



general
purpose
committee

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section

environment

GENERAL PURPOSE COMMITTEE - ENVIRONMENT

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Item: **53**

ITEM: 53 **Review of Determination Under Section 82A of the Environmental Planning and Assessment Act 1979 - Lot 1 DP 1028107, 34 Chaseling Road, Wisemans Ferry**

FILE NUMBER: DA1023/020/EVD/ENH26NAX.V04

Applicant: Falson & Associates Pty Ltd
Applicants Rep: Mr Glen Falson
Owner: Mr and Mrs Ireland
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 Sydney Regional Environmental Plan No. 20 (No. 2 - 1997)
Area: 23.48ha
Zone: Environmental Protection (Scenic) 7(d)
Advertising: 7 - 25 November 2002
Date Received: 20 August 2002

Key Issues: Road Severance
 Use of SEPP No. 1

Action: Refusal

REPORT:

Introduction

Council has received a request to review a refusal of a development application for a 2 (two) lot subdivision of 34 Chaseling Road, Wisemans Ferry.

The development application was refused under delegated authority on 16 June 2003. The reasons for refusal mainly related to insufficient information being submitted with the application to enable a proper assessment of the application, potential environmental impacts of the subdivision, and non-compliance with the Hawkesbury Local Environmental Plan 1989. A copy of the Notice of Determination is attached to this report.

Under the provisions of Section 82A of the Environmental Planning and Assessment Act 1979 this matter is to be reported to Council for review.

The Proposal

The application is for a 2 (two) lot subdivision of Lot 1 DP 1028107, 34 Chaseling Road, Wisemans Ferry.

The applicant proposes to create 2 (two) lots, namely Lot 1 with an area of 15.24ha (fifteen point two four) and Lot 2 with an area of 8.24ha (eight point two four). The subdivision is essentially being sought by virtue of severance by Bicentennial Road.

Description of the Site

The property is irregular in shape and has an area of 23.48ha (twenty three point four eight). It has frontages to Webbs Creek and Chaseling Road and is severed by Bicentennial Road. 15.24ha (fifteen point two four) of the property lies to the north of Bicentennial Road, with the remaining 8.24ha (eight point two four) lying to the south of Bicentennial Road.

The land varies in height from less than 20m (twenty) AHD to greater than 80m (eighty) AHD. Low parts of the site consist of flood plain alluvial soils and riparian vegetation the land then rises to steeply sloping heavily vegetated sandstone escarpments.

The 1 in 100 (one in one hundred) flood level for the area is approximately 7m (seven) AHD. No accurate AHD levels have been provided on the plan of subdivision however from investigation of the site it would appear the minor parts of both proposed Lot 1 and Lot 2 are flood affected.

The property contains a dwelling and associated outbuildings on proposed Lot 1.

The property is within a minor and moderate bushfire risk area and within a high and low bushfire prone area.

Background to Road Severance of the Property

The property is known as Lot 1 DP 1028107 being registered on 11 May 2001. Prior to this the property, including that land occupied by Bicentennial Road, was known as Conveyance No. 36 in Book 370 (2nd Schedule) i.e. an old system title allotment created prior to 1863. This property had an area of approximately 25ha (twenty five) and did not have subdivision potential in terms of achieving the minimum lot size provisions of Hawkesbury Local Environmental Plan 1989 (HLEP 1989).

Council constructed Bicentennial Road through the property in 1988 and as a result it severed the subject lot as discussed above.

Severance of properties by a road is a common feature of rural and environmental protection zones particularly along main roads and flood liable lands. Many examples can be found throughout these zones and within the locality of the subject site.

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

The subject property is zoned Environmental Planning (Scenic) 7(d) under the provisions of HLEP 1989. The relevant objectives of the zone are:

- (a) *to preserve existing wooded ridges and escarpments;*

- (b) *to protect hilltops, ridgelines, river valleys and other local features of scenic significance by controlling the choice and colour of building materials and the position of buildings, access roads and landscaping;*
- (c) *to protect the low density, broad-acre character of the rural areas.*

Subdivision is permissible within the zone. This report will demonstrate that the proposed subdivision does not demonstrate suitable compliance with the objectives of the zone.

Clause 11(2)

This clause requires that land zoned Environmental Protection Scenic 7(d) be subdivided into lots of not less than 40 ha (forty) and have a satisfactory ratio of depth to frontage.

The proposed lots have areas of 15.24ha (fifteen point two four) (Lot 1) and 8.24ha (eight point two four) (Lot 2). Lot 2 is irregular in shape and appears not to comply with the satisfactory depth to frontage ratio provisions of the Hawkesbury DCP (discussed later).

Under the provisions of State Environmental planning Policy No 1, Council may approve a subdivision with areas less than 40ha (forty) provided Council is of the opinion that the standard is unreasonable and unnecessary. The applicant has submitted an objection under SEPP No.1 arguing that strict compliance with the 40ha (forty) minimum is unreasonable and unnecessary. The SEPP No.1 objection will be discussed later.

Clause 11(3)

This clause allows the subdivision of land if the resultant lots have an area of land above the 1 in 100 (one in one hundred) year level that is sufficient for the erection of a dwelling house.

A dwelling already exists on Lot 1. Lot 2 could accommodated a dwelling house above the 1 in 100 (one in one year) year level, however, this would be dependant upon resolving environmental constraints such as slope, vegetation clearing, bushfire protection and location of driveways and building envelopes.

Clause 18(1)

This clause states that development consent will not be granted unless satisfactory arrangements have been made for the provision of water, sewerage, drainage and electricity to the land.

The applicant has not demonstrated that effluent can be disposed of on the site in an environmentally sustainable manner.

Draft Hawkesbury Local Environmental Plan 1989 - Amendment No 108

The relevant draft plan is draft Amendments No. 108. Under this plan the land is proposed to be zoned Environmental Protection - Mixed Agriculture. It is considered that the proposed subdivision does not demonstrate satisfactory compliance with the objectives (a),(c),(d),(e),(f),(I) and (l) of draft amendment No 108. These objectives seek to preserve agricultural potential; avoid

rural land use conflicts; retain and enhance rural character, landscape values, scenic corridors, escarpments and environmentally sensitive areas; avoid economic demands created by demand for public amenities and services.

State Environmental Planning Policy No. 1

The applicant has submitted the following argument under the provisions of SEPP No. 1 in support of the application:

The subdivision approval sought merely recognises in title an existing physical separation of the land.

The sizes of the existing separated parcels of land are not inconsistent with the array of lot sizes that exist in the locality.

There will be no adverse environmental consequence arising from the subdivision.

Each lot is capable of separate development in accordance with the zone land use table. Specifically the vacant lot has an adequate area for subsequent erection of a dwelling and disposal of wastewater.

The subdivision is an orderly and economic use and development of land and accords with this principle requirement contained within Clause 5 of the Environmental Planning and Assessment Act.

In accordance with the provisions of SEPP No. 1 the application has been referred to Planning NSW for concurrence. Planning NSW have declined to provide their concurrence and requested that the applicant provide additional information relating to flora and fauna, building envelopes, driveways details, effluent disposal, settlement pattern, flood liable land, agricultural uses and agricultural potential.

As yet the applicant has not provided the requested information.

Notwithstanding this request for additional information, it is considered that the use of SEPP No. 1 for subdivision by way of road severance is not an appropriate approach to resolving some of the land management problems of road severance or and appropriate way to preserve the objectives and intent of the zone. Dealing with such applications on an ad hoc is also not an appropriate planning response and could be better addressed in a co-ordinated way by investigating an amendment to HLEP 1989.

Sydney Regional Environmental Planning Policy 20 (No.2 - 1997) - Hawkesbury / Nepean River (SREP No. 20)

The property falls within the Webbs Creek catchment area and is within an area of regional scenic significance.

The aim of SREP NO. 20 is to protect the environment of the Hawkesbury / Nepean River system by ensuring that the impacts of future land use are considered in a regional context. SREP No. 20

contains general and specific matters for considerations, specific planning policies and recommended strategies, and development controls which are to be considered in the assessment of a development application.

It is considered that the proposed development does not demonstrate satisfactory compliance with the general or specific aims, planning considerations, planning policies, recommended strategies and development controls of SREP No 20, particularly in relation to location of building envelopes, effluent disposal, clearing of vegetation, and visual impact.

Hawkesbury DCP

The Hawkesbury Development Control Plan applies to the land. Relevant chapters of the DCP are General Information, Notification and Subdivision.

General Information - It is considered that the applicant has not provided sufficient information to enable Council to assess the application. In particular the applicant has not provided clear details as to the levels of the land relative to AHD, nature of flood liable land, location of building envelopes, a flora and fauna assessment, bushfire protection, driveway entry details, or a waste water feasibility study.

Notification - The application was publicly exhibited for the period 7/11/2002 to 25/11/2002. Three submissions were received. The submissions were in favour of the application.

Subdivision - This chapter requires detailed information addressing flora and fauna protection, visual amenity, building envelopes and effluent disposal.

The applicant has not submitted a flora and fauna assessment of the application or an assessment of the vegetation to be cleared for the purposes of building envelopes, asset protection zones and accessways.

No details of the visual impact of the subdivision and resultant development have been provided. Lot 2 site being on the corner of Bicentennial Road and Chaseling Road is in a very prominent position, particularly from the elevated positions along Bicentennial Road which generally look down upon Lot 2.

The applicant has not provided details of the proposed building envelopes for Lot 2. Due to possible flooding of the site and significant access limitations off Bicentennial Road the most likely building site is on the north-western corner of the Lot 2. The land is quite steep, heavily vegetated and exposed to view from Bicentennial Road.

An effluent disposal report prepared by a suitably qualified person has not been provided with the application.

Planning Assessment

Environmental Impact

There is insufficient information submitted with the application to assess its likely impacts on the

environment. Notwithstanding this particular concern is raised as to the potential impacts of the development of Lot 2 in terms of visual amenity, effluent disposal, location of buildings and access roads, clearing of vegetation, and bushfire threat.

Suitability of the Site

The applicant has not provided a detailed assessment of the constraints of the site.

It is considered that Lot 2's constraints in terms of vehicular access to the site, soil type, steep topography, flooding, and vegetation cover make the site unsuitable for the proposed development without further detailed investigation.

Public Submissions and Public Interest

3 (three) submissions were received in favour of the application. These submissions noted the operational difficulties in having a parcel of land severed by a road as well as noting that Council had in the past granted approval for subdivision on land on the basis of road severance. Up until the major changes to the Environmental Planning and Assessment Act 1979 and associated legislation in mid 1998 Council did on occasion grant consent to subdivisions by road severance which produced lots smaller than the minimum required in the zone.

The changes to the above mentioned legislation require subdivisions by way of road severance to be assessed against the provisions of the HLEP 1989. These provision include those relating to minimum lots sizes. The proposed lots do not satisfy the minimum lot size requirements or demonstrate compliance with the other previously identified provisions of HLEP 1989 and the Hawkesbury DCP. Further, it is important to note that the property did not have subdivision potential prior to the construction of Bicentennial Road therefore it questionable whether or not the subdivision potential should be given solely on the basis of the existence of Bicentennial Road.

As stated above it is considered that using SEPP No. 1 for subdivision by way of road severance on an ad hoc basis is not an appropriate planning response and could be better addressed in a co-ordinated way by investigating an amendment to HLEP 1989.

It is considered that the proposed development and the use of SEPP No.1 to achieve the development is not in public interest.

Conclusion

Section 82A of the Environmental Planning and Assessment Act 1979 provide Council with the power to review of determination of a development application. Upon review Council can decide to confirm or change the determination.

Based on the above assessment it is recommended that Council uphold the previous refusal of the application.

RECOMMENDATION:

That Council uphold the previous refusal of the application.

ATTACHMENTS:

AT-1 Notice of Determination

AT-2 Locality Plan

AT-3 Plan of Subdivision

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AT 2 - Locality Plan

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AT 3 - Plan of Subdivision

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Item: **54**

ITEM: 54 **Proposed KFC Restaurant and Associated Drive Thru at Lot 2, DP 598169 Vol 13795 Fol 139 Lot X, DP 163815 and Lot Y, DP 163815, 26-30 Bosworth Street, Richmond (Corner March Street) - Development Application DA0320/03**

FILE NUMBER: DA0320/03/EVD/ENH26NAX.V01

Applicant: Yum Restaurants Australia Pty Limited - KFC
Applicants Rep: Mr P Jachau
Owner: Mr R E Paull, Mr D J Shaddick, Mrs G M Baker, Mr J E Baker
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Draft Hawkesbury Local Environmental Plan 1989 Amendment 140 -
Proposed change of zone from 3(b) to 3(a).
State Environmental Planning Policy No. 11 - Traffic Generating
Development
Area: 1133.000 m2
Zone: Business Special 3(b)
Advertising: 3/04/2003 to 17/04/2003
Date Received: 24 March 2003

Key Issues: Building Design
Proximity to Heritage Items
Traffic
Archeology

Action: Approval subject to conditions

REPORT:

Introduction

Council has received a development application seeking approval for the demolition of an existing motor showroom and construction of a KFC Drive-Thru Restaurant. The applicant has made changes to the building design and signage in consultation with Council's Town Planning staff and the application is recommended for approval.

This application is being reported to Council at the request of Councillor Williams.

Proposal

The land comprises 3 (three) allotments, one of which is vacant. The allotments were most recently used for the purposes of a Car Sales Yard. The proposed development incorporates internal seating for 44 (forty four) persons, external seating for 24 (twenty four) persons, on site parking for 29 (twenty nine) vehicles, 1 (one) disabled space and drive through facility with associated queueing area. Proposed traffic arrangements are entry and exit from Bosworth Street only, separated by a 5 (five) metre wide landscaping strip. Landscaping is also proposed along the full length of the

northern boundary and partial length of the southern boundary of Lot 2, and along the Bosworth and March Street frontages in the vicinity of the proposed building.

The building itself has design elements in keeping with the adjacent Heritage listed buildings, and is relatively low scale. Signage includes a roof-mounted tower with red and white striped roof, under awning signs, fascia signs and a pole sign.

The hours of operation are proposed to be 10:30am to 10:00pm, Sunday to Wednesday and 10:30am to 11:00pm, Thursday to Saturday.

Statutory Situation

Hawkesbury Local Environmental Plan 198p

The subject land is zoned Business Special 3(b). Draft Amendment 140 will have the effect, when gazetted, of zoning the property Business General 3(a). The development is defined as “refreshment rooms” and is permissible with consent in both the 3(a) and 3(b) zones.

State Environmental Planning Policy No. 11 - Traffic Generating Developments

The application was referred to the Roads and Traffic Authority in accordance with the provisions of SEPP No. 11.

Sydney Regional Environmental Plan No. 20 Hawkesbury - Nepean River

This site falls within the boundaries of SREP20, however, is not within a river and scenic corridor. There are no additional matters for consideration under this Plan relevant to the proposed development.

Hawkesbury Development Control Plan

The chapters relating to parking, signs and contaminated land are relevant to the application. These matters are covered in the following Planning Assessment.

Community Consultation

The application was notified to surrounding residents. 10 (ten) individual submissions were received objecting to the proposal, along with a petition containing 12 (twelve) signatures and a pro-forma letter containing 14 (fourteen) signatures.

The following is a summary of the issues raised in the submissions:

- Traffic congestion
- Headlight glare from drive through and carpark
- Increased noise from cars and people
- Odour
- Parking on street
- Anti-social behaviour of patrons/increase in pedestrian traffic
- Heritage impact and building design
- Impact on nearby Coaching College by noise

- Impact on residential amenity
- Will lower property values
- Objection to proposed median in Bosworth Street
- Impacts of security lighting
- Development should not be in a residential area
- Wrong type of development for western gateway to Richmond
- Exhaust emissions
- Impact on privacy
- Landscaping will reduce light to adjoining premises
- Noise from deliveries
- Owner of property in Bosworth Street does not want to lose on-street parking

The relevant grounds for objection are discussed in the following planning assessment:-

Planning Assessment

The following assessment details the issues of concern with this proposal, in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

Context and Setting

The development site is surrounded by a mix of land uses, comprising single residential dwellings, commercial premises and professional chambers. In close proximity to the site, there are 2 (two) motels, a car sales yard and vehicle hire business. Of the 6 (six) or so dwellings located on the western side of Bosworth Street, 1 (one) is used as an educational establishment and another operates a pest control business. The residential property diagonally opposite the intersection is used as a home occupation for a truck hire business and the dwelling on the opposite side of March Street on the corner of Bosworth is approved as professional rooms.

Located on one of the busiest intersections in Richmond, the development site forms part of the western gateway to Richmond.

There are a number of heritage items in the immediate vicinity, including the adjoining properties, and the design of the building needs to respect this. The development has been designed accordingly, including changes requested by Council staff, and is considered to be acceptable and appropriate.

Traffic Management (issue also raised by respondents)

The development site has an area of approximately 2,234 square metres with frontages of 25 metres to March Street and 55.5 metres to Bosworth Street. The proposed restaurant has a total seating capacity of 68 (sixty eight) and the drive through facility has the capacity to accommodate 11 (eleven) cars queued back from the pick-up point. Entry and exit are proposed to be separated by a 5 metre wide landscape strip, with the entry being located some 47 metres from the March Street frontage and the exit located some 35 metres from the March Street frontage.

The application was accompanied by a traffic and parking assessment prepared by project planning associates and was referred to the Roads and Traffic Authority for comment, in accordance with

State Environmental Planning Policy No. 11. The RTA has assessed the proposal and provided the following comments:

- “• *The subject property is affected by the Authority’s road proposal for a cut off measuring 5.6 metres by 5.6 metres on the corner of March and Bosworth Streets, as shown by the pink colour on the attached plan.*

However, the Authority would raise no objection on planning grounds to the proposed development provided any new buildings or structures are erected clear of the land required for road.

- *Due to extensive queuing and delay in the afternoon traffic peak and its close proximity to the existing traffic signals, the right turn ingress and egress from this site off Bosworth Street is not supported. Indirect ‘right turn’ access into the site off Bosworth Street could be performed via the existing roundabout located at the intersection of Windsor Street and Bosworth Street.*
- *To reinforce the recommended right turn ban, a central concrete median should be installed across the full frontage of the restaurant’s Bosworth Street frontage (i.e. from the site’s northern property boundary to the traffic signals at Bosworth Street/March Street).*

Any affected property owners are to be contacted and written evidence provided prior to the determination of the development application.

- *A layout plan (at 1:200) showing relevant heavy vehicle turn paths onto Bosworth Street along with a physical works that are to be installed in Bosworth Street are to be forwarded to the RTA for further comment prior to approval of the development application.*
- *Full time ‘No Stopping’ restrictions are to apply across full Bosworth Street and March Street frontages of the site prior to the commencement of any works. Before installing the parking restriction the applicant must contact the RTA’s Traffic Management Services (02 8814 2536) for a Works Instruction.*
- *To promote the efficient operation of the classified road network, suitable provision should be made on-site for the parking of all construction related vehicles.*
- *All driveway widths, ramp grades, aisle widths, turning circles, sight distances and parking bay sizes to conform to current Australian Standards AS 2890.1 - 1993 and AS 2890.2 - 2002.*
- *All existing driveways, footway crossovers and gutter crossings made redundant by the development shall be removed and replaced with standard RTA barrier kerb (Type SA) and footway reinstated to Council’s specifications.*
- *The development shall not discharge stormwater externally from the site at a rate greater than existing or such that it causes ponding or flooding on March Street.*

- *Should the development proceed, detailed design plans of the proposed median island/traffic signal design changes at Bosworth Street/March Street will need to be forwarded to the RTA for approval prior to the commencement of any roadworks. The applicant is advised that a plan checking fee (amount to be advised) and lodgement of a performance bond will be required prior to the release of the approved road design/signal plans by the RTA.*
- *All works associated with the proposed development are to be at no cost to the RTA.”*

The proposal allows for the 5.6 metre by 5.6 metre cut off corner. Concern is raised at the requirement for a median to prevent right turn into the development from Bosworth Street. Although this will prevent conflicts with right turn movements and prevent queued traffic from blocking the intersection, it is likely that in peak times the movements required by the median strip will significantly add to congestion between the roundabout in Windsor Street and the intersection of March Street. It will also place permanent restrictions on movements to properties on the western side of Bosworth Street. Accordingly, the application was referred to the Local Traffic Committee for comment in this regard.

The proposal was considered by the Local Traffic Committee on 18 July 2003. The Committee recognised the traffic congestion, which occurs during the evening peak period and invited the applicant to provide further traffic modelling information to justify a right-hand turning movement or provide a proposal for a shorter length of median that will not have as an impact on the properties on the western side of Bosworth Street.

The additional information was considered by the Local Traffic Committee on 15 August 2003. The Committee agrees with providing right hand turn movement from Bosworth Street subject to the following requirements:

1. *The applicant construct kerb and gutter and road pavement on the kerbside land on the western side of Bosworth Street, Richmond from March Street to the southern edge of the layback to No. 29 Bosworth Street.*
2. *The applicant to install regulatory signage as follows on the western side of Bosworth Street:*
 - (a) *alter existing “No Standing” signage to “No Stopping” signage over chainage 0-20 measured from March Street; and*
 - (b) *“No Stopping / 4:00pm - 7:00pm” from chainage 20 to the southern edge of the layback to No. 29 Bosworth Street.*
3. *The applicant advise owners and residents of properties on the western side of Bosworth Street between March and Windsor Streets of the proposal and to advise Council of action taken by the applicant to address any concerns raised by residents or owners.*
4. *All costs associated with reconstruction works associated with kerb and gutter reconstruction, tree removal, road pavement restoration, including ancillary infrastructure and utilities to be borne by the applicant.*

Carparking

Council's Development Control Plan requires 1 (one) space per 6 (six) square metres of service area or 1 (one) space per 3 (three) seats, whichever is greater, plus 1 (one) space per 2 (two) employees. It is difficult to define the "service area" due to the combined service/dining area and drive through service.

The development therefore requires 27 (twenty seven) car parking spaces (on the basis of one per 3 (three) seats plus one per 2 (two) employees).

The development provides 29 (twenty nine) parking spaces plus queuing space for 11 (eleven) vehicles in the drive through. Driveways, manoeuvring areas, loading bay and truck movement paths also comply with the requirements of the Development Control Plan.

Building and Site Design (issue also raised by respondents)

The development site is located at the western gateway to Richmond in close proximity to a number of heritage listed buildings. The applicant advises that the proposed building is located in the southern most area of the site to:

- “• *Place it in the most visually prominent location from the road frontages. This location will also provide a continuation of building forms along Macquarie Street.*
- *Allow the site entry/exit points to be located as far from the traffic lights at the corner of March and Bosworth Streets as possible.*
- *Provide a maximum length drive through queue around the building, plus provide visual isolation of the loading bay area from the street frontages.*
- *Allow all car parking to be located in a single zone in the northern half of the site.*
- *Building setbacks in excess of those in adjoining buildings have been provided to ensure that the building does not become visually dominant or obscure adjoining buildings.”*

In relation to the design of the building the applicant advises “*The building has incorporated steeply pitched metal rooves, verandahs, feature brickwork and columns to provide a sympathetic appearance to adjoining heritage buildings. Bulk, height scale proportions and construction methodology have all been designed with the heritage significance of the site in mind. Drive through awnings have been designed to provide the appearance of a lean-to awning in keeping with the appearance of adjoining buildings. Window proportions have been designed such that they provide a greater height than width to visually match adjoining buildings.*”

On assessment, the building is of simple form, and it is confirmed that roof height and pitch and window proportions will be in keeping with the adjoining heritage listed buildings. Discussions have been held with the applicant, who has agreed to the following changes to the building design:

- *Extend the awning over the drive through to the eastern corner of the building.*

- Re-design the awnings so they are separate as opposed to forming a long length of roof from ridge eave (this will be more in keeping with nearby buildings).
- Reducing the overall height of the roof tower signage by 720mm.

It may be argued that the signage tower proposed is the only element of the design which is not in keeping with nearby heritage buildings. However, the site is zoned for commercial use and therefore there is a fine balance between heritage conservation and the commercial need for corporate identity. It is considered that the building, with the changes proposed, is an appropriate solution for the site.

Signage

The original proposal for signage included a 6 metre x 1.5 metre illuminated pylon sign on both the March Street and Bosworth Street frontages, illuminated “KFC” above the awning at the pedestrian entry to the building, illuminated entry and exit signs to the driveway (including bucket shape with Colonel logo) and “KFC” sign boxes under the awning below the tower.

Following discussion with Council officers, the applicant has agreed to the following changes with regard to signage:

- The Bosworth Street pylon sign will be deleted.
- The March Street pylon sign will be designed in a banner style and externally illuminated rather than an internal light box.
- The “KFC” above the awning will be replaced.
- The entry/exit buckets will be deleted from these directional signs.

The applicant points out that these changes are made on the basis that the tower signage above the roof will remain, along with the red and white striped cupola roof.

The amended signage proposal complies with the DCP and is considered acceptable.

Heritage and Archeology (issue also raised by respondents)

The application was accompanied by a Statement of Heritage Act prepared by Graham Edds and Associates, Chartered Architects. The Statement is prepared in accordance with the guidelines contained in the New South Wales Heritage Manual and concludes as follows:

“It is the writer’s opinion that the overall design, siting and amenity of the proposed KFC Restaurant comfortably sits within the perceived character of the Richmond township at its western approach. Concerns have been raised within this Heritage Impact Statement with regard to archeology potential on No. 26 Bosworth Street, the large size of the pylon signage and illumination of the tower cupola. The proposed restaurant will tidy up the street frontage with the removal of the car sales yard illumination, flag banners, and lowering the scale of the street scape fencing that exists today to a well-landscaped forecourt and a sympathetic restaurant building.”

The application was referred to Council's Heritage Advisor, who provided the following comments:

- “• *The potential for archeological conflict appears to be high. Conditions should be imposed requiring an Archeologist to undertake a Site Potential Survey and, depending on the findings and the views of the NSW Heritage Office, the site might need to be excavated in part or in full prior to commencement of any construction works.*
- The form of the building is reasonable in context provided the finishes are consistent with the character of the area. The corporate red and white colours of KFC will not be appropriate for use of any part of the building other than signage.

The roof should be finished in traditional colours and the body of the building should be a neutral colour.
- Signage is excessive and should be integrated with the building (this comment was provided prior to amendments to the application) - in particular the pylon banner, illuminated cupola and illuminated tower sign should be eliminated.

The applicant has provided a Schedule of Exterior Finishes which provide for the lower walls to be coloured dark grey, upper walls to be coloured buff, slate grey roofing, space blue gutters and off white fascias. The cupola roof on the signage tower is to be the KFC corporate red and white stripes.

The building colours and finishes are considered to be acceptable. The concerns raised in the Heritage Impact Statement provided by the applicant and those of Council's Heritage Advisor about the red and white striped cupola roof one noted. However, this does satisfy the DCP requirement for signage to be integrated with the building.

It is likely that there are archeological relics below the ground, including a well. The location of the possible well is within the proposed landscaping area and can be dealt with by appropriate conditions.

Noise, Headlight Glare and Residential Amenity (issues raised by respondents)

The following hours of operation are proposed: 10:30am to 10:00pm, Sunday to Wednesday and 10:30am to 11:00pm, Thursday to Saturday. Larger deliveries, i.e. 12 metre rigid truck, will occur before trading hours. This will need to be conditioned due to the turning movements impacting on some car parking spaces.

The EPA Guidelines for noise will apply to the development. Trading after 10:00pm will fall into the night time criteria and may require a higher level of noise control. However, there are no residential buildings immediately adjoining the site, and it is therefore anticipated that noise levels will be within guidelines.

The development site is zoned for commercial purposes. It is recognised that there is residential use on the western side of Bosworth Street and the southern side of March Street. However, the area (including the residential zoned area) is dominated by commercial activities. March Street is a state road carrying around 1,230 (one thousand two hundred and thirty) vehicles per hour during the

evening peak. Bosworth Street, at the development site, carries around 850 (eight hundred and fifty) vehicles per hour during the evening peak. Although the proposed development will add up to 120 (one hundred and twenty) vehicle movements per hour during peak times, it must be said that the existing residential amenity in the immediate locality is fairly low in terms of noise and traffic.

The applicant proposes to plant a landscaping strip along the March Street and Bosworth Street frontages which will include hedging to reduce headlight glare from vehicles in the drive through. The applicant has also agreed to incorporate a low height masonry wall at strategic points to prevent headlight glare. This will be incorporated into the landscaping as a feature.

Landscaping (*Issue also raised by respondents*)

Landscaping proposed for this site comprises the following:

- 1 (one) metre high hedging along the March and Bosworth Street frontages for the length of the building;
- 2 (two) metre high photinia screen planting behind the existing Lachlan Centre building and along the Northern boundary of the site. The landscaping around the driveways to Bosworth Street consists of Gardenias and retention of an existing palm tree close to Bosworth Street.
- 2 (two) Manturian Pairs are to be planted towards the rear of the Northern boundary.
- The existing well is to be incorporated into the landscaping and is proposed to be marked with a Heritage Plaque.

The proposed landscaping is considered appropriate to the site and is unlikely to create any adverse impacts on adjoining properties.

Stormwater

The stormwater/drainage concept for the site provides on-site detention for stormwater generated by approximately 95% of the site. The on-site detention system will be designed so that the discharge to Council's stormwater system is not increased.

The stormwater concept is acceptable and an appropriate condition will be placed on the consent requiring more detailed designs.

Suitability of the Site

The site has been used for a service station in the past. Prior to the last use of the site for a car sales yard, the underground fuel tanks and excavated rubble was removed and the site rehabilitated. In 1998, an Environmental Site Assessment and Site Validation Report was submitted by Handex Australia Pty Limited, who at that time, carried out soil tests from some 15 (fifteen) Bore locations. Following analysis, the report concluded that all results were below the NSW EPA Acceptance Criteria and the site is suitable for continuing commercial use.

Based on the Environmental Site Assessment and Site Validation concerning the rehabilitation of the site, and the above planning assessment, it is considered that the site is suitable for the proposed development.

Conclusion

The land is zoned Business Special 3(b) and the proposed development is permissible with consent in the existing zone and the proposed rezoning of the property to Business General 3(a). It is considered that the development is consistent with the objectives of both the 3(a) and 3(b) zones.

It is considered that the building design, landscaping and signage proposals, with amendments as discussed in this report are appropriate development responses to this unique site. The proposed development is considered to be sympathetic to the adjacent heritage items by incorporating appropriate architectural elements and by keeping the building low in scale.

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

RECOMMENDATION:

That the development application for demolition of the existing motor showroom and construction of a drive thru restaurant (KFC) on Lot 2, DP598169, and Lots X & Y, DP163815 (26-30 Bosworth Street, Richmond) will be approved subject to the following conditions.

General

1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans (prepared by Ramakers Architects, numbered 2064/DA1 revision J, 2064/DA2 revision F, 2064/DA03 revision F, 2064/DA4 revision F, 2064/DA05 revision C, 2064/DA06 revision D, 2064/CONO1 revision C, and landscape plan 03012601) submitted with Development Application No. 0320/03 and any supportive documentation, except as otherwise provided by the conditions of this consent.
2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
3. Prior to construction of the approved development it is necessary to obtain a Construction Certificate.
4. The applicant is advised to consult with:
 - (a) Sydney Water Corporation Limited
 - (b) Integral Energy
 - (c) Natural Gas Company
 - (d) a local telecommunications carrier

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

5. No excavation or site works shall be commenced prior to the issue of the construction certificate.
6. The entry directional signs at the driveway entrance are limited to directional wording only. The "bucket" logo is to be deleted.
7. The applicant shall construct kerb and gutter and road pavement on the kerbside land on the western side of Bosworth Street, Richmond from March Street to the southern edge of the layback to No. 29 Bosworth Street.
8. The applicant shall install regulatory signage as follows on the western side of Bosworth Street:
 - (a) alter existing "No Standing" signage to "No Stopping" signage over chainage 0-20 measured from March Street; and
 - (b) "No Stopping / 4:00pm - 7:00pm" from chainage 20 to the southern edge of the layback to No. 29 Bosworth Street.
9. The applicant shall advise owners and residents of properties on the western side of Bosworth Street between March and Windsor Streets of the proposal and to advise Council of action taken by the applicant to address any concerns raised by residents or owners.
10. All costs associated with reconstruction works associated with kerb and gutter reconstruction, tree removal, road pavement restoration, including ancillary infrastructure and utilities shall be borne by the applicant.

Prior to Issue of Construction Certificate

11. Details of the proposed building demonstrating compliance with the Building Code of Australia, including certification by Structural Engineers and Building Components as appropriate are to be submitted to the Principle Certifying Authority for approval.
12. Submission of design plans and calculations for all civil works required by this consent, including any works required for traffic improvement in Bosworth Street and full designs and calculations for onsite drainage.
13. An archeologist shall undertake a site potential survey and submit the findings to the NSW Heritage Office and Hawkesbury City Council.
14. The submission of engineering designs and calculations covering all works required by this consent.
15. Submission of proof of the payment of the Building Industry Long Service Levy where the value of civil works exceeds \$25,000.

Prior to Commencing Works

16. 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.
17. If the work involved in the erection or demolition of a building:
- (a) is likely to be dangerous to a person in a public place or adjoining property;
 - (b) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - (c) involves the enclosure of a public place,

A hoarding or protective barrier must be erected between the work site and the public place. such hoarding or barrier must be designed and erected in accordance with Council's Local Approvals Policy and WorkCover requirements/guidelines.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

The applicant is to provide drawings and details to Council's Building Surveyor for approval prior to such installation/erection.

18. Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of litter, vegetation debris or other water borne pollutants in accordance with Council's Development Control Plan 1/94 - Soil Erosion and Sedimentation. The enclosed warning sign shall be affixed to the sediment fence/erosion control device at all times.
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.

20. 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.

21. The applicant shall advise Council of the name, address and contract number of the principal certifier, in accordance with Section 81A 4(b) of the Environmental Planning and Assessment Act, 1997.

During Construction

22. All building work must be carried out in accordance with provisions of the Building Code of Australia.
23. All demolition, construction and associated work necessary for the carrying out of the development being restricted to between the hours of 7:00am and 6:00pm on Mondays to Fridays and between 8:00am and 4:00pm on Saturdays.
24. No spoil, excavated or demolition material from the site being deposited on any public road, footpath, public place or Council owned property without the approval of this office.
25. To reduce nuisance to the surrounding properties, all demolished material and excess spoil from the site shall be disposed of to a location and in a manner to the approval of this office (Note: no material shall be burnt or buried 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. The findings of the archaeological site survey shall be implemented, which may include an archaeologist being onsite during excavation.
29. The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
30. All work must be carried out in accordance with the provisions of Hawkesbury's Development Control Plan, Appendix E Civil Works Specification Part 1 Design Specification and Part 2 Construction Specification.
31. 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.

Prior to Issue of Occupation Certificate

32. Occupation of any buildings and the use of the site for the proposed development should not take place until all landscaping is completed, all car parking spaces are constructed and designated and all the conditions of approval have been satisfied.
33. A Fire Safety Certificate is to be submitted to Council.
34. Registration of a plan of survey consolidating the site into a single allotment. Documentary evidence to be submitted prior to occupation of the building.
35. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to 'Your Business' section of Sydney Water's web site at www.sydneywater.com.au then the 'e-developer' icon or telephone 13 20 92.
Following application a 'Notice of Requirements' will detail 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.
36. Remove existing redundant layback and footway crossings and replacement with concrete kerb and gutter and the restoration of the footway area.
37. All fill including existing fill must be compacted to 98% standard compaction and verified by the submission of test results for each lot accompanied by a contoured depth of fill plan. Topsoil is to be stockpiled and respread over the finished surface. Copies of any reports submitted will be made available to the public.
38. Construction of two of Council's standard heavy duty footway and layback vehicular crossing to suit the access to the site with a minimum width of 7m.
39. Design and construction of site drainage shall be carried out in accordance with Council's Hawkesbury Development Control Plan, Appendix E Civil Works Specification Part 1 Design Specification and Part 2 Construction Specification. Full details of works shall be submitted for approval with the building application. On-site detention shall be provided to maintain all stormwater discharges from the 1:1 year storm at predevelopment levels. The Permissible Site Discharge is to be determined from the existing catchment area that falls to the stormwater pit in March Street and Bosworth Street.
40. All necessary works being carried out to ensure that flow from adjoining properties is not impeded. In this regard, attention is to be given to the proposed filling works near the northern and eastern boundaries of the site.
41. A report by the Design Engineer and a works-as-executed (WAE) drawing by either a suitably qualified Engineer or Registered Surveyor of the stormwater detention basin(s) and stormwater drainage system are to be submitted to and approved by Council prior to the release of the Occupation Certificate. The report from the Design Engineer is to state the conformance or otherwise of the as constructed basins in relation to the approved design.

The WAE drawings shall indicate the following as applicable:

- Invert levels of tanks, pits, pipes and orifice plates;
- Surface levels of pits and surrounding ground levels;
- Levels of spillways and surrounding kerb;
- Floor levels of buildings, including garages;
- Top of kerb levels at the front of the lot;
- Dimensions of stormwater basins and extent of inundation;
- Calculation of actual detention storage volume provided.

42. Vehicle egress to the site at Bosworth Street is to be restricted to left turn out movements only by the installation of a suitable kerb and gutter.

Use of the Site

43. Any lighting on the site is to be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.
44. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
45. Any air handling system installed on the premises shall be registered with Council in accordance with Part 6 of the Public Health Act 1991, microbial control.
46. Operating hours shall be limited to 10:30am to 10:30pm, Sunday to Wednesday and 10:30am to 11:00pm Thursday to Saturday.
47. Deliveries by large rigid trucks shall only occur between 7:00am and 10:30am. Small vehicle deliveries may occur between 7:00am and 7:00pm. Servicing of waste bins shall only occur between 7:00am and 10:30am. Note: large rigid trucks are those up to 12m in length.
48. All waste materials to be stored and disposed of at regular intervals.
49. The development shall be conducted in such a manner that noise levels measured at any boundary do not exceed 5BDA behind background noise levels. No signs shall be displayed on footpaths, pedestrian ways or roadways in the vicinity.
50. The development shall be conducted in such a manner so as not to interfere with the amenity of the locality in terms of noise, odour or vibration.

ATTACHMENTS:

AT-1 Locality Map.

AT-2 Site Plan

AT-3 Elevations (Sheet 1 of 2)

AT-4 Elevations (Sheet 2 of 2)

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Att 1: Locality Map

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Att 2: Site Plan

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Att 3: Elevations (1 of 2)

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Att 4: Elevations (2 of 2)

oooO END OF ITEM 54 Oooo

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ITEM: 55 **Demolition of Existing Residence and Construction of Three (3) Townhouses, 31 Bradley Street, North Richmond**

FILE NUMBER: DA1617/02/EVD/ENH26NAX.V05

PREVIOUS ITEM: 44, GPC Section 1 - Environment (29.07.2003)

Applicant: Mr Reno Carusi
Applicants Rep: Mr Reno Carusi
Owner: Mr R Carusi, Mrs J Carusi, Mr R Carusi (Jnr), Mr R Dennis, Mr T Intonarda
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 Sydney Regional Environmental Plan No. 20 (No. 2 - 1997)
Area: 1113sqm
Zone: Residential 2(a)
Advertising: 14 January 2003 - 30 January 2003
Date Received: 23 December 2003

Key Issues: Privacy and Amenity
 Streetscape
 Traffic
 Noise

Action: Approval subject to conditions

Introduction

Council at its Ordinary meeting of 12 August 2003 resolved that consideration of this item be deferred to the next General Purpose Committee to allow the applicant to address Council.

Additional information was also requested concerning the history of the surrounding subdivisions and the number of outstanding applications affected by the multi-unit housing amendment to Hawkesbury Local Environmental Plan and carparking availability in Bradley Road itself.

The main part of Bradley Road was created as a result of 3 (three) subdivisions by Colo Shire Council in 1968, 1971 and 1973. Nos.27, 29 & 29A Bradley Road, north of the subject property, were created by subdivision in 1996 and 27A Bradley Road which was a re-subdivision of No.27 Bradley Road was approved by subdivision in 1998. These 4 (four) lots have areas ranging from 500 (five hundred) square metres to 579 (five hundred and seventy nine) square metres.

The subdivision chapter of the Hawkesbury Development Control Plan requires one on-street car parking space for each lot using the road. Excluding the turning head of the cul-de-sac, there are currently 30 (thirty) on-street spaces available for Bradley Road. Demand for parking in Bradley Road consists of 26 (twenty six) current allotments with sole access to Bradley Road (it should be noted that there are 4 (four) properties with access to 2 (two) streets) and an approved subdivision that would create an additional 2 (two) lots at No.19 Bradley Road, bringing the total demand to 28

(twenty eight) spaces. The conclusion drawn here is that Bradley Road is not over utilised in terms of on-street car parking spaces by the amount of development currently existing or approved in the street. The additional traffic demand of this development would bring the demand up to the capacity of the road.

At the date of this report there were 19 (nineteen) applications that would be affected by Amendment No.130 to Hawkesbury Local Environmental Plan 1989 which would implement the multi-unit housing zone and the restriction on subdivision in North Richmond. Of these 19 (nineteen) applications, 1 (one {this one}) is at the General Purpose Committee, 6 (six) are affected by outstanding issues that prevent them currently being approved, 2 (two) are ready for determination and issue; leaving 10 (ten) in processing. 1 (one) of these applications is for a subdivision and not the construction of multi-unit housing. Of the 19 (nineteen) applications there are 9 (nine) in North Richmond.

Confirmation has not yet been received from Planning NSW to allow the Amendment to be placed on exhibition, however, it is anticipated that this may be received shortly. It may be possible that the exhibition will commence prior to the Ordinary meeting of Council.

In determining a development application, it is the planning instruments in force at the date of determination that are relevant, not instruments in force at the date of receiving the application. Once the plan goes on exhibition, it is a matter for consideration in the determination of an application and the Courts have indicated that, if a plan has been adopted by Council after exhibition, then it is considered to be imminent and could be the sole reason for refusal of an application.

The report presented to the General Purpose Committee meeting of 29 July 2003 concerning No. 31 Bradley is reproduced in full below:

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

The applicant is seeking consent for the demolition of a dwelling and associated ancillary structures and the construction of 3 (three) townhouses at 31 Bradley Road, North Richmond

The Proposal

The development involves the demolition of a single storey red brick veneer and concrete tile roof residence and associated carports and garden sheds for the purposes of erecting 3 (three) townhouses. Each townhouse, which has a floor area of less than 180sqm (one hundred and eighty), contains 3 (three) bedrooms and is to be constructed of red/brown face bricks and grey concrete tile roof. The driveway to serve the townhouses is located on the southern side of the site with courtyards located to the north.

Description of the Site

The property is located on the eastern side of Bradley Road, approximately 40 (forty) metres from

the head of the cul-de-sac in Bradley Road, and is irregular in shape with an area of 1113sqm (one thousand, one hundred and thirteen) and has an east-west orientation. The site is relatively flat and slopes gently towards the east.

Surrounding development primarily consists of single storey dwellings and villa units with scattered 2 (two) storey residences beyond. Immediately to the east and south of the site is an undeveloped Council owned public reserve which includes the Scout Hall land in Campbell Street.

Statutory Situation

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject land is zoned Residential 2(a). The proposed development is defined as demolition and residential flat building class B, both these landuses being permissible with consent in the Residential 2(a) zone.

Clause 9A of HLEP 1989 provides the objectives of the Residential 2(a) zone which are:

1. To provide for housing and associated facilities in locations of high amenity and accessibility
2. To enable development for purposes other than residential only if it is compatible with the character of the living area and has a domestic scale and character: and
3. To ensure that development does not create unreasonable demands, in the present or future, for the provision or extension of public amenities or services.

It is considered that the proposed development is consistent with these objectives. Other relevant clauses of HLEP 1989 are Clause 16 Erection of residential flat buildings Class B and C, Clause 18 Provision of water, sewerage etc services, and Clause 21 Danger of bushfire.

Draft Amendment No. 130 to HLEP 1989

Council at its meeting of 12 December 2000 resolved to amend HLEP 1989, to incorporate a multi unit housing zone within 500 (five hundred) metres of the North Richmond commercial centre. The proposed development is located outside the proposed multi unit housing zone.

As the draft local environmental plan has not been publicly exhibited, the requirements of the plan are not a matter for statutory consideration under section 79C of the Act.

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

The subject site falls within the Middle Nepean Hawkesbury River Catchment area defined by SREP 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 landuses are considered in a regional context. It 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.

The proposal is consistent with the aims of the plan as well as the general and specific planning policies, recommended strategies and development controls.

Hawkesbury Development Control Plan

Relevant chapters of the Hawkesbury DCP include General Information, Notification, Landscaping, Soil Erosion and Sedimentation Control, Energy Efficiency, Car Parking and Access, and Residential Development.

General Information and Notification Chapter

The applicant has provided sufficient information for Council to assess the application, which was publicly exhibited for the period 14 January 2003 to 30 January 2003 with six (6) submissions being received. The nature of these submissions will be discussed below.

Landscaping Chapter and Soil Erosion and Sedimentation Control Chapter

It is considered that the landscaping plan and the soil erosion and sedimentation control plan demonstrate satisfactory compliance with the provisions of these chapters.

Energy Efficiency Chapter

The applicant has submitted a NatHERS assessment and Energy Performance Statement demonstrating satisfactory compliance with Sections 6.3 and 6.7. The orientation of the proposed buildings and shadow diagrams submitted with the application demonstrate adequate compliance with the solar access provisions of Section 6.4.

The landscaping plan demonstrates satisfactory compliance with Section 6.6.

Car Parking Chapter

It is considered that the proposed car parking arrangements achieve satisfactory compliance with the aims, objectives, access considerations and acceptable design solutions of this chapter. Section 2.5.1 requires 2 (two) covered parking spaces per dwelling and 1 (one) visitor parking space for the proposed development and these spaces have been provided.

Residential Development Chapter

Relevant rules of this Chapter are as follows.

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Element	Rules	Provides	Complies
Height	New buildings are to be constructed within the <u>Building Height Plane</u> for the relevant residential use. The <u>Building Height Plane</u> is to be adjusted for sloping sites to follow the natural ground level.	All dwellings are located within the building height plane	Yes
Setbacks	For sites fronting a local road buildings are to be set 7.5m back from the front boundary. In areas where there is prior development the established pattern is to be regarded as the standard setback.	The minimum setback is 7.5m	Yes
Landscaped Areas	All forms of residential development are to contain pervious soft <u>landscaped areas</u> to a total of 30% of the total site area. This may be calculated by adding together soft <u>landscaped areas</u> of private and <u>common open space</u> . Development proposals, where required, are to indicate the proportion of the total site area that is: - total "soft" <u>landscaped area</u>; - total ground level <u>private open space</u>; and - total common open space.	<u>Site size</u> = 1113sqm. <u>Required soft pervious landscape area</u> = 334sqm. (30%) <u>Provided pervious landscaped area</u> = Approx 500sqm. (45%)	Yes
Private Open Space	Single dwelling houses and multi unit housing are to provide at least one area of <u>private open space</u> for each dwelling.	One private open space area has been provided for each dwelling.	Yes
	The total of <u>private open space</u> at ground level must be a minimum of 20% of the site area, regardless of permeability of the surface. This space must:	<u>Required total private open space area</u> = 223sqm. (20%) <u>Provided total private open space area</u> = approx 276sqm(25%)	Yes
	be capable of containing a rectangle 5 metres x 6 metres that has a slope less than 1:10;	5m x 6m rectangle achieved within private open space areas	Yes
	not be comprised of any area with a dimension less than 4 metres; and	Calculated private open space area has a minimum dimension of is greater than 4m	Yes
	be exclusive of clothes drying areas, driveways, car parking and other utility areas.	Calculated private open space area is exclusive of driveways, clothes drying, car parking and utility areas.	Yes

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Element	Rules	Provides	Complies
Access and Parking	Driveways next to any side or rear boundary must have a landscape strip of at least 1 metre to separate them.	Driveway is located 1 metre from southern side boundary. This area is to be landscaped.	Yes
	Shared driveways, access lanes and car parks must be setback a minimum of 1.5 metres from windows to main habitable rooms of dwellings. This standard does not apply if the floor level of the dwelling is at least 1 metre above the driveway.	The shared driveway and visitor car parking space is at least 1.5m from windows of lounge room.	Yes
	All driveways must have a minimum width of 3 metres and must be sealed to prevent surface erosion.	The driveways have a minimum width of 3m and are to be sealed	Yes
	For development that contains more than two units, driveways are to have a minimum driveway width of 6m from the layback/kerb line to 6m inside the property.	First 10m of driveway is at least 6m wide	Yes
	Garages and carports must not visually dominate the street facade, should occupy less than 50% of the building facade and must be compatible with the building design.	Garages will not be readily seen from street frontage, occupy less than 50% of total front façade, and are integrated into the building design	Yes
	Uncovered car parking spaces and turning areas can be located within the front setback to the required building line provided that this area is dominated by landscaping and/or addresses established streetscape patterns.	One (1) uncovered visitor space is proposed in the front setback. This space is adequately screened by landscaping	Yes
	Where parking spaces are located at 90° to the driveway alignment the minimum driveway width adjacent to the space is to be 6.7m, increase is necessary to allow adequate manoeuvring on site.	Minimum 6.7m has been provided.	Yes
	On site manoeuvring areas shall be provided to allow entry and exit to the site in a forward direction.	Vehicles can enter and exit the site in a forward direction.	Yes
	On site manoeuvring areas shall be provided to allow entry and exit to and from all car spaces including garage, carports, uncovered spaces and visitor spaces by a single turning movement.	This can be achieved	Yes
	Where more than 3 units are served by an access or the access is greater than 30m long, a turning area shall be provided at or near the end of the access.	A turning bay has been provided between Units 2 and 3.	Yes

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Element	Rules	Provides	Complies
	On site manoeuvring shall be based on the Ausroads Standard 5.0m design vehicle. Templates for this standard are provided in the appendices. When using the templates a minimum of 150mm shall be provided between any fixed object and the extremities of the swept paths.	On-site manoeuvring is satisfactory.	Yes
	All on site car spaces shall comply with the minimum dimensions set out in Part C Chapter 2 (Car Parking and Access). Where a space adjoins a wall, fence or other fixed structures, the width shall be increased as follows to allow adequate door opening: - On one side only to 3.2m. - On both sides to 3.8m.	Minimum dimensions of 5.5m long by 6.4m wide per double have been provided.	Yes
Visual Amenity	Where there is potential for loss of privacy the proposal should incorporate some of the techniques illustrated in the DCP.	Adequate privacy maintained within the site and external to the site by way of location of landscaping, and placement and orientation of the building and first floor window.	Yes
	Where there is no alternative to a window, it should be screened.	Due to above, screening of windows is not considered necessary.	Yes
Acoustic Privacy	Acoustic privacy is to be considered at the design stage.	Adequate acoustic privacy between dwellings and external to the site has been achieved	Yes
	Site layouts should ensure parking areas, streets and shared driveways have a line of sight separation of at least 3 metres from bedroom windows	Bedrooms are to be located on the first floor and are separated by more than 3m from parking areas streets and shared driveways	Yes
	A distance of at least 3 metres should separate openings of adjacent dwellings.	3m separation achieved	Yes
External Noise and Vibration	Proposals must comply with the current Environment Protection Authority criteria and the current relevant Australian Standards for noise and vibration and quality assurance and incorporate appropriate mitigation measures.	Site is not considered to be adversely affected by noise or vibration	Yes

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Element	Rules	Provides	Complies
Safety and Security	Each dwelling is to be provided with direct and convenient pedestrian access to a private or public road.	Suitable access has been provided.	Yes
	Barriers to prevent movement between internal roof spaces of adjoining dwellings are required.	Barriers are to be provided in accordance with the provisions of the BCA.	Yes
	Elements to be incorporated in site and building design and include: doorway/entry safety and surveillance to and from the footpath	Adequate surveillance of Bradley Road is provided by front of Unit 1 facing the road.	Yes
	illumination of public spaces including all pedestrian paths, shared areas, parking areas and building entries to the relevant Australian Standard.	Proposal does not require additional illumination.	Yes
	visibility to the street from the front of the development.	See above comments.	Yes
	restricted access to the rear of the site.	Access to rear of lot is appropriately restricted by way of fencing of private open space area for Unit 3.	Yes
Cables	The design, location and construction of utility services must satisfactorily meet the requirements of both the relevant servicing authority and Council.	This can be achieved.	Yes
Recycling, Garbage and Mail	Collection areas must be integrated into the overall site and building design, such as the example shown.	Recycling, garbage and mail area can be readily integrated into the proposed development.	Yes

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Element	Rules	Provides	Complies
Fencing and Retaining Walls	Solid front fences may be 1.8m high and articulated if: - the main private open space is in the front of the building facade; - the site is not located within an established heritage character; and - the length is limited to 75% of the frontage where private open space fronts the street and some surveillance is maintained from the front dwelling; and - fences do not exceed 10m in length without some articulation or detailing to provide visual interest.	This has been achieved for fencing of courtyard to Unit 1.	Yes
	The integration of trees and natural ground vegetation with the fence line in desirable	Landscaping has been provided in front of the courtyard fence for Unit 1.	Yes
	The setback of the fence will be used for landscaping.	See above comments	Yes
	Solid fences are to be 1 metre from the front boundary.	Solid courtyard fence for Unit 1 is approx 6.7m from front boundary	Yes

Development Control Plan - Contaminated Land Policy

The property appears to have been used for normal domestic activities for many years. A site inspection of the property revealed no apparent evidence of site contamination within the vicinity of the development site. It is considered that the potential for site contamination is very low and that there is no need for a detailed contamination survey to be carried out.

Community Consultation

The application was publicly exhibited from 14 January 2003 to 30 January 2003 with 6 (six) submissions being received. Relevant issues raised by the respondents are as follows:

- compatibility of the proposed two storey development given surrounding development and streetscape;
- increase in noise;
- loss of privacy and amenity;
- increase in shadowing of neighbouring property;
- increase in the number of resident and visitor vehicles and loss of on street parking;
- increase in traffic congestion on surrounding road network/reduction in traffic and pedestrian safety;
- loss of mature trees from the site;

- medium density development is not suitable for the North Richmond area or a cul-de-sac; and
- development not in the public interest;

The matters raised are discussed in the following planning assessment:

Planning Assessment

Impact on the Environment

Context and Setting (issue raised by respondent)

Surrounding development primarily consists of single storey dwellings and villa units with scattered two storey dwellings beyond. Immediately to the north and north-east are a collection of single residences and villas with a similar density to that proposed by the development. Whilst the proposed dwellings are two-storey in height, it is considered that the bulk, scale, mass and density of the proposed development are consistent with expectations for residential development within the City and is compatible with the surrounding built form.

The respondents mainly concerned with increased shadowing and loss of privacy are located to the north of the development site. The shadow diagrams submitted with the application clearly show that no shadow created by the development will be cast over the properties to the north for the period 9.00am to 3.00pm on 21 June.

Rooms which have the potential to impact upon the privacy of neighbours to the north are Bedrooms 2 (two) and 3 (three) of Unit 2 (two) and Bedroom 2 (two) of Unit 3 (three). Given the nature of these rooms, it is expected that they will be predominantly occupied during night-time hours with curtains/blinds obscuring views and that they would be infrequently occupied during daylight hours.

Windows of Bedrooms 2 (two) and 3 (three) of Unit 2 (two) predominantly look out onto the roofs of the residences at 29 and 29A Bradley Street. The setback of these residences from the common boundary in the vicinity of Bedrooms 2 (two) and 3 (three) of Unit 2 (two) is generally less than approximately 2.2 (two point two) metre and does not continue their main portion of private open space. The rooms of these residences closest to the boundary consist of bedrooms, ensuites and kitchen.

The window of Bedroom 2 (two) of Unit 3 (three) provides for predominantly easterly views onto the Council public reserve and views from this window to the rear yard of 29A Bradley will be substantially obscured by the angle of the window relative to the yard.

The residents of 45 Elizabeth Street also raised concern regarding loss of privacy as a result of overlooking. As their property is approximately 30 (thirty) metres from the development site and, depending on the view line, separated by up to 2 (two) single storey dwellings it is considered the development will not significantly impact upon the privacy presently enjoyed by the residents.

The landscape plan seeks to maintain existing vegetation where reasonably possible as well as compensating for vegetation to be removed by the provision of addition landscaping on the site and

within the nature strip. Given this supplementary landscaping, the setback of the development and its acceptable bulk, scale and mass, it is considered that the proposed development will not significantly impact on the streetscape of the area.

In summary, it is considered that the proposed development is consistent and compatible with the surrounding development pattern and that surrounding properties will not be significantly or unreasonably impacted upon in terms of sunlight access, overshadowing, loss of visual and acoustic privacy, loss of views and vistas.

Access, Transport and Traffic (issue raised by respondent)

Resident and visitor off-street parking has been provided in compliance with Hawkesbury's Development Control Plan and vehicles can readily enter and exit the site in a forward direction. Access to the site is considered satisfactory in relation to minimising interference with pedestrian or vehicular movements on Bradley Road and minimising queuing.

It is considered that the traffic generated by the proposal will not significantly increase traffic volumes in Bradley Road or on the surrounding road networks. Some respondents noted the existing limitations of the intersection of Grose Vale Road and Bells Line of Road, North Richmond. It is considered that this matter is not of sufficient weight to refuse the application given Council's ongoing efforts to have the capacity of this intersection increased.

Public Domain

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

Utilities

Water, sewerage, electricity and telephone services can be provided by relevant authorities/carriers. A domestic garbage and recycling collection service can be provided to the new residences by Council and its agents

The stormwater design provides for on-site stormwater detention discharging into a level spreader along the rear boundary. Stormwater from the spreader will then dissipate over the adjacent public reserve as is the present situation for overland stormwater flow. The location of the spreader will require the landscaping proposed along the eastern boundary of the site to be relocated closer to the Unit 3 (three).

Soils and Air and Microclimate

The soil characteristics and qualities of the site are suitable for the proposed development and the existing and likely future air quality and microclimate conditions of the locality are suitable for the proposed development.

Energy, Noise and Vibration, Construction and Waste

The design of the development achieves satisfactory performance in terms of energy efficiency and the development will not create offensive noise pollution or vibration. Construction is not expected to unreasonably impact upon surrounding neighbours and waste management during the construction phase of the development can be controlled by conditions of consent.

Natural and Technological Hazards

The property is above the 1:100 (one hundred) flood event level for the area and is not subject to subsidence or slip. As the property is within a moderate bush fire risk area and not within a bushfire prone area, it is considered that the risk and hazard of bush fire does not make the property unsuitable for the proposed development.

Safety, Security and Crime prevention

The development provides appropriate opportunity for natural surveillance of Bradley Road, the adjacent public reserve and within the site.

Social and Economic Impact in the Locality

No significant adverse social impact is expected by the development in terms of the overall social cohesion or sense of community in the North Richmond area. It is considered the construction of the proposed townhouses will create additional employment opportunities and the future residents of the townhouse will buy local goods and use local services thus providing a positive economic impact.

Site Design and Internal Design

The proposed design and location of the development demonstrate satisfactory compliance with the objectives of the zone and other relevant provisions of HLEP 1989, as well as the aims, objectives and the design solutions of the Hawkesbury DCP.

Cumulative Impacts

It is considered that the proposed development is compatible with the surrounding landuses and no significant negative cumulative impact is foreseen.

Suitability of the Site for the Development (issue raised by respondent)

The constraints of surrounding landuses do not make this development prohibitive. The proposed development will not lead to unmanageable transport demands and access to the site is satisfactory for the intended use. Adequate recreational opportunities, public spaces, services and utilities are available to the site or are to be provided on site.

There are no known hazardous landuses/activities nearby and ambient noise levels are suitable for the development. The site is not critical to the water cycle of the catchment and development will

not impact upon critical habitats and threatened species, populations, ecological communities and habitats. It is therefore concluded that the site is suitable for the proposed development.

Public Submissions and Public Interest (*issue raised by respondent*)

The concerns of the respondents have been identified and assessed in this report, and it is considered that the proposed development is not antipathetic to the general public interest of providing well designed, suitably located, and affordable housing.

Conclusion

The proposed development is consistent with the requirements of Hawkesbury Local Environmental Plan 1989 and Hawkesbury Development Control Plan and it is considered that the issues raised by the respondents do not warrant refusal of the proposed development.

RECOMMENDATION:

That the application be approved subject to the following conditions:

General

1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans submitted with Development Application No.DA1617/02 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 a Construction Certificate.
4. No excavation or site works shall be commenced prior to the issue of the construction certificate.
5. An occupation certificate is to be obtained on completion of all works. The occupation certificate will not be issued if any conditions of this consent are outstanding.
6. The applicant is advised to consult with:
 - (a) Sydney Water Corporation Limited;
 - (b) Integral Energy;

- (c) Natural Gas Company; and
- (d) A local telecommunications carrier,

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

7. All design and construction works are to be carried out strictly in accordance with the requirements of Hawkesbury Development Control Plan - Appendix E.
8. Prior to demolition of the residence current photographs of all elevation of the dwelling are to be submitted to Council.
9. All demolition works are to be carried out in accordance with the provisions of WorkCover and AS2601.
10. All demolition, vegetation and excavated material removed from the site is to be removed by a contractor licensed by the Environmental Protection Authority to deal with such wastes. These wastes are to be disposed of at a depot authorised to receive such wastes and copies of delivery dockets are to be submitted to Council upon completion of works.
11. To ensure the external appearance of the development is not intrusive or offensive, and does not degrade the visual quality of the surrounding area, the driveway is to be finished in dark earth tone colours.
12. The applicants shall make themselves aware of any use restriction relevant to this property and shall comply with the requirements of the Section 88b instrument relevant to this subdivision and property.
13. All part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 are to be submitted to Council within seven (7) days of the date of issue. The registration fee is \$16.00 per 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.

14. A monetary contribution is to be paid to Council, pursuant to Section 94 of the Environmental Planning and Assessment Act 1979, towards the provision of the following public facilities in the locality:
 - (a) Open Space and Recreation (\$2613.00)
 - (b) Community Facilities (\$3,695.00)

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

15. Contributions are to be paid prior to issue of the construction certificate.

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

16. Details demonstrating compliance with the Building Code of Australia (Housing Provisions) shall be provided to the Principle Certifying Authority for separate approval.
17. Detailed engineering plans and specifications relating to the work shall be submitted.
18. Separate details of the proposed roofwater and surface water drainage system shall be lodged in duplicate for approval.
19. Submission of proof of the payment of the Building Industry Long Service Levy where the value of civil works exceeds \$25,000.
20. The submission to Council for approval of an amended landscaping plan making provision for the level spreader along the eastern boundary of the site
21. The submission to Council for approval of the final design of the proposed drainage and on-site stormwater detention system in accordance with the drainage concept plan number 02104D01 Revision B prepared by G J Ryan and Associates.
22. Construction of civil works including road and access works are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director Asset Services and Recreation or an accredited certifier.
23. Payment of a design checking \$178.80 and inspection fee of \$362.60 when submitting Engineering plans for approval. This amount is valid until 30 June 2004. Fees required if an accredited certifier is used will be provided upon request.

Prior to Commencement of Works

24. Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be commenced unless the principal certifying authority for the development to which the work relates:
- (a) in the case of work to be done by a licensee under that Act:
- (i) has been informed in writing of the licensee's name and contractor licence number, and

- (ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act, or
- (b) in the case of work to be done by any other person:
 - (i) has been informed in writing of the person's name and owner-builder permit number, or
 - (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of that Act and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this condition, sufficient evidence that the person has complied with the requirements of that Part.

- 25. Sanitary accommodation shall be provided for workmen throughout the course of the building operations in accordance with the Local Government Act 1993 and the Environment Planning and Assessment Act.
- 26. 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.
- 27. Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of litter, vegetation debris or other water borne pollutants in accordance with Council's Development Control Plan 1/94 - Soil Erosion and Sedimentation. The enclosed warning sign shall be affixed to the sediment fence/erosion control device at all times.
- 28. 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.

29. The applicant shall advise Council of the name, address and contact number of the principal certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1997.
30. 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.
31. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the principal certifying authority prior to commencement of works.
32. The approved plans must be submitted to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the approved plans will be appropriately stamped.

Sydney Water has a number of business offices, including Blacktown, Katoomba, Parramatta and Penrith.

33. Separate application shall be made to Council's Asset Services & Recreation Department for the construction and location of the proposed crossover. (Refer to enclosed agreement form for driveways).

During Construction

34. All building work must be carried out in accordance with provisions of the Building Code of Australia.
35. All part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 are to be submitted to Council within seven (7) days of the date of issue. The registration fee is \$16.00 per certificate.
36. All demolition, construction and associated work necessary for the carrying out of the development is restricted to between the hours of 7.00am and 6.00pm on Mondays to Fridays and between 8.00am and 4.00pm on Saturdays.
37. To reduce nuisance to the surrounding properties, all demolished material and excess spoil from the site shall be disposed of to a location and in a manner to the approval of this office (Note: no material shall be burnt or buried on the site).
38. 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.
39. 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.

- 40. The buildings shall be set out by a Registered Surveyor and the Survey Certificate of the building shall be lodged with the principal certifying authority upon completion of the footings and prior to the external wall construction proceeding above floor level.
- 41. Construction of Council's standard heavy duty footway and layback vehicular crossing to suit the access to the site with a minimum width of 6m.
- 42. Removal of the existing redundant layback crossing and replacement with concrete kerb and gutter and the restoration of the footway area.
- 43. The construction of standard width concrete footway paving over the frontage of the development site.

Prior to Issue of Occupation Certificate

- 44. In order to ensure that the development complies with this consent, the approved use shall not commence until all conditions of this Development Consent have been complied with.
- 45. Landscaping shall be completed in accordance with the approved landscaping plan and shall be maintained in perpetuity by the existing or future owners and occupiers of the property. In this respect a occupational certificate will not be granted on the application until the landscaping is complete.
- 46. The submission of a Certificate from Telstra Australia that satisfactory arrangements have been made for the provision of cables for telephones to the development.
- 47. 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 principal certifying authority prior to release of the occupation of development.

- 48. The following documentary evidence is to be obtained prior to the issue of any Construction Certificate, whether by Council or an accredited certifier:
 - (a) A written clearance from Integral Energy, stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

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.

49. Submission to Council for approval of a works as executed plan of the on site stormwater detention system

Use of the Site

50. All landscaping shall be permanently maintained in a good condition and in accordance with the intent of the landscaping plan. This includes landscaping of the private courtyard areas.
51. The visitor parking space is to be signposted and made freely available to visitors

ATTACHMENTS:

- AT-1** Locality Plan
AT-2 Site Plan
AT-3 Elevations
AT-4 Floor Plans
AT-5 Landscaping Plan

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AT-1 - Locality Plan

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AT-2 Site Plan

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AT-5 Landscaping Plan

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ITEM: 56 **Zone Boundary Investigation and 112 Horans Lane, Grose Vale****FILE NUMBER:** 19424, 79347/EVD/ENH26NBX.V08

REPORT:**Background:**

In August 2002 Council exhibited Draft LEP 8/98 (Amendment 108) and received approximately 40 (forty) submissions. A submission was received from the owners of 112 Horan Lane, Grose Vale requesting that the zoning of the land be reviewed and included under Amendment 108.

The rezoning requests from Draft Amendment 108 were reported to Council on the 28 January 2003 and Council at its meeting of 11 March 2003 resolved not to support the request to rezone the subject land.

Subsequent to this resolution a motion was adopted at Council's Ordinary Meeting on the 13 May 2003 regarding the subject land at No.112 Horans Lane, Grose Vale as follows:

"That a report be prepared for the General Purpose Committee meeting in August regarding the property at 112 Horans Lane, Kurrajong (DP 1015916) as to whether or not there exists a zone boundary anomaly, created as a result of the 1989 rezoning."

The purpose of this report to advise Council of the outcome of this investigation.

Consultants report

Consultant, Berzins Environmental Planning, was engaged to prepare a report to ascertain whether or not an anomaly exists in the zone boundary created as a result of the 1989 rezoning. To undertake this work, it was deemed necessary to review the history of zoning controls, the Blue Mountains Eastern Escarpment Study and other properties within this locality.

The report was completed on 28 July 2003 and the following information was contained within the report provided by Berzins Environmental Planning.

History of Planning Controls of 112 Horans Lane

In 1975, the subject land, No. 112 Horans Lane, was zoned Non-Urban 1(b2) under the provisions of Interim Development Order No.3, Shire of Colo. The minimum lot size for subdivision in this zone land was 10 (ten) hectares. The subject land was also designated as being in an Escarpment Protection Area.

Clause 45 of Interim Development Order No.3 contained provisions that protected vegetation and restricted both the site coverage and height of buildings on land designated as Escarpment Protection Area. At the time the subject land (Lot 101 DP 568797) had an area of just over 20 (twenty) hectares and therefore the owner could seek approval from Council for a 2 (two) lot subdivision.

During the following 10 (ten) years planning controls were reviewed and a new Local Environmental Plan (LEP) was prepared that had regard to the then new Environmental Planning & Assessment Act 1979. On the 31 January 1984 Hawkesbury LEP 1984 (HLEP) was gazetted. Under HLEP 1984 the subject land was zoned Rural 1(b1) and the minimum lot size requirement remained at 10 (ten) hectares. Again, the LEP identified the subject land as being within an Escarpment Preservation Area. Clause 33 of HLEP was very similar to the provisions of Clause 45 in IDO No.3, Shire of Colo. The subject land still had an area of just over 20 (twenty) hectares and the owner could apply for a 2 (two) lot subdivision that would have been considered on its merits.

In 1989, Hawkesbury LEP 1989 was gazetted. This LEP resulted in the minimum subdivision requirement for a large part of the Grose Vale area changing from 10 (ten) hectares to 4 (four) hectares. However, the subject land was not included in the Rural 1(c1) zone (four hectares) but was rather included in the Environmental Protection (Scenic) 7(d) zone. The minimum lot size for the Environmental Protection (Scenic) 7(d) zone is 40 (forty) hectares. There is no Escarpment Preservation Area Clause in HELP 1989, however, the issue of preserving the escarpment is included as a zone objective within the Environmental Protection (Scenic) 7(d) zone. The subject land could not be subdivided into 2 (two) lots after 1989 because the minimum lot size increased from 10 (ten) hectares to 40 (forty) hectares.

The eastern boundary of the subject land coincides with the zone boundary between the Rural 1(c1) zone and the Environmental Protection (Scenic) 7(d) zone.

Council, in adopting LEP 1989 and setting the zone boundary in the Grose Vale / Kurrajong area, was influenced by the Blue Mountains Eastern Escarpment Study, published by the Department of Planning also in 1989.

Blue Mountains Eastern Escarpment Study

The Study was largely conducted in response to an increasing pressure for development along the eastern edge of the Blue Mountains in the mid 1980's. The Study area ran from south of Penrith through to north of Kurrajong Heights.

The objectives of the Study were to:

- "(a) investigate and identify areas of visual, landscape and heritage significance;*
- (b) assess the adequacy of current planning controls in the conservation of areas and items identified in (a) above; and*
- (c) develop and set out appropriate planning controls and land management techniques which facilitate the conservation of those significant areas and items."*

The boundaries of the study area were defined in close consultation with Penrith, Blue Mountains, and Hawkesbury Councils. In the case of the latter two Councils, the study area was defined largely on the basis of the location of the Escarpment Preservation Areas in the planning instruments applying at the time. In Hawkesbury's case this would have been HLEP 1984. It should be noted, however, that the process of setting the boundary of the study area, especially in the Grose Vale/Kurrajong area would have been reiterative because Council officers were at the same time examining the best location for the zone boundary between the Rural 1(c1) zone and the Environmental Protection (Scenic) 7(d) zone.

The Blue Mountains Eastern Escarpment Study addressed the following issues:

- Geology, soils and land capability;
- Vegetation and bushfire hazard;
- Landscape and visual assessment;
- Environmental heritage; and
- Planning controls and policies.

One of the findings of the study was that the Eastern Escarpment contains, at the broadest level, three elements which define the escarpment's landscape. These elements are the footslopes, the escarpment wall/slopes and the gorges and water courses. In the Kurrajong area, the footslopes were found to have limited visual significance, however, they were found to be an integral or important part of the study area's visual experience and it was recommended in the study that the footslopes be upgraded through vegetation and woodlot planting. The subject land falls within the footslopes category.

An outcome of the study was that it identified a number of precincts within the study area for more detailed policy purposes. The subject land lies within the Little Wheeney Creek policy precinct. The principal objective for this precinct was to improve landscape quality. The recommended actions for this precinct in the Study were as follows:

- Revegetation along local road reservations and property boundaries; and
- Retain existing zoning controls.

In relation to the subject land, the study area boundary closely matches the western boundary of the Rural 1(c1) zone. The study area boundary and the zone boundary under the HLEP 1989 are identical over the subject land (No. 112 Horans Lane, Grose Vale).

Hawkesbury Local Environmental Plan 1989

Research into Council's files reveals that the HLEP 1989 was exhibited as draft LEP 1987. The boundary between the Rural 1(c1) zone and the Environmental Protection (Scenic) 7(d) zone in the Grose Vale / Kurrajong area did not change from Draft LEP 1987 to HLEP 1989.

At the time of Draft HLEP 1987 going on exhibition the Department of Planning raised concerns about the potential increased lot yield in the Grose Vale area and the irregular shape of the proposed Rural 1(c1) zone.

In responding to the Department's concerns, Council in its letter dated 12 August 1987 stated inter alia that:

"Secondly, the irregular zoning boundary alignment around Kurrajong is due to the concerns of the Metropolitan Water, Sewerage and Drainage Board regarding the adequacy of the existing supply and the cost of augmentation. The western boundary is regarded as the best definition of the escarpment area, notwithstanding that some of the land is defined as escarpment in Hawkesbury Local Environmental Plan, 1984."

In other words, Council officers had undertaken an assessment at the time as to what constituted the escarpment and in fact had lifted Escarpment Protection provisions from a considerable part of the Grose Vale area. The zone boundary between the Rural 1(c1) zone and the Environmental Protection (Scenic) 7(d) zone in the Grose Vale / Kurrajong was viewed at the time to be the best representation of the lands that needed protection due to their status as being much more representative of "escarpment lands".

Conclusions of the report

The report concludes that the setting of the zone boundary in the locality of Horans Lane was done with due diligence and represented the best location of defining escarpment lands at the time. It is emphasised that the setting of the zone boundary was undertaken using local knowledge as well as drawing on a regional study, that is, the Blue Mountains Eastern Escarpment Study.

It is also noted that even though the subject land is barely visible from any significant viewpoint it still represents an essential element of what constitutes the escarpment. That is, the subject land falls within the footslopes component or element of the escarpment. It is important to repeat that the escarpment at the broadest level, consists of 3 (three) elements which define the escarpment's landscape. These elements are the footslopes, the escarpment wall/slopes and the gorges and water courses. The footslopes are necessary to protect and interpret in a visual sense the steeper, mostly forested lands of the escarpment proper. If the footslopes were more intensely developed then there is the potential for the escarpment's significance to be devalued. This issue is recognised in the Blue Mountains Eastern Escarpment study where recommendations are made to improve the vegetation cover of the footslopes in the precinct where the subject land is located.

In the Kurrajong area, the footslopes were found to have limited visual significance, however, they were found to be an integral or important part of the study area's visual experience and it was recommended in the study that the footslopes be upgraded through vegetation and woodlot planting. The subject land falls within the footslopes category.

Given the above discussion, it is the consultants opinion that setting of the zone boundary in the vicinity of the subject land at No.112 Horans Lane, Grose Vale was undertaken with due diligence and reflected a reasonable interpretation of what constituted escarpment lands at the time. The corollary of this statement is that there is no zone boundary anomaly created as a result of the 1989 rezoning. It should be remembered that the "escarpment" is much more nebulous or harder to define than a fence or a property and therefore is open to interpretation and review.

Options for 112 Horans Lane

There are several options as to how to proceed with this matter and these are discussed below.

Preparation of a Local Environmental Study

The consultants report outlines that a much more localised study into what lands constitute the escarpment and footslopes in the Kurrajong / Grose Vale area may lead to a slight modification of the current zone boundary.

This study would need to be provided in the form of a Local Environmental Study before consideration could be given to a review of the zone boundary in the Grose Vale / Kurrajong area. The consultant recommends that if the rezoning option were to be advanced by Council then it should be undertaken in a holistic manner and the entire western boundary of the Rural 1(c1) zone in the Grose Vale / Kurrajong area re-examined.

Such a study would not only need to examine the definition of what constitutes the escarpment in this locality but would also need to examine the suitability of land in the locality for increased subdivision potential. Other issues apart from visual issues would need to be addressed and these include the following:

- Significant vegetation and habitat corridors;
- Bushfire;
- On-site waste disposal; and
- Traffic implications.

On a map to be displayed in the Council Chambers, the extent of the “Little Wheeny Creek” landscape unit is shown over the current zone map. This shows that north of the Bells Line of Road the unit has been included in the 1(c) zone whilst south of the Bells Line of Road it has been included in the 7(d) zone, except for a section along the western side of Cabbage Tree Road south of Grose Lane. If the criteria for rezoning is based on elevation, slope, orientation or visibility from major roads then there are other lands in the locality that have many of the characteristics of this property. A computer generated mould of the slope and aspect of the lands in the locality demonstrates this. This map is also displayed.

Should Council proceed in this manner, a resolution to prepare a draft local environment plan and local environmental study would be required and the study would need to look at the whole of the landscape unit. Appropriate funds would also need to be allocated for this work.

Amend zone boundary at 112 Horans Lane

Council may resolve to amend the zone boundary at 112 Horans Lane to allow the subdivision of this property. To date, no work has been undertaken by the owners or the consultant as to what may be an appropriate lot yield for the subject site. The subject land currently has an area of approximately 34 (thirty four) hectares. A Local Environmental Study would be required for this.

This option is not recommended due to the precedent that would be set for similar properties in this locality. As indicated above, the zone boundary should be viewed in a holistic manner and the entire western boundary of the Rural 1(c1) zone in the Grose Vale / Kurrajong area re-examined.

Amend the LEP to allow exclusion of 112 Horans Lane

Council could consider amending the LEP to maintain the current zone but to allow subdivision to take place. The owner contends if the zone boundary was to extend along the ridge, which Horans Lane is on, then approximately 20 (twenty) hectares of this land would have been included in the 1(c) zone resulting in a 5 (five) lot subdivision. Conversely, if the previous subdivision potential, that is, prior to LEP 1989, then the property could have been subdivided into 2 (two) lots.

Conclusion

The request by the owners of 112 Horans Lane to review the zone boundary is not dissimilar to rezoning requests to allow further subdivision of the rural land that Council has considered over the past several years. Council has consistently not supported rezoning requests seeking subdivision potential as this is consistent with strategies such as Draft Amendment 108.

The critical question is whether or not there exists a zone boundary anomaly created as a result of the 1989 zoning. The findings of the consultant's report indicate that the boundary is a reasonable approximation of the escarpment land.

Given this information, it is considered that no further work be undertaken in relation to 112 Horans Lane and the zone boundary remain in its current location.

RECOMMENDATION:

That:

1. The information be received
2. The zone boundary remain in its current location, including 112 Horans Lane, Grose Vale.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 56 Oooo

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Item: **57****ITEM: 57 Status of Planning Projects and Draft Local Environmental Plans****FILE NUMBER:** 79347/EVD/ENH26NCX.V06**PREVIOUS ITEM:** 30, GPC Section 1 - Environment (29.04.2003)**REPORT:**

The following list provides an update on the status of the current planning projects and draft local environmental plans. It is noted that where a draft local environmental plan has been forwarded to the Department of Infrastructure Planning and Natural Resources for a section 65 certificate or for finalisation and gazettal, it is difficult to ascertain a time frame for completion. The draft local environmental plans are listed in order of priority.

Project	Matters Outstanding	Commencement / Resolution Date	Estimated Completion Date
Amendment 108 Rural amendments	Currently on exhibition. To be reported to Council after exhibition.	11/8/98	Currently on public exhibition until 12 September 2003. It is not possible to estimate time frame until Council has dealt with submissions.
Amendment 130 Proposed Multi Unit Housing Zone	• Awaiting Section 65 Certificate from DIPNR • Exhibition of LEP	12/12/00	Exhibition imminent It is not possible to estimate time frame until Council has dealt with submissions.
Amendment 138 Reclassification of community land LEP	• DIPNR to issue Section 65 Certificate • Public exhibition and hearing to be organised	7/5/02	It is not possible to estimate time frame until Council has dealt with submissions
Amendment 126 Protection of Threatened Species and Regional Wetlands (LEP 6/00)	• Currently with DIPNR for finalisation and gazettal	7/11/00	Awaiting gazettal
Amendment 136 Agriculture Subdivision	Gazetted 27/6/03	14/8/01	Completed
Amendment 125 Farm Gate Sales	• Currently with DIPNR for finalisation and gazettal	12/9/00	Awaiting gazettal

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Amendment 139 Exempt and Complying	- Accompanying DCP currently being prepared. - Exhibition of LEP and DCP concurrently.	9/7/02	December 2003
Amendment 140 Industrial and commercial zones	Currently with DIPNR for finalisation and gazettal	9/7/02	Awaiting gazettal
Amendment 141 Acid Sulphate Soils and 1003 Blaxlands Ridge Road	- Section 69 report completed - Awaiting PC Opinion prior to Section 69 being sent to Planning NSW	12/6/01	Awaiting PC Opinion
Amendment 142 Ham Street site to 4(a)	Exhibition of LEP required.	13/8/02	Exhibition of plan September 2003. It is not possible to estimate time frame until Council has dealt with submissions.
Amendment 115 (LEP2/99) Hawkesbury Valley Holden site	- Meeting arranged with consultant planner, traffic consultant and urban designer. - Possible solutions to be discussed with owners of site.	13/4/99	Exhibition of plan following resolution of issues. It is not possible to estimate time frame until Council has dealt with submissions.
Amendment 144 820 Richmond Road, Clarendon	Exhibition of LEP required	11/3/03	Exhibition of plan September 2003. It is not possible to estimate time frame until Council has dealt with submissions.
Hawkesbury Development Control Plan - Additional chapters			
Contaminated Land	Adopted - to be included into DCP	Not applicable	October 2003
Waste Not	Adopted - to be included into DCP	Not applicable	October 2003
Bushfire	Being completed by Consultants	26/2/03	Exhibition September 2003
Effluent Disposal	Currently on exhibition. To be reported to Council after exhibition.	Not available	On exhibition until 12 September 2003. Report to Council October 2003.
Caravan Parks	New chapter to be written and exhibited	Not available	December 2003
Intensive Agriculture	Currently on exhibition. To be reported to Council after exhibition.	Not available	On exhibition until 12 September 2003. Report to Council October 2003.

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Pollution Control Principles	Currently on exhibition. To be reported to Council after exhibition.	Not available	On exhibition until 12 September 2003. Report to Council October 2003.
North Richmond, Richmond and Windsor Main Streets	To be developed over the next three years	Not available	Various
Lot Averaging	Being completed by Consultants		Exhibit October 2003
Stormwater/Drainage	Being completed by Consultants	Not applicable	Exhibit October 2003
WSROC Regional Vision	Report required for inclusion into the Regional Vision Framework		Completed
Zone Boundary Investigation	Report as per Council resolution	13/5/03	Completed

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 57 Oooo

ITEM: 58 **Class 4 Proceedings - Hawkesbury City Council -v- Elf Farm Supplies Pty Limited and RN & NR Tolson - No. 84 and 112 Mulgrave Road, Mulgrave**

FILE NUMBER: 39192, 79347/EVD/ENH26NCX.V09

REPORT:

On 23 October 2001, Council resolved to agree to orders being put in place under Section 121B of the Environmental Planning and Assessment Act, which required, inter-alia, compliance with condition of consent relating to impact on amenity. These orders were made following an appeal by the owner of the property and were endorsed by the Court.

Council also resolved on 23 October 2001 that should the operator default on the orders that Class 4 Proceedings be commenced. On 29 January 2002, evidence was obtained, and advice sought from Council's solicitors. Class 4 Proceedings were subsequently commenced and the matter was fixed for hearing by the Court on 18 August 2003.

The following orders were made by the Court on 18 August 2003, by consent of the parties.

1. *These proceedings be adjourned until the Registrar's Call-Over list on Tuesday, 11 May 2004.*
2. *The respondents are to ensure that the bioscrubber installed in the chimney stack is to be commissioned by 1 October 2003 and that the micro-flora concentration in the bioscrubber used for the purposes of odour emission mitigation is to be established and operational by 1 November 2003.*
3. *Odour monitoring is to be undertaken by Stephenson Environmental Management Australia ("SEMA") by the taking of five air samples from the location as described in paragraph 7.2.1 of the Environmental Management Plan dated August 2002 prepared by Perram & Partners. Five air samples will be taken in a cycle of fifteen days during the period 1 November 2003 to 1 February 2004 and a further five samples will be taken during a cycle of fifteen days during the period 2 February 2004 to 1 May 2004.*
4. *The air samples must include samples taken during a time when the mushroom compost production plant is in ordinary production and producing compost and samples must include samples taken between 6.00am and 8.00am and 6.00pm and 8.00pm.*
5. *The air samples must comply with the licence issued by the Environmental Protection Authority (Licence NO. 6229). This is an in-stack emission limit of 55,400 odour unit cubic metres per second.*
6. *The results of the air samples including the times of sampling and that the plant was operational and producing, must be certified by SEMA and copies of the*

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certification provided in the Environmental Protection Authority and Hawkesbury City Council within 7 days of the results being available. SEMA must also certify that the air extraction system for the tunnels and tunnel loading buildings is fully operational at the time the samples are taken.

7. *If in the six month monitoring period there is no breach of the orders 3, 4, 5 and 6 above these proceedings will be dismissed on the basis of each party to pay their own costs.*
8. *The respondents will not store or manufacture compost other than “finished substrate” material outside the confines of the enclosed building at any time. Finished substrate is that which has completed phase 1.*
9. *The respondents agree that officers of the Council authorised pursuant to 118A-E of the EPA Act will be entitled to attend at the premises and inspect the premises having given telephone notice. Council officers will on inspection arrival first attend the offices of the first respondent.*
10. *Either party is at liberty to restore the matter on one weeks notice.*

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 58 Oooo