsuitable for the site.

- (7) *Any part of a building below the 1 in 100 year flood level is to be constructed of flood compatible materials.*

Comment: The components of the proposed building works are of flood compatible materials.

It is therefore concluded that the proposed development satisfies the provisions of Clause 25.

Draft Hawkesbury Local Environmental Plan 1989 - Amendment No. 48

This draft LEP seeks to rezone the parts the properties, including land presently used for mushroom compost production, to Light Industrial 4(b). The proposed development is permitted within the 4(b) zone and is consistent with the objectives of this zone.

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

The subject site falls within the South Creek Catchment area defined by SREP No. 20 (No. 2 1997). The site is also within an area of Regional Scenic significance (South Creek Unit 3.3.1).

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 specific planning policies and recommended strategies are total catchment management, environmentally sensitive areas, water quality, water quantity, flora and fauna, riverine scenic quality, agriculture/aquaculture and fishing, rural residential development, and metropolitan strategy. Relevant development controls relate to filling, landuses in riverine scenic areas.

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).

Schedule 3 of the Environmental Planning and Assessment Regulations (the Regulations)

The Regulations provide definitions of "designated development". Applications for designated development require an environmental impact statement (EIS) to be undertaken and are subject to special provisions of the Environmental Planning and Assessment Act 1979. In this case relevant designated development definitions are "waste management facilities or works" and "composting facilities and works".

Part 2 of Schedule 3 of the Regulations provides clarity as to whether alterations and additions to existing or approved development is designated development. Specifically, Clause 35 of the Regulations states:

Development involving alterations and additions to development (whether existing or approved) is not designated development if, in the opinion of the consent authority, the alteration or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.

Clause 36 of the Regulations identifies matters for consideration which a consent authority can consider in forming an opinion about the alterations and additions. These matters include environmental management performance, the likely impact of the alterations and additions, the capacity of the receiving environment to accommodate changes in environmental impacts, environmental mitigation measures, compliance with relevant standards, codes of practices or guidelines. The applicant has provided a written submission addressing each of the matters for consideration.

A major concern of the environmental performance of the existing facility is the emission and off-site detection of odour as well as compliance with conditions of consent regarding interference with the amenity of the area. In response the applicant has, over time, modified composting processes undertaken on the site as well as submitted further development applications and a request to modify an existing development consent in order to improve the environmental performance of the facility. The primary intent of these applications and this application is to reduce the off-site detection of odour.

An additional intent of this application is to reduce plant noise by enclosing the main working area and all operational motors, and reducing the extent of outdoor movements of front end loaders.

The physical change to the facility will primarily be internal changes not readily viewed from areas off-site. The scale, character and nature of these changes is consistent with the existing built form on the site. The visual impact of the chimney will be discussed in further detail later.

The applicant has submitted odour and noise assessments from suitably qualified experts which provide adequate certainty as to the potential environmental impacts. The application also contains mitigation and monitoring regimes for noise and odour emissions.

The applicant advises that the facility will comply with conditions of the EPA licence issued for the facility and the relevant environmental guidelines issued by the EPA for noise and odour emissions.

Taking into consideration the matters identified in Clause 36 of the Regulations it is considered that the proposed works and operational changes fall within alterations and additions under Clause 35 of Regulations and hence are not designated development.

Soil Erosion and Sedimentation DCP

Appropriate controls can be required as a condition of consent to ensure compliance with this DCP.

Contaminated Land Policy DCP

It is considered that the land is suitable in its present state for the proposed development. It is considered that a detailed site contamination assessment is not required or a remediation action plan for Council to assess this application.

All fill imported to the site is to be validated to ensure the fill is suitable for the proposed development from a contamination perspective.

Community Consultation

The application was publicly exhibited for the period 30 November to 17 December 2001. The application was also forwarded to the EPA for their consideration.

Three submissions were received as well as a response from the EPA. A summary of the concerns raised in the submissions is provided below:

- odour and noise emissions from current facility are offensive;
- insufficient details have been provided relating to the exact nature of the proposed bio-scrubber, its ongoing monitoring and long term use;
- odour modelling is inaccurate with respect to diameter of the chimney and odour emission from bio-scrubber;
- concern about 24 hours operation and late night/early morning noise emissions;
- air exiting the exhaust stack will make a very audible noise and will be visible as fog if it is moisture laden;
- operator does not presently comply with hours of operation restrictions - loading and unloading operations start most days at 2.00 - 2.30am. Operation noise from the site can be heard in Chisholm Place;
- concerned about quality of water runoff from the site and possibility of this entering South Creek;
- planting of pine trees near facility may help mask composting odour and reduce noise emissions;
- proposed office is presently on site and is being used without approval;

Applicant's Response to Submissions

“Our source of odour will be mostly eliminated from our site after the tunnels and enclosed working areas are completed.

The proposed bio-scrubber is now used successfully in other plants in the world. It is important to test the output levels after the plant is operating as all countries have different experiences with different ingredients. The system is over engineered for the quantity proposed.

The heating of the air doesn't increase the quantity of water in the air. After going through the air washer the air will be again cooled and scrubbed, reducing the temperature of the exhaust air that will go to air outside generally greatly reducing the plume of steam.

With all the tractors working indoors after the enclosure of the works area we believe any current noise from our site will be greatly reduced. There will be no tractors working outside at night. No tractors currently work after 6pm at night.

The plant operates 24hrs per day, once you go to scrubbing and forced ventilation bio-scrubbing etc. With a large proportion of the material now being moved by conveyors the tractor part of the operation is much reduced. The plant needs to start earlier on days of compost dispatch, this will only incur the use of one loader early and it will be working indoors with the building completely enclosed.

The fans operate totally indoors and are not noisy under those conditions. We have air leaving the current chimneys at 15 metres per second and there is almost nil noise at the outlet.

We have no discharge to the creek from the substrate plant. There is a dam on the property for the collection of an accidental spillage, which works well and also collects any excess water that comes off the roofs of the building.

We believe the tree idea is a good one. We did plant pine initially on the site but because the soil type was wrong they didn't grow very well, but we will try again as the batter on the fill area is clay they may do better now.

It is now not proposed to keep the [relocatable] building on site after the completion of all works proposed. It will be used as a site office only for the duration of proposed works on site."

EPA's Response

The EPA would appreciate the opportunity to review the proposal prior to construction of the pollution control system. A review would give the EPA a level of certainty about the adequacy of the proposed odour and noise management strategies for the development and provide an opportunity for revision of these measures if required. Council might consider making consent conditional on EPA acceptance of the pollution control system and the proponent could submit the details of their proposal directly to the EPA.

The EPA supports the proposed enclosure of the substrate production process and treatment of air emissions as it should contribute significantly to reducing odour impacts. Without detailed assessment of the report the EPA is not in a position to say whether or not the proposal complies with the EPA requirements.

The facility currently captures all runoff from the hard stand areas of the operation and re-uses it in the substrate production process. This practice should continue under the reconfigured operation to ensure there is no surface water runoff from areas containing organic waste or mushroom substrate.

As implied in the development application, all substrate production must be undertaken in tunnels serviced by a chimney during the construction phase and until such time as the new pollution control system is commissioned.

Planning Assessment

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

Impact on the EnvironmentOdour

In order to control odour emitted from the site, the applicant proposes to conduct the odorous processes within an enclosed area and capture, scrub and exhaust the gases given off by this process. At present this is partly done on the site with the use of 2 (two) tunnels and 2 (two) 13m high chimneys to exhaust the emissions. No bio-scrubber or filter is presently operating on the site.

The applicant states that the bio-scrubber is intended to rinse any particulate material from the exhaust air, dissolve ammonia and other odorous compounds into water, and nitrify the dissolved ammonia through the action of micro-organisms. The bio-scrubber will cater for up to 100,000 cubic metres of air per hour. The bio-scrubber media are designed to avoid the need for regular maintenance. There is no requirement to periodically change the media and hence no waste to be disposed of and no special licence requirements. Internal maintenance of the bio-scrubber will be possible as tunnel exhausts will be able to be shut down for short periods. To avoid extended shutdowns, two exhaust fans will be installed, each rated to 50% maximum load, allowing one fan or motor to be replaced while the other maintains ventilation.

The applicant has submitted odour dispersion modelling from Holmes Air Services in support of the proposal. The Holmes modelling provides parameters for chimney height and odour emission rates which achieve compliance with EPA odour performance criteria. Note: the modelling is based on a chimney diameter of 1m whereas the applicant proposed a diameter of 1.6m. This difference is not expected to significantly affect the findings of the report as the compliance with EPA criteria will be a function of chimney height and odour emissions, with the odour emissions being controlled by the efficiency of the bio-scrubber.

Put simply the EPA criteria is that off site detection of odour should not be more than 2 (two) odour units 99% of the time. Holmes have provided maximum odour emission rates for various chimney heights. These heights range from 12m to 50m. The modelling shows that the smaller the chimney, the less is the allowable odour emission rate which means the bio-scrubber has to be more efficient in scrubbing/filtering odour particles from the gas emitted by the activity.

To ensure that odour criteria will be met it is recommended that prior to installation of the chimney and bio-scrubber that the final details be approved by the EPA and that the applicant undertake ongoing monitoring of odour emissions. In this regard it is considered appropriate that a deferred commencement consent be issued subject to EPA approval for the odour control system.

The applicant has not nominated an actual chimney height however states that it is expected to be less than 30m above the existing ground level. The existing chimney height is 13m above ground level. The proposed chimney is to be erected on top of the tunnels. The tunnels are approximately 7m high, the ridge of the proposed colourbond enclosure to the west of the tunnels is 12m high. Structures within the visual catchment of the site are up to 30m above ground level, these include silos at concrete batching plants, electricity stanchions and mobile phone towers in South Windsor. It is recommended that the height of the chimney be limited to a maximum of 30m above ground level. The applicant has provided advice from Richmond RAAF stating that the maximum allowable top of the chimney is 56m AHD. A 30m chimney would reach a height of approximately 46m AHD.

Noise

The applicant has submitted an acoustic report from Atkins Acoustics in support of the proposal. The report considers noise emission from the new mechanical plant, the new chimney, the proposed fans and building works and assessed these emissions in respect to the provisions of the EPA's Industrial Noise Policy (INP) and Environmental Noise Control Manual (ENCM).

The report finds that based on the typical noise levels and installed locations within buildings, most plant will be able to operate without additional noise controls. During development of the final design, detailed investigations will be conducted to ensure that noise levels satisfy the criteria set out in the INP and ENCM.

The proposed 24 hour operation, includes truck movement, for early morning dispatch of substrate between the hours of 3am and 6am. This will involve the parking of trucks in a loading bay immediately to the north new working area enclosure with substrate loaded into the truck by a conveyor protruding from the north end of this enclosure. The acoustic report states that up to 4 (four) trucks per hours are predicted and that noise generated by this activity will comply with EPA noise criteria.

It is recommended that the proposed hours of operation be approved for a period of 12 (twelve) with the performance of the site being reconsidered after this 12 (twelve) month period.

Context and setting

Surrounding development consists of a variety of uses including rural and residential development, industrial development, sewerage treatment works and railway. The proposed works are designed to improve the operation of the facility, primarily by reducing the detection of odour and noise emitted from the facility. If successful, this will improve the amenity of the surrounding area and make the facility more compatible with adjacent landuses. It is considered that the scale, bulk, size and form of the proposed works is not inconsistent with the existing scenic quality and features of the surrounding landscape.

Access, transport and traffic

Access to the site is via a driveway off Mulgrave Road. The proposed access arrangements are considered satisfactory. The proposed development will not significantly increase the amount of traffic presently using Mulgrave Road or the surrounding road network as no increase in the number of staff or

the quantity of substrate produced is proposed. Council is not aware of any significant conflict between vehicles, pedestrians and cyclists caused by the operation of the facility.

Flora and fauna

The property has undergone significant disturbance due to previous activities on the land, both agricultural uses and the compost facility.

No known threatened or endangered flora and fauna, ecological communities or critical habitat as listed under the Threatened Species Conservation Act 1995 are to be affected by this proposal.

Natural hazards and Land Resources

The properties and facility will be inundated by flood waters during the 1 in 100 flood event. The proposed development complies with Clause 25 of HELP 1989. The property is within a moderate bush fire risk area. The nature of flood and bushfire risk does not make the site unsuitable for the proposed development.

The proposed development will not reduce the potential for the balance of the properties to be used for agricultural uses.

Social and economic impact in the locality

The reduction in odour and noise emission, as forecast by the application, should have a positive social and economic benefit for the surrounding area.

Site design and internal design

The design and layout of the proposed development is sensitive to the surrounding environment, existing and future amenity of neighbours, and the attributes of the site such as size, shape and slope.

Cumulative impacts

The proposed development seeks to reduce the negative off-site effects of the facility. It is considered to be compatible with the surrounding landuses and scenic quality of the area and hence no significant negative cumulative impact is foreseen.

Water, Soils, Air Quality

Adequate water services can be supplied to the development for the purposes of dust control during construction and operation. The applicant proposes to capture all additional stormwater runoff and return it to the composting process.

Any fill material imported to the site is to be virgin excavated natural material suitable for compaction and development.

The proposed development seeks to improve the air quality of the surrounding area.

Construction

The construction of the proposed works is not expected to significantly affect surrounding neighbours and can be controlled by condition of consent.

During the construction period, the existing chimneys will be temporarily relocated to connect to other tunnels. This will enable substrate production to continue at all times in tunnels serviced by chimneys. When the new chimney is operational, the existing chimneys will be disconnected and dismantled.

Suitability of the site for the development

The constraints of surrounding landuses do not make this development prohibitive. The proposed development will not lead to unmanageable transport demands. Access to the site is satisfactory for the intended development. Adequate services and utilities are available to the site. Ambient noise levels are suitable for the development. The site is not critical to the water cycle of the catchment. The development will not significantly impact upon critical habitats and threatened species, populations, ecological communities and habitats. The site's attributes such as size, shape, slope and effect of flooding are conducive to the development.

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

Public Submissions

The major concerns of the submitters relate to odour and noise and the continued operation of the facility. The intent of the development application is to reduce the detection of odour and noise emission from the facility.

The application is also in response to Council's actions against the operator to improve the performance of the facility.

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.

Conclusion

The proposed development primarily seeks to reduce odour emissions from the site and to comply with Orders of the Land and Environment Court. To achieve this, a range of building works are proposed as well as changes in operations.

The major changes are the enclosure of the most odourous composing processes, the installation of a bio-scrubber and chimney and proposed 24 hour operation of site.

Whilst it is considered that the applicant has submitted sufficient information for Council to be reasonably satisfied as to the environmental impacts of the development, it is appropriate that:

- (i) a deferred commencement consent be issued which requires EPA approval for the odour control system and noise attenuation measures, and
- (ii) the 24 hour operation be for a 12 (twelve) month trial period.

RECOMMENDATION:

That the application for alterations and additions to an existing mushroom compost facility at 84-112 Mulgrave Road, Mulgrave be approved as a deferred commencement consent subject to the following conditions:

- A.** Upon compliance with the condition appearing in Schedule 1, and with the issue of confirmation to that effect in writing from Council, this “Deferred Commencement” consent shall commence to operate as a development consent inclusive of all conditions appearing in Schedule 2 pursuant to Section 80(3) of the Act.
- B.** The “Deferred Commencement” consent will lapse in 6 (six) months from the date of this consent unless all conditions appearing in Schedule 1 have been complied with.

Schedule 1

Submission of documentary evidence from the Environment Protection Authority indicating their approval of the proposed odour control system and noise attenuation measures.

Schedule 2**General**

1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans Drawing Number 10/SD116B(2) Sheets 1 and 4, 10/SD116B Sheets 2, 3 and 5 and to 5, DNC-FL01 Issue 5, DNC-XC01 Issue 3, DNC-WT01 Issue 3 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. Prior to construction of the approved development it is necessary to obtain Construction Certificate.

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.

4. The submission of engineering designs and calculations covering all works required by this consent.
5. Details demonstrating that the proposed works comply with the Building Code of Australia are to be submitted.
6. Submission of an Environmental Management Plan for approval by Council. The EMP shall be prepared in accordance with the provisions of the *EIS Guideline Composting*, Department of Urban Affairs and Plan, September 1996 and any relevant EPA guidelines.
7. Submission of final details of the proposed chimney and bio-scrubber and associated odour modelling demonstrating that the proposed system will comply with EPA criteria.
8. Submission of details demonstrating that the final design and operation of the facility will comply with EPA noise criteria.

Prior to Commencement of Works

9. 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.
10. The applicant shall advise Council of the name, address and contract number of the principle certifier, in accordance with Section 81A 4(b) of the Environmental Planning and Assessment Act, 1997.
11. Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of litter, vegetation debris or other water borne pollutants in accordance with Council's Development Control Plan 1/94 - Soil Erosion and Sedimentation.

12. 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.
13. 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.
14. The submission of a Compliance Certificate under Section 73 of the Water Board (Corporatisation) Act 1994.

During Construction

15. All building work must be carried out in accordance with provisions of the Building Code of Australia.
16. All fill to be compacted by truck rolling or similar to a standard suitable for the end use.
17. The modification of any site drainage made necessary by the filling is to be carried out to the satisfaction of Council. Flows from the site are not to be re-directed onto adjoining properties.
18. All trucks entering or leaving the site shall have their trays suitably covered to prevent spillage from the truck onto the road.
19. 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.
20. 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.
21. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.

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22. All material to be used for the purposes of landfilling is to be free of any contaminants or toxic material and is to consist only of virgin excavated natural material.
23. Analytical reports are to be submitted to Council for all material imported to the site for the purposes of landfill. Such reports are to contain full details of the material's origin, soil and chemical composition, and quantity. Appropriate documentation is to be submitted to Council prior to importation of the material.
24. All demolition, construction and associated work necessary for filling and construction being restricted to between the hours of 7am to 5pm Monday to Friday and 8am to 1pm Saturdays.
25. No burning of demolition or construction material being carried out on the site.
26. 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.
27. 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.
28. Details of the amount, origin and distance of filling material travelled on local roads is to be submitted to Council in accordance with Council's Section 94 Contribution Plan. Payment at a rate of 3 cents per tonne per kilometre of fill transported on local roads to the site will be required. A copy of the Contributions Plan may be inspected at Council Offices. Final payment is to be made to Council with 30 days of the finalisation of filling.

The Use of the Site

29. All sound producing plant, equipment, machinery, fittings, and the like shall be sound insulated and/or isolated so as to control noise emissions from the premises to within the limits prescribed by the Noise Control guidelines.
30. The top of the chimney shall not be greater than 30m above finished ground level.
31. The facility is to operated in such a manner as to comply with EPA criteria for the emission of noise and odour.
32. The facility to is be operated in such a manner as to not interfere with the amenity of the neighbourhood, in respect of noise, vibration, smell, dust, waste or waste products, or otherwise.

33. The 24 hour operation as described in the Schedule of Operations submitted with the application is for a trial period of 12 (twelve) months from the start of the said operations. Written advice is to be given to Council within 7 (seven) days of the start of the 24 hour operations. At the end of the 12 (twelve) month period Council will examine the performance of the facility with respect to compliance with EPA noise criteria and the predictions made in the noise planning assessment submitted with the application. The operator of the site is advised that additional noise monitoring/modelling may be required to be submitted in order to demonstrate such compliance.

ATTACHMENTS:

- AT-1** "Figure 3 Stage 2 Works" Plan
AT-2 Copy of Land and Environment Court Orders
AT-3 Schedule of Operations

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“Figure 3 Stage 2 Works” Plan

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Copy of Land and Environment Court Orders

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Schedule of operations

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ITEM: 4 **Request to Modify Development Consent - Lot 12 DP 834771, No. 99 Gadds Lane, Kurmond**

FILE NUMBER: DA154/95/EVD/ENA29NAX.V10

Applicant: Mr A Radanovic
Applicants Rep: Mr A Radanovic
Owner: Mr A and Mrs M Radanovic
Stat. Provisions: HLEP 1989
 Sydney Regional Environmental Plan No. 20 (No. 2-1997)
Area: 10.65ha
Zone: Rural 1(b)
Advertising: Adjoining and surrounding owners. 7 (seven) letters of objection.
Date Received: 11 September 2001

Key Issues: - Traffic generation
 - Noise
 - Effluent disposal
 - Lapsing of consent
 - Compliance with conditions of consent

Action: Refusal

REPORT:

Introduction

Council has received a request to modify a development consent seeking to increase the operating hours of an existing winery as well as to use the existing building as a reception venue for weddings, parties and the like if associated with the land's winery business by promoting and selling their products.

This matter is being reported to Council as previous applications were determined by Council.

Subject Site

The property has an area of 10.65ha and is currently developed with a large shed which is used as a winery/function hall with a small attached residence.

The property is irregular in shape with eastern and western boundaries of approximately 620m and northern and southern boundaries of approximately 250m. The eastern, southern and western boundaries are shared with adjoining rural residential properties. The north boundary runs along Howes Creek

Vehicle access to the site is gained by a semi circular driveway, the entry being off Gadds Lane (a public road) and the exit being via a right of carriage way shared by 4 (four) other properties.

Background

In 1994 the owner/applicant rebuilt an existing shed into what is presently on the site. The rebuilding was undertaken without consent and upon completion was advertised and used for the purposes of a reception venue. The owner was advised that the rebuilding and use of the building did not have development consent. The owner subsequently submitted a development application for use of the building as a function hall.

The application advised that:

Our proposal is aimed directly at the coach tour market to prevent any marked increase in individual vehicular movement.

Number of buses - Our records of the past 12 (twelve) months show 1 (one) or 2 (two) buses every month usually around lunchtime and on no particular day. We do not expect this to change.

Number of other visitors - we usually expect 2 (two) - 3 (three) visitors per day during the week and a maximum of around 10 (ten) - 15 (fifteen) per day on the weekends, however we never have more than 1 (one) - 3 (three) visiting at the same time.

Maximum hours of operation do not exceed 4 (four) - 5 (five) hours. We usually operate between 12 - 5pm.

The primary aim of the application was to use the building as a function hall so that meals could be provided as part of the winery's activities. The nominated seating capacity was 54 (fifty four) persons.

Council received 3 (three) objections to the proposal and the matter was reported to the General Purpose Committee on 28 November 1995. On 21 December 1995 Council issued a development consent (DA154/95) to use the existing building as a function hall subject to a number of conditions. The consent was due to lapse on 21 December 1998.

In November 1998 the applicant sought a 12 (twelve) month extension to the date upon which the consent was to lapse. Two objections were received. The request was approved on 14 December 1998, thus the consent was due to lapse, unless commenced, on 21 December 1999.

In May 2001 the applicant lodged a request to modify condition 13. of the consent to allow operating hours of 12 noon to 10.30pm 7 (seven) days per week. Eleven objections to the modification were received. In September 2001 the applicant withdrew the modification and submitted the current modification. A meeting with respondents was held in Gadds Lane on 6 August 2001. Seven Councillors attended.

Proposed Modification

Conditions 13. and 16. of the development consent DA154/95 are the subject of this request for modification.

At present condition 13. states:

13. *Operating hours shall be limited to 12.00 noon to 5.00pm 7 (seven) days per week. Any alteration of these hours will require the approval of the Director Environment and Development.*

The applicant seeks to increase the operating hours to 12.00 noon to 10.30pm 7 (seven) days a week.

At present condition 16. states:

16. *The function hall is not to be used as a reception venue for weddings, parties and the like.*

The applicant seeks approval to use the function hall as a reception venue for weddings, parties and the like, only if associated with the land's winery business by promoting and selling their products.

The applicant's justification for the proposed modification is:

The 3 (three) wineries established in the Hawkesbury, Richmond Estate, Tizzana and Remos produce limited wine volumes which do not warrant off site marketing and distribution costs. That is why Hawkesbury wines are not generally advertised and available in liquor outlets, not even local bottle shops.

The Hawkesbury wineries rely on marketing their product through cellar door sales in the daytime and restaurant or function sales in the evening.

We are seeking your consent to approve the facility for evening functions catering for fundraisers, birthdays, weddings and dinners which have been held at the Richmond Estate Winery since 1968. We have been at a considerable commercial disadvantage since endeavouring to formalise existing use evening functions with Council since 1995. (See note below).

Functions as well as facilitating on site consumption are a particularly useful bottle sales promotional tool as they introduce the availability of fine local wines to residents as ongoing local customers. These functions by the very nature of our winery facility have been in the past and will be in the future primarily local social occasions patronised by residents of the Hawkesbury.

Note: In November 1999 the applicant claimed that the winery enjoyed existing use rights for weddings receptions, parties and the like. This matter was investigated by Council staff and the applicant was advised that the winery did not have existing use rights or continuous use rights for this activity.

Statutory Situation

The application has been submitted under Section 96 of the Environmental Planning and Assessment Act 1979. This section of the Act provides Council with the ability to modify a development consent. This modification is to be assessed under the provisions of Section 96(2).

The property is zoned Rural 1(b) under Hawkesbury Local Environmental Plan 1989. The winery and function hall falls within the definition of a "tourist facility" and "refreshment room". Both uses are permitted within the Rural 1(b) zone.

The property falls within the Middle Nepean and Hawkesbury River Catchment Area of Sydney Region Environmental Plan No. 20 (No.2 - 1997).

Public Notification

The application was on public exhibition from 19 December 2001 to 11 January 2002. Seven submissions were received. Two respondents requested an extension to lodge their submission. At the time of preparing this report their submission had not been received. It is expected that they will present their concerns directly to the General Purpose Committee.

A summary of the submissions is provided below:

- *Concern about increase in traffic and reduction in traffic safety.*
- *Concern about increase in noise.*
- *Approval is being sought to enhance possible sale of the property.*
- *Conditions of consent have not been complied with/development consent has lapsed.*
- *Contrary to the objectives of the zone and amenity of the area.*
- *Gadds Lane is unlit and is not of sufficient width to cater for the likely traffic.*
- *Vehicle head lights and noise will be intrusive.*
- *Insufficient reasons for the modification have been given.*
- *Without the vineyard being of a size and status that would have at least minimal commercial impact the additional facilities said to be promoting the wine industry are irrelevant.*
- *The owner does not live on the site, the winery is not open regularly.*

- *If the applicant met conditions of consent, used the existing hours of operation, he could have bus tours and wine tasting during the day and still have a viable business.*
- *Concern about possible unruly behaviour of patrons.*

Planning AssessmentProvisions of Hawkesbury Local Environmental Plan 1989*Clause 9A Zone Objectives*

The relevant objectives of the Rural 1(b) zone are:

- (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;*
- ...
- (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.*

Before granting consent to a development Council must be of the opinion that the development is consistent with the objectives of the zone.

Clause 18

This clause requires Council to be satisfied that satisfactory arrangements have been made for the provision of water, sewerage, drainage and electricity. These matter were addressed in assessing the original consent and determined to be satisfactory. Sewerage will be discuss in further detail later.

Sydney Regional Environmental Plan No.20

The property falls within the Middle Nepean and Hawkesbury River Catchment Area of Sydney Region 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 use are considered in a regional context.

It is considered that the proposed development will not significantly impact on the environment of the Hawkesbury - Nepean River either in a local and regional context and that the development is not inconsistent with the general or specific aims, planning considerations, planning policies, recommended strategies and development controls.

Access and Traffic

Gadds Lane is approximately 1 km long and has a 3.5m wide sealed pavement. Site distances at the intersection of Gadds Lane and Kurmond Road are limited and approximately 150m from the intersection is a sharp narrow bend in Gadds Lane. Gadds Lane does not have street lights and the subject site is located at the end of Gadds Lane.

The narrow width of Gadds Lane creates difficulty for 2 (two) cars to pass and due to existing vegetation, opportunities for passing bays are limited. The sharp bend and limited site distance at the intersection of Gadds lane and Kurmond Road could prove to be a safety hazard for guests unfamiliar with the locality.

The original application had a nominated seating capacity of 54 (fifty four) persons and was primarily targeted at the coach tour market. This would equate to 18 (eighteen) - 27 (twenty seven) cars, 2 (two) small buses or 1 (one) coach visiting the site at any one time. The applicant does not seek to increase the number of patrons at the winery at any one time and based on current production levels it is unlikely that there would be more than 1 (one) - 2 (two) functions per week and highly unlikely that functions would be immediately one after each other. Even with significant increased promotion and production it is difficult to conceive more than 3 (three) functions per week over a sustained period.

Of most concern for traffic safety is the night time peak which would be around 10.30pm. Fortunately most of the traffic will be one way movement, over a short period of time (say 15 to 30 minutes) and with a very small number of other vehicles expected to be on Gadds Lane and Kurmond Road.

Compared to the existing approved development (as described by the applicant) the additional traffic impact will be significant and the ability of Gadds Lane to take this traffic safely must be seriously questioned.

Noise and Amenity

Gadds Lane and the surrounding locality is typical of a quiet rural area where evening background noise levels would be expected to be very low. Four dwellings are located within approximately 150m of the function hall. Other dwellings located along Gadds Lane are setback 15m - 50m from the road pavement

The activity's noise sources will primarily be from vehicles entering and exiting the site, patrons, and any live entertainment.

The applicant has not demonstrated that the development can operate within acceptable noise limits. It is also unlikely that the development would comply with the EPA Guidelines for noise.

Sewerage

The proposed modification does have the potential to increase the overall number of patrons visiting the site and hence increase the amount of waste water to be disposed of on site. Due to the uncertainty of whether or not the modification will be supported the applicant has not been asked to submit a waste water feasibility study.

Lapsing of Consent

Some respondents have raised concern that the consent has lapsed. This matter has been investigated by Council staff and it is considered that whilst some conditions of consent have not been complied with (discussed below) the applicant has secured the consent with the continued operation (albeit limited) of the winery.

Compliance with Conditions of Consent

A copy of the original approval is attached to this report.

The following major conditions of consent are not presently being complied with:

- Condition 2, 7. and 14. - parking areas and bus/coach turning area and Kurmond Road signage have not been provided in accordance with these conditions.
- Condition 13. and 16. - some functions have been held outside of the approved hours of operation and for weddings and parties.

Condition 3. is not relevant because the works had already been undertaken. Upon instruction from Council staff the applicant, in September 2001, requested a Building Certificate. This certificate has been issued.

By letter dated 28 August 2001, the owner was requested to comply with all conditions within 3 (three) months. Mr Radanovic agreed to comply in a letter dated 11 September 2001. To date the work has not been carried out.

Section 96(2) of the EP & A Act 1979 and Clause 115 of the EP & A Regulations 2000

To approve the proposal for extending the hours of operation and use of the function hall Council must be satisfied that it is substantially the same development as that which was previously approved.

It is anticipated that for Council to be satisfied on this test, the application would have included information such as; marketing targets, range of wines available, proposed menus, and some substantial differences between the proposal and any other function centre. In the absence of supporting information, it is considered that this proposal is not substantially the same development as that which is approved.

Conclusion

It is considered that the applicant has not demonstrated that the proposal is substantially the same development as that previously approved. Notwithstanding, the proposal is likely to generate significant adverse impact on the amenity of the locality and is likely to present traffic safety problems in Gadds Lane. Accordingly the application is recommended for refusal.

RECOMMENDATION:

- A.** That the Request to Modify Development Consent under Section 96(2) of the Environmental Planning and Assessment Act 1979 be refused for the following reasons:
1. The proposed development is inconsistent with the objectives of Hawkesbury LEP 1989.
 2. The development proposed is not substantially the same as that which was previously approved.
 3. The proposed development is likely to have an adverse impact on the amenity of residents in the locality.
 4. The proposed development is unlikely to comply with the EPA Guidelines for noise.
 5. Gadd's Lane is unsuitable for the volume and nature of traffic generated by the proposed development.
 6. The proposed development may have unacceptable impacts in terms of on-site effluent disposal.
 7. Approval of the development is not in the public interest.
- B.** A Notice of Intention to Serve an Order be issued to comply with all outstanding Conditions of Consent within 60 (sixty) days.

ATTACHMENTS:

AT-1 Copy of Consent No. 154/95.

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Copy of Consent No. 154/95

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Item: 5

ITEM: 5 **Application to Modify Designated Development Consent for an Existing Waste Management Facility at 723 -729 George Street, South Windsor**

FILE NUMBER: DA194/96/EVD/ENA29NAX.V11

Applicant: Mr K Willoughby
Applicants Rep: Berzins Environmental Planning
Owner: No. 723 Lot 22 DP518147 - Waycap Pty Ltd
 No. 725 Lot 59 DP560460 - Waycap Pty Ltd
 No. 727 Lot 60 DP560460 - Mr J Tanti
 No. 729 Lot 2 DP719658 - Mr K Willoughby
Stat. Provisions: HLEP 1989
 Sydney Regional Environmental Plan No. 20 (No. 2-1997)
Area: 8.3ha
Zone: Rural 1(c)
Advertising: 27 June 2001 to 11 July 2001
Date Received: 28 November 2000, additional information received June and November 2001

Key Issues: - Satisfactory compliance with conditions of consent for Stage 1
 - Filling of flood liable land
 - Recycling of waste material

Action: Amend the consent to approve the Stage 2 and provide operating conditions for Stage 2

REPORT:

Introduction

On 27 March 2001 the General Purpose Committee of Council considered a request to modify a development consent for a waste management facility at 723 – 729 George Street, South Windsor. A copy of this report is distributed as a separate attachment.

Council resolved on 10 April 2001 that the matter be deferred and discussions be held with the applicant to investigate possible methods of operation that do not involve further filling of the floodplain.

Further discussions were held with the applicant and the operator of the site and in response the applicant has submitted a revised modification.

Revised Modification

The revised modification reduces the area to be filled in Stage 2 by 35% (i.e from 2.6ha to 1.5ha) and proposes a program of recycling.

Plans of the previously proposed fill area and the reduced fill area are provided as attachments to this report.

The recycling is to consist of installation of a moveable vibrating screen in the work area which will screen compacted and fragmented inert building waste derived from both the incoming waste and the waste currently in place in the cells.

The following materials will be screened:

- Deliveries of mixed light waste.
- Deliveries of mixed heavy waste such as excavated soil, bricks and concrete.
- Re-excavated, compacted and fragmented materials from within partly filled cells in Stage 2 and Cells I, II, and III located in Stage 1.

These materials will be passed over the screen to obtain a product which can be used for landscaping purposes. Pilot tests on the site have achieved a recovery ratio of approximately 50% by volume. The most likely use for the product will be as fill around newly constructed dwelling houses in housing estates as a base for the laying of turf.

The applicant anticipates that the product will be transported off the site as a backload by trucks delivering inert construction waste and, assuming a 90% backload rate, this would result in an additional 2 (two) truck movements per day.

The re-working of the inert waste will occur in each cell until the height of the waste reaches a level of approximately 1 (one) metre below the finished contour level. The overburden on Cell III, as well as Stage 1 will then be used to cap the cell and achieve the final landform.

The existing hours of operation are to be unchanged and no additional staff are proposed. Due to the proposed recycling activity the applicant advises that it will take 10 (ten) years to complete Stage 2.

Community Consultation

The modification was publicly exhibited from 27 June 2001 to 11 July 2001. The application was also referred to the following public authorities:

- Hawkesbury Nepean Catchment Management Trust
- Department of Land and Water Conservation
- Environment Protection Authority
- NSW Fisheries
- Sydney Water

- NSW Agriculture
- Western Sydney Waste Board
- Roads and Traffic Authority

One public submission was received. A summary of the relevant matters raised in this submission are:

- Proposed conditions of consent appear appropriate however, residents of Bligh Park may not be satisfied relative to dust and noise generated at all times.
- EPA licence appears quite comprehensive in specifying site operation requirements.
- Application is dependant upon landfilling of materials not readily saleable by the business operation.
- What is future use of the land.
- Proposal still relies of filling flood affected land.

Comment: Dust and noise impacts can be addressed by conditions of consent. The findings of an acoustic report submitted with the modification are discussed below. The future use of the land, as stated in the original development application and EIS, was to reduce the likelihood of nuisance floods and use the land for agricultural purposes. The raising of the land will reduce the likelihood of nuisance flooding and the retention of the dam(s) at the western end of the site achieved by the reduction in the filled area will enhance to probability of agricultural use of the land. Council has previously advised the proponent of their concerns about filling of flood liable land. The current modification seeks to reduce the area of filling.

A summary of responses from Public Authorities is set out below:

Department of Land and Water Conservation

The Department supports Council's decision to investigate possible methods of operations that do not involve further filling of the floodplain and states:

DLWC has no specific issue with the proposal to reduce the area of the site that is to be filled. With regard to the proposal for recycling of materials, the Department suggests that the recycling area and any stockpiles of material should be bunded to reduce the risk of sedimentation or escape of deleterious materials. It is also recommended that the various management plans for the site be modified to suit the amended proposal.

Comment: This can be achieved by way of condition of consent.

Western Sydney Waste Board

The Western Sydney Waste Board has a primary interest in ensuring that materials presenting as wastes are reprocessed for the highest resource value and that disposal of resource to landfill is the last resort.

The Board is therefore of the view that any new landfill operations or modifications to existing landfill operations should ensure the optimum reprocessing/reuse of sustainable resources. Particular attention should be paid to all issues relating to re-processing methodologies and systems to ensure that waste materials are in fact processed into quality secondary resources.

Roads & Traffic Authority

Previous comments of the RTA in a letter dated 5 march 2001 still apply. These comments were:

- The site is to be used as land fill and consideration should be given, for a provision of a suitable wash area, to allow washing of vehicles before exiting the site if required. Concerns are raised that debris, dust could be deposited on to the roadway.
- The solid white line may be broken over the lengths as shown on the attached Drawing No. "Figure 1". These broken sections are not to be remarked as a broken barrier line. All changes to the line marking are to be in accordance with relevant Australian Standards.
- All vehicles must be able to enter and exit the site in a forward direction. Loading facilities/truck manoeuvring areas to Council's satisfaction.
- All trucks entering the development must be wholly contained within the site before being required to stop.
- Internal roads to be of a suitable standard and condition, suitable for all weather access.
- Loading and unloading of goods from George Street is considered unsatisfactory.
- No advertising signage associated with this development is to replicate RTA regulatory signposting by style, colour or creed.
- Design of car parking area to conform to AS 2890.1-1993 and commercial parking with AS 2890.2-1989.
- All works are to be at no cost to the RTA.

Comment: It is considered that the existing and proposed operational conditions will satisfactorily cover these matters.

Environment Protection Authority

The landfill is currently subject to an Environmental Protection Licence that only applies to Stage 1 of the Development Approval 194/96. In previous correspondence with Council, the EPA highlighted issues with stormwater management, potential groundwater pollution, sediment and erosion controls, battering and final contours for the licensed area. Observations by the EPA during inspection on 1 November 2001, shows the applicant has made an attempt to improve those issues.

The proposed Stage 2 development would require a variation of the EPA licence to include the additional recycling activity and would specifically identify the additional licensed area of the premises. At this stage the EPA would consider extending the licence to include Stage 2 – Cell I and II as outlined in the additional submission dated 1 November 2001.

Responses were not received from Hawkesbury Nepean Catchment Management Trust, NSW Fisheries, NSW Agriculture, National Parks and Wildlife, and Sydney Water

Planning Assessment

A detailed planning assessment is provided in the previous report to the General Purpose Committee meeting dated 27 March 2001.

Additional matters that require consideration are those relating to traffic, dust and noise caused by the recycling activity.

The forecast additional 2 (two) truck movements per day is considered insignificant given the existing number of truck movements generated by the activity and the volume of traffic presently using George Street. Dust generated by the screening machine can be controlled by operational procedures such as watering the materials about to be screened, as well as watering the stockpiles of screened product.

The applicant has submitted a noise impact assessment of the proposed recycling operation prepared by Richard Heggie & Associates. Based on the methodology, findings, and recommendations it is considered that the noise generated by the proposed recycling activity will be in accordance with relevant EPA criteria for nearby residences in George Street and Bligh Park. This can be further confirmed and monitored by condition of consent.

Conclusion

The amended modification seeks to address the concerns previously raised by Council with respect to the filling of flood liable land. The reduced area of filling and the proposed recycling activity seeks to make the proposed development more suitable to the constraints of the site and surrounding locality as well as reducing the potential impacts on the environment. In doing so, it is considered that the amended modification better complies with the objectives of the Rural 1(c) zone, and relevant provisions of Hawkesbury Local Environmental Plan 1989 and Sydney Regional Environmental Plan No. 20 (No. 2-1997).

Having regard to the substantial compliance with the conditions of consent for Stage 1 and the proposed amendments to the modification, it is recommended that the application to modify the consent be approved subject to the following conditions.

RECOMMENDATION:

That the application to modify the consent be approved and the consent be modified by deleting Part A and Conditions 1. to 40. and deleting Part B, and inserting the following conditions:

1. The development being carried out in accordance with Drawing No. 25842P/CO4 Amendment A, dated July 1996, Environmental Impact Statement dated August 1996, additional information dated 7 March 1997, Drawing No. 25842P/CO5 Amendment C dated 29 August 1997, Drawing 25842P/C6 dated November 2000 and noted "Clean compactable clay from cells top soiled and seeded", additional information March 1998 and referenced 25842Q/1-A, additional information dated 1 June 1998, Statement of Environment Effects prepared by Berzins Environmental Planning Pty Ltd dated June 2001, letter from Berzins Environmental Planning Pty Ltd dated 1 November 2001 and plan referenced Job No. 2001122/4 Sheets 1 of 2 dated 2 November 2001 and 2 of 2 dated 29 October 2001 except where altered by conditions of consent.
2. The area to be filled being limited to the area identified as Stage 1 and Stage 2. The filling of the cells in Stage 2 is not to exceed 2.5 metres deep. The floor of the cells shall be compacted and graded to drain toward a sump which is located at the south west or north west corner of the cell. In each case, the sumps are to be located at the outside edge of the site so as not to interfere with operations. The sump shall be 50cm deeper than the nearby floor and filled with crushed drainage aggregate. The riser from this sump shall be constructed such that it has an inner pipe for sampling and if need be, pumping out and an outside pipe with the space in between filled with coarse drainage materials. The top of this drainage material shall be sealed with a clay cap and the central bore capped with a cover plate. The digging of the cell and the construction of the sump and riser shall be a hold point on the operation and shall be inspected by a Council Officer prior to any filling of the cell commencing.
3. All works for Stage 2 being completed within 10 (ten) years of the date of this approval. Where filling of this cell is completed sooner, rehabilitation shall commence immediately on completion of filling and be finalised within 6 (six) months.
4. Erosion and sedimentation control devices including sedimentation pond and runoff control drain shall be maintained during construction and ongoing operations.
5. A modified licence being obtained from the Environment Protection Authority prior to any work commencing upon Stage 2.
6. All necessary works being carried out to ensure that stormwater flow from adjoining properties is not impeded.
7. All trucks arriving or leaving the site shall have their loads/trays suitably covered to prevent spillage from the truck onto the road.

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8. Council reserves the right to impose a condition to have a mechanism installed whereby wheels of trucks leaving the site are washed to minimise dust and debris being deposited on roads, however, it shall monitor the operation for 3 (three) months without such a facility to ascertain whether such is required.
9. Dust control measures, eg vegetable cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas. Dust control measures shall also be applied to the existing fill on No. 729 George Street, South Windsor.
10. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by running water to be stored clear of any drainage line, casement or natural watercourse.
11. 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.
12. The development shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood in respect of noise, vibration, smell, dust, waste water, waste products or otherwise.
13. A qualified Bush Regenerator shall be engaged to specify and supervise all revegetation works.
14. All general stormwater shall be diverted around the work site other than any controlled inflow to maintain water levels within the work site.
15. All water falling on or contained within the work site shall be retained within the work site and not permitted to leave the site otherwise in accordance with a license issued by the EPA.
16. The erection of truck warning signs with distance plates located 200m on approved sites to the access to the development.
17. The payment of a bond or bank guarantee of \$10,000.00 (ten thousand dollars) for rehabilitation and restoration of the landfill operation in Stage 1 of the development. Should the plan of rehabilitation not be carried out in accordance with the plan, this money will be used for such work. The performance bond for rehabilitation of the site will be reviewed annually with a review of the conditions of consent.
18. The payment of a bond or bank guarantee of \$20,000.00 (twenty thousand dollars) for rehabilitation and restoration of the landfill operation for Stage 2 of the development. This bond shall be available for Council to call upon to undertake reasonable works that it considers that the operator has not undertaken. Should the amount of the bond be reduced by expenditure the operator shall, within 30 (thirty) days of being advised, provide additional funds to bring the bond back to its original \$20,000.00 (twenty thousand dollars). NB: The bond monies in above Conditions 16. and 17. shall be released back to applicant, upon satisfactory completion of all rehabilitation works, as verified in final environmental impact prediction verification report.

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19. The burying of tyres is prohibited.
20. The landfill operation is to be undertaken in only one cell at any one time with each cell being covered and rehabilitated once filled.
21. Approval is not granted for the stockpiling and/or shredding of green waste.
22. Only inert waste to be used to fill the cells.
23. Submission of an annual environmental management report outlining the environmental performances of the proposal to be prepared by an appropriately qualified consultant.
24. Batter slopes of the landfill are not to exceed 1 in 6.
25. All fill to be adequately compacted by track rolling or similar.
26. The landfill site shall be secured to prevent the depositing of any unauthorised material.
27. Dewatering of the landfill and satisfactory disposal of any leachate found to be accumulating in the cells.
28. Measures to control use of fertiliser within 50 (fifty) metres of the creek and to prevent seepage of nutrients into the creek.
29. No top soil, clay or natural earth substances are to be removed from the site.
30. Operating hours shall be limited to 6am to 4.30pm Mondays to Fridays and 8am to 1pm on Saturdays.
31. The site shall be filled to a level no greater than the existing fill on the adjacent property, No. 729 George Street, Windsor. Upon completion of the landfill, a surveyor's certificate shall be submitted confirming the height of the fill.
32. An environmental impact prediction verification report prepared by an independent consultant shall be submitted to the Council, the EPA and, upon request, to any other relevant government agency at 12 (twelve) months after commencement and at the end of each year of the life of the project and 6 (six) months after completion of rehabilitation works. The report shall be prepared at the proponent's expense and shall assess the key impact predictions made in the EIS and any supplementary studies and detail the extent to which actual impacts reflect the predictions. Suitability of implemented mitigation measures and safeguards shall also be assessed. It shall also assess compliance with any Environmental Management Plan. The report shall also discuss results of consultation with the local community in terms of feedback on the project and on any of the issues of concern raised. The proponent shall comply with all reasonable requirements of the Council or any relevant authority with respect to any measure arising from, or recommends of, the report.

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33. Submission of a landfill environmental management plan (LEMP) for the Stage 2 landfill and recycling operation shall be submitted prior to commencement of filling and material screening. The LEMP is to be prepared in accordance with the provisions of *EIS Guidelines Landfilling, Department of Urban Affairs and Planning, September 1996*.

ATTACHMENTS:

- AT-1** Previous report to General Purpose Committee dated 27 March and Council resolution of 10 April 2001. (Distributed separately)
- AT-2** Revised landfill plans.

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ITEM: 6 **Guidelines for the clearing of noxious weeds, environmental weeds and vegetation not included within Council's Tree Preservation Order****FILE NUMBER:** P243/1295/EVD/ENA29NBX.V01**PREVIOUS ITEM:** 76, GPC Section 1 - Environment (31.07.2001)

REPORT:**Introduction**

At Council's Ordinary Meeting of 14 August 2001 a matter involving the removal of vegetation at 1213 Bells Line of Road was discussed. Part B of Council's resolution in that matter, called for the development of guidelines for the clearing of noxious weeds.

This report discusses the current procedure available for dealing with clearing of noxious weeds as well as outlining a simplified process to allow landowners to clear noxious weeds and trees not covered in the Tree Preservation Order (TPO) without the need to gain development approval.

Present procedure

Currently there are only 2 (two) processes available for landowners to gain approval from Council for the removal of vegetation.

1. Development approval (lodging a development application),
2. Tree Preservation Order, (this does not include the removal of weeds, ground cover, slashing or for the purpose of general land maintenance).

The Tree Preservation Order does not apply to a tree that:

- (a) is one that has been approved to be removed as part of a development or building application by Council or the removal being necessary for that development or building to take place;
- (b) is on land covered under the provisions of the NSW Forestry Act;
- (c) is any of the following species:
 - Ligustrum vulgare (common privet)
 - Ligustrum lucidum (tree privet)
 - Ricinus officinalis (castor oil plant)
 - Gleditzia tricanthos (honey locust)

- Ailanthus altissima (tree of heaven)
 - Cortaderia selloana (pampas grass); or
- (d) is located on land zoned Residential 2a with an area of 1000sqm or less, except for land located in Kurrajong or Kurrajong Heights or any land containing a Heritage Item listed on Schedule 1 of Hawkesbury Local Environmental Plan 1989.

Although the tree preservation order does not apply to matters mentioned above, the provision of other Acts and regulations must be considered when determining an application for the removal of vegetation.

Proposed Plan

Guidelines for the plan

The aim of the guidelines is to provide a means to issue approval of large-scale removal of noxious weeds and trees not covered in the TPO without the need of having to go through the full development application process or the tree preservation order.

In simplifying the process it is still necessary to consider the relevant State and Commonwealth Acts and regulations. It would be the responsibility of the proponent to ensure that relevant approvals and licences have been obtained and are included with the application at the time of submission.

Relevant Legislation

The following Acts and policy need to be considered during the course of assessment:

- The Rivers and Foreshores Improvement Act where work is within 40 metres of a natural watercourse. In this regard a permit under Part 3A of the Act will have to be gained from the Department of Land and Water Conservation.
- The Native Vegetation Conservation Act for works proposed within 20 metres of a prescribed stream, or on State Protected Lands i.e., land with a slope in excess of 18 degrees.
- A licence from the National Parks and Wildlife Service to remove listed Threatened Species of vegetation of habitat for threatened fauna.
- Requirements under the State Environmental Planning Policy (SEPP) 44 (Koala Habitat).
- Biodiversity Act, Commonwealth which also deals with the removal of threatened species of vegetation.

In developing the noxious weed removal guidelines the following matters should be considered:

- The Hawkesbury Local Environmental Plan 1989

- Threatened Species Conservation Act, Native Vegetation Conservation Act, SEPP's, and the Bush Fire Mitigation Policy.
- Whether the removal of native vegetation is required in order to control noxious weeds.
- The scale i.e scope of works and size.
- The proposed method of removal - (hand removal or machinery).
- Various environmental aspects - sites of historical, scientific, recreational or local significance; sites or relics of aboriginal significance; rare or unusual flora or fauna; visual impact of the area.
- Cumulative environmental effects.
- Reasons for application of the vegetation.

Noxious weeds

Noxious weeds are defined as those under the jurisdiction of Hawkesbury River County Council (HRCC) within the control categories of W1, W2, W3, W4b, W4f, and W4g.

The HRCC has the charter to control weed infestations by means of herbicide treatment. Approval to carry out these works is not required.

Environmental weeds

Environmental weeds for this purpose are defined as follows:

Ricinus officinalis (Castor oil plant)
Gleditsia tricanthos (Honey locust)
Ailanthus altissima (Tree of heaven)
Cortaderia selloana (Pampas grass)
Buddleja madagascariensis (Butterfly bush)
Lantana camara (Lantana)

In order to clearly identify the species of noxious and environmental weed categories within the report it is suggested that a weed identification booklet for the Hawkesbury region with photograph identification of weeds and their control methods be produced. A grant application has been sought for such a project - notification of success or failure to secure the grant will be known in February 2002.

Guidelines for assessing applications to remove noxious weeds and listed environmental weeds

1. Removal of noxious weeds and listed environmental weeds does not require Council approval. Similarly the removal of species of trees and grasses not covered by the TPO does not require Council approval provided there is no impact or there is no likelihood of any impact on the environment, native vegetation or within 40 metres of a watercourse.
2. Small scale removal of noxious and environmental weeds by hand methods using cut and paint techniques or spray of herbicide does not require approval.
3. Large scale removal of noxious and environmental weeds through the use of heavy machinery requires approval if there is a likelihood of an impact on native vegetation or is in an area of environmental significance.
4. Approval is dependant upon the satisfaction that all relevant licences and approvals are obtained from other relevant departments and meet with the provisions and objectives of the Hawkesbury Local Environmental Plan 1989.

The proposed application process

- (a) Landowner obtains an application form and guidelines.
- (b) Landowner to secure licences and approvals from the Department of Land and Water Conservation and the National Parks and Wildlife Service where relevant prior to the issue of Council approval.
- (c) Environmental assessments need to be undertaken by competent professionals qualified in the field. The level of ecological survey detail required will vary according to the environmental characteristics and land use history of the site.
- (d) The level of ecological detail in an assessment may mean that Council Officers are not necessarily competent to adequately review the information provided. External advice would need to be sought either from State Government departments such as the National Parks and Wildlife Service, independent consultants or through the employment of a scientific officer qualified in that field.
- (e) The landowner makes application including details of extent of works, reason, method and environment assessment.
- (f) A Council Officer to meet with the proponent on site to assess the application and confirm the environmental assessment provided.
- (g) An authority to remove weeds is issued with standard conditions and any special condition that the officer considers necessary to control expected impacts and to protect the environment.

- (h) During the operation and after the work is carried out, an inspection is carried out to provide follow up assistance and to ensure compliance with conditions.

Conclusion

The removal of vegetation whether it's noxious weeds or otherwise is being carried out within the Hawkesbury area by landowners oblivious of the need to gain approval.

The present approval process does not assist those wishing to remove noxious weeds as it can be confusing, costly and time consuming.

The introduction of the method contained in this report would alleviate some of the constraints that exist in the present two-method approach.

RECOMMENDATION:

That:

1. The approvals process and guidelines for the removal of noxious weeds, environmental weeds and vegetation specified as not listed within Council's Tree Preservation Order be introduced and operate under the process outlined within this report.
2. The new approvals process and guidelines be advertised through the local media to local residents and in particular to local contractors involved in the removal of vegetation.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 6 Oooo

ITEM: 7 **Windsor Leagues Club Rodeo Test Event - 15 December 2001 - Lot 1, DP879466, No. 698 George Street, South Windsor**

FILE NUMBER: MA1470/01/EVD/ENA29NBX.V08

PREVIOUS ITEM: 110, GPC Section 1 - Environment (27.11.2001)

REPORT:

Introduction

Development Consent was issued on 13 December 2001 for a rodeo test event, subject to conditions. The event took place and a number of conditions of the Development Consent were not complied with. The purpose of this report is to provide Council the opportunity to consider prosecution for non-compliance with Conditions of Consent.

Background

At the General Purpose Committee of 27 November 2001, the Committee exercised its delegation as Committee of the Whole and resolved as follows:

“Following public notification, consideration of any submissions received and assessment, the application be determined by the Director of Environment and Development under delegated authority, only if the event is concluded by 8.30pm with packing up of equipment to be completed by 10.00pm.”

The applicant modified the application in accordance with Council’s resolution.

Details of Development Consent

The Development Consent issued on 13 December 2001 contained 17 (seventeen) conditions controlling the event. The following conditions are of relevance to this report:

Condition 4

“4. The test rodeo event is to commence at 6.00pm and conclude at 8.30pm with packing up of the event to conclude by 10.00pm.”

Condition 7

“7. No sign shall be displayed on the footpaths, pedestrianways, roadways or in the vicinity.”

Condition 8

- “8. *Monitoring of the traffic and parking is to be undertaken from 5.00pm to 10.00pm on 15 December 2001 on the site and surrounding areas. This monitoring is to be undertaken by suitably qualified traffic consultants. The results are to be provided to Council within 2 (two) months.*”

Condition 9

- “9. *Monitoring of the noise impact is to be undertaken from 5.00pm to 10.00pm on 15 December 2001 on the site and surrounding areas. This monitoring is to be undertaken by a suitably qualified noise consultant. The results are to be provided to Council within 2 (two) months.*”

Condition 12

- “12. *The undertakings outlined in the Application shall be carried out in respect to:*
- *Advertising in the local media and local residents.*
 - *Obtain the concurrence from the Police.*
 - *Provision of directional signage.*
 - *Facilities for the disabled.*”

Condition 15

- “15. *Suitable traffic management measures are to be implemented in respect to the parking of vehicles associated with the event.*”

Condition 16

- “16. *All waste generated by the event is to be disposed of to the satisfaction of Council.*”

Condition 17

- “17. *Compliance with RTA requirements.*” (These included Police concurrence, signage, liability insurance, bus and taxi company concurrence, ambulanc and fire etc. concurrence, traffic marshals on duty, etc.).

A Council Officer attended the event. The events continued past 8.30pm, with the final event being held at 9.35pm and packing up continued past 10.00pm. In relation to Condition 7., pole posters were displayed on footways at the corner of Richmond Road and George Street, South Windsor and also on the footway in Rifle Range Road outside the Leagues Club.

In relation to the other conditions relating to monitoring undertakings and compliance with the RTA requirements, correspondence was sent to the Windsor Leagues Club on 4 January 2002 requesting confirmation as to compliance, within 14 (fourteen) days. At the time of compiling this report (21 January 2002) no response had been received.

Conclusion

Council supported the application for a “test event” to assist the Leagues Club in running the event at very short notice to Council. This was an opportunity for the Leagues Club to comply with reasonable conditions applied by Council and to provide properly collected data to assist in assessment of a possible future Development Applications.

The event was clearly held in contravention of Condition 4. relating to hours of operation, and Condition 7. relating to signs. It also appears that a number of other conditions may not have been complied with. Accordingly, it is recommended that the Leagues Club be prosecuted for non-compliance with Conditions of Consent.

RECOMMENDATION:

That Council’s Solicitors be instructed to prosecute Windsor Leagues Club for non-compliance with Conditions of Development Approval MA1470/01 for a Rodeo Test Event.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 7 Oooo

ITEM: 8 **Proposed Amendment to Hawkesbury LEP 1989 - Lot 2, DP1015308
Chapel Street, Richmond (Hawkesbury Village)**

FILE NUMBER: LEP002/01/EVD/ENA29NBX.V09

PREVIOUS ITEM: 23, GPC Section 1 - Environment (27.03.2001)

REPORT:

Introduction

A draft LEP has been prepared to amend Hawkesbury LEP 1989 to allow the land to be used for the purposes of a nursing home. The draft Plan has been placed on public exhibition and is now submitted to Council for final consideration.

Background

On 27 March 2001 Council resolved as follows:

1. *Council resolve to prepare a draft Local Environmental Plan in accordance with best practice guidelines issued by DUAP for Lot 2, DP1015308 to rezone the land from 7(d1) to Special Uses 5(a) Retirement Village.*
2. *Council commission an environmental study for the draft LEP and request the Hawkesbury Village to reimburse those costs.*
3. *Council exercise its delegation in relation to Section 65 and 69 of the Act.*
4. *The \$2,000.00 (two thousand dollars) draft LEP application fee be waived.*

Consultations were undertaken with various agencies as required by Section 62 of the Environmental Planning and Assessment Act. In this context, discussions were held with DUAP. Following those discussions, the draft Plan was altered so as to retain the 7(d1) zoning and allow the additional landuse of Nursing Home, Aged Care Facility or the like. A copy of the exhibited draft LEP is Attachment 1.

Exhibition

The draft Plan was exhibited from 20 December 2001 to 17 January 2002 in accordance with the provisions of the Environmental Planning and Assessment Act and Regulations. Copies of the draft plan were sent to the following agencies for comment:

- Integral Energy
- Roads and Traffic Authority

- Telstra
- Sydney Water Corporation
- Heritage Office and Heritage Council
- Department of Land and Water Conservation
- National Parks and Wildlife Service
- Department of Planning
- New South Wales State Emergency Services

Submissions

Submissions were received from the National Parks and Wildlife Service and Department of Land and Water Conservation. The following is an outline of the submissions and our commentary.

National Parks and Wildlife Service

The following concerns are raised:

- Recommends that Council ensure an adequate assessment of flora and fauna is carried out for the subject site.
- Recommended that an assessment of aboriginal heritage be undertaken.
- Recommends an assessment of potential impacts on water quality be carried out.
- Recommends Council consider the issue of bushfire hazard reduction.

Comment: It is clear from the comments provided by National Parks and Wildlife Service that the officer has not visited the site. A site visit would confirm that the site is totally cleared as it has been used for many years as a horse paddock. The only trees which will be removed, as a result of development on this site, are a number of small jacaranda trees and an immature eucalypt, which is incorporated into the gardens surrounding the existing village. Flora and fauna and bushfire hazard reduction are simply not an issue for this site. Any future consent for development can be conditioned in relation to aboriginal heritage and water quality.

Department of Land and Water Conservation

The following concerns are raised:

- Potential impact on the natural features of the site and protection and management measures.
- Potential flooding.
- Stormwater management.

- Details of distance of the building envelope from the 7(a) zone and the reasoning behind the specific setback.

Comment: Preliminary Development Application plans provided by the Hawkesbury Village indicate that the closest building to the wetlands will be some 60m horizontally from the edge of the water and some 10m higher than the wetland. Carparking and paved areas are a further 100m away. These plans were provided to Department of Land and Water Conservation. It is clear from the plans that the proposed building follows the alignment of the existing building and is above the steep embankment.

Consultants for the Village are preparing a Stormwater Management Plan which will involve on-site stormwater detention, sediment control and water quality control. There is adequate area above the 1:100 flood level for the proposed building. It is considered appropriate for the draft LEP to proceed and the detailed issues of drainage can be resolved through the development application process.

Conclusion

It is considered that the valid issues raised in submissions can be resolved through the development application process. The amendment to the LEP retains the existing environmental protection zones and the objectives of those zones. A range of development of similar scale is currently permitted under the existing zone and it is considered that the impacts of development in accordance with the amended LEP would be no greater. Accordingly it is recommended that the LEP proceed to finality.

RECOMMENDATION:

That Council endorse the draft Local Environmental Plan as exhibited and all appropriate steps now proceed for gazettal of the draft Plan.

ATTACHMENTS:

AT-1 Exhibited draft LEP.

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Exhibited Draft LEP

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ITEM: 9 **Lot 8 DP1011475, No. 36 Bosworth Street, Richmond**

FILE NUMBER: MA174/01/EVD/ENA29NCX.V06

PREVIOUS ITEM: 83, GPC Section 1 - Environment (28.08.2001)

PREVIOUS ITEM: 116, Ordinary (11.09.2001)

REPORT:

At the Ordinary meeting of 11 September 2001 Council refused an application to demolish the existing cottage and to construct a dual occupancy at No. 36 Bosworth Street, Richmond.

One of the reasons for refusal included that the demolition of the cottage is prohibited under the Interim Heritage Order (IHO) which was gazetted on 7 September 2001.

The NSW Heritage Office has notified Council that since the IHO was gazetted further investigations of the item have been carried out including:

1. An assessment report by Mr Miles Lewis in conjunction with the owner, Mr Robert Tchadovitch.
2. A further inspection by the Heritage Office and Report by Consulting Engineer, Mr EG Trueman.

Based on the above information the Acting Principal Heritage Officer to the Assistant Director of the Heritage Office recommends the revocation of the IHO.

The above reports have been referred to all interested parties for comments by 16 January 2001 prior to the finalisation of the Heritage Office's recommendation.

Council will be further advised of the outcome of the matter when made available from the Heritage Office.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 9 Oooo