



general
purpose
committee
meeting

Mayoral Minutes

GENERAL PURPOSE COMMITTEE MEETING

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General Purpose Committee Meeting - 28 January 2003

Appreciation Dinner - Hon. Kevin Rozzoli

The Member for Hawkesbury, Hon. Kevin Rozzoli, will not be seeking re-election at the March 2003 State election. Mr Rozzoli has been Member for Hawkesbury for 30 years and has shown great commitment to the people of the Hawkesbury.

In acknowledgement of his long and distinguished career as Member for Hawkesbury, it is proposed to host a farewell dinner in the Philip Room of the Windsor Function Centre for around 100 guests with funding from the Civic Functions area.

A decision will need to be made as a Committee of the Whole, at the General Purpose Committee meeting, in order for all the preparations, including invitation list finalisation, invitations sent out and function details organised to take place.

It is recommended that Council, as Committee of the Whole, proceed with a farewell dinner for Hon. Kevin Rozzoli to be funded from the Public Relations Budget (Civic Functions).

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environment

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ITEM: 1 **Four (4) lot subdivision of Lot 23 DP250464, 330 Grono Farm Road, Wilberforce**

FILE NUMBER: DA1625/01/EVD/ENA28NAX.V02

Applicant: Gary White Property Centres
Applicants Rep: As above
Owner: Leppington Pastoral Co. Pty Ltd
Stat. Provisions: Hawkesbury Local Environmental Plan 1989 (HLEP 1989)
Area: 40.3ha
Zone: Environmental Protection Scenic 7(d1)
Advertising: 4 November 2002 to 18 November 2002
Date Received: 24 December 2001

Key Issues: ? Shape of Lots
 ? Contaminated Land
 ? Heritage item

Action: Conditional approval

REPORT:

Introduction

The applicant seeks approval for a 4 (four) lot subdivision. The application is being reported to Council at the request of Councillor Williams.

This report provides an assessment of the key issues. A complete assessment of the application is available on the file.

Background

The initial development proposed a 9 (nine) lot subdivision which involved 5 (five) existing allotments. This application was exhibited 8 April 2002 to 26 April 2002. One submission objecting to the proposal was received.

The applicant amended the application to a 4 (four) lot subdivision involving 1 (one) existing allotment.

The Proposal

The application seeks approval for a 4 (four) lot subdivision of Lot 23 DP 250464. The size of the proposed lots are as follows:

Lot 2 10 hectares
Lot 3 10 hectares
Lot 4 10 hectares
Lot 5 10.2 hectares

All lots will have access from Grono Farm Road.

The application was accompanied by an effluent disposal report, which included investigations in relation to site contamination.

Statutory Situation

Sydney Regional Environmental Plan No. 20 (Hawkesbury Nepean)

The proposed development complies with the provision contained in SREP 20.

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject land is zoned Environmental Protection (Scenic) 7(d1). The proposed development is permissible with development consent.

State Environmental Planning Policy No. 55 - Remediation of Contaminated Land

The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land.

Comment

Part of the subject land has been identified as being contaminated (area in the vicinity of the Heritage item caused by the use of lead paint). SEPP No. 55 provides the requirements for development applications for contaminated land. The proposal was not advertised as per the requirements of SEPP No. 55 as it was not initially identified as being contaminated land. It is proposed that the consent will be conditioned so that development consent must be obtained for the remediation of the land prior to the occupation of Proposed Lot 2. It is considered that this approach is satisfactory, as the report submitted with the application demonstrates that remediation of the site can be achieved to the necessary standard.

Hawkesbury Development Control Plan

The following table provides an assessment of the proposed development against the requirements of the Subdivision Chapter of the Development Control Plan:

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Element	Rule	Provides	Complies
General			
Flora and Fauna	(a) Any subdivision proposal which is likely to result in any clearing of native vegetation or impact on any environmentally sensitive area is to be accompanied by a flora and fauna assessment report prepared by a suitably qualified person. This report is to primarily address the Eight Part Test pursuant to the Act (Section 5A), State Environmental Planning Policy 44 - Koala Habitat protection.	The proposed subdivision does not involve the removal of native vegetation.	Yes
	(b) Vegetation cover should be retained where ever practicable as it acts to stabilize soils, minimize runoff, acts as a pollutant trap along watercourses and is important as a habitat for native fauna.	The proposed subdivision does not involve the removal of vegetation.	Yes
	(c) Degraded areas are to be rehabilitated as part of the subdivision.	There are no degraded areas on the subject land.	Yes
	(d) Vegetation should be retained where it forms a link between other bush land areas.	All vegetation is to be retained.	Yes
	(e) Vegetation which is scenically and environmentally significant should be retained.	All vegetation is to be retained.	Yes
	(f) Vegetation which adds to the soil stability of the land should be retained.	Vegetation will be retained.	Yes
	(g) All subdivision proposals should be designed so as to minimize fragmentation of bushland.	Vegetation will be retained.	Yes

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Element	Rule	Provides	Complies
Visual Amenity	(a) Building envelopes, access ways and roads shall avoid ridge tops and steep slopes.	N/A	Yes
	(b) Subdivision of escarpments, ridges and other visually interesting places should: • Be managed in such a way that the visual impact rising from development on newly created allotments is minimal; and • Retain visually significant vegetation such as that found on ridge tops and other visually prominent locations.		Yes
	(c) Development Applications for subdivision shall take into consideration the provisions of SREP No. 20 in relation to scenic quality.		Yes
Heritage	(a) A subdivision proposal on land which contains or is adjacent to an item of environmental heritage as defined in Schedule 1 of the Hawkesbury LEP should illustrate the means proposed to preserve and protect such items.	The proposed subdivision will have no adverse impact on the heritage item and its setting, and preserves and protects the heritage significance of the item.	Yes

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Element	Rule	Provides	Complies
Utility Services	(a) Underground power provided to all residential and industrial subdivisions. Where infill subdivision is proposed, the existing system, whether above or underground shall be maintained.		Yes
	(b) All lots created are to have the provision of power.		Yes
	(c) Where reticulated water is not available, a minimum storage of 100,000 litres must be provided. A minimum of 10,000 litres must be available during bush fire danger periods.	Will be conditioned.	Yes
Flooding, Landslip and Contaminated Land	(a) Compliance with clause 25 of Hawkesbury Local Environmental Plan 1989.		Yes
	(b) Access to the subdivision shall be located above the 1% AEP flood level.		Yes
	(c) Where a subdivision proposal is on land identified as being potentially subject to landslip, the applicant shall engage a geotechnical consultant to prepare a report on the viability of subdivision the land and provide recommendations as to the siting and the type of buildings which could be permitted on the subject land.	N/A	Yes
	(d) In the event the Council deems that there is the potential that land subject to a subdivision application is contaminated then the applicant shall engage a suitably qualified person to undertake a soil and ground water assessment.	A report has been provided.	Yes

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Element	Rule	Provides	Complies
	(e) Contaminated Land shall be remediated prior to the issue of the Subdivision Certificate.	Will be conditioned.	Yes
Rural Lot Size and Shape	(a) The minimum allotment size for land within rural and environmental protection zones are contained within Hawkesbury Local Environmental Plan 1989.		Yes
	(b) Lots should be able to accommodate a building envelope of 2000m ² with a minimum dimension of 20 metres. Building envelopes should be located a minimum of 30 metres from significant trees and other significant vegetation or landscape features. Building envelopes will contain the dwelling house, rural sheds, landscaping, and on-site effluent treatment and disposal areas, and bushfire mitigation.		Yes
	(c) In calculating the area of a battle-axe or hatchet shaped allotment, the area of the battle axe handle should be included.	N/A	Yes
	(d) The width to depth ratio of allotments should not exceed 1:5.		No variation. See below
	(e) Lot layout shall consider the location of watercourse vegetation and other environmental features.		Yes
	(f) The land should be capable of on-site effluent where no reticulated sewerage system is available.	N/A	Yes

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Element	Rule	Provides	Complies
Effluent Disposal	(a) An effluent disposal report prepared by a suitably qualified person is required to accompany any development application for rural and rural-residential subdivisions.		Yes
	(b) Any system proposed other than a Household Aerated Wastewater Treatment System is required to be installed prior to release of Subdivision Certificate.	Can be conditioned.	Yes
Rural Road and Access Way Design	(a) The design specifications in Figure 4 at the end of this clause are to be met.	N/A	Yes
	(b) Where the road width is insufficient or unsatisfactory, an applicant should dedicate or provide land required for local road widening or new roads at no cost to Council.	N/A	Yes
	(c) Upgrading of the access way from the nearest sealed road to the proposed subdivision to an all weather standard suitable for the expected traffic generation arising from the subdivision. This work may require the sealing of the pavement dependent upon traffic generation.	N/A	Yes
	(d) Where access to the subdivision is via a Crown or Reserve road in addition to the above, the road should be fully constructed to a standard commensurate with roads in the locality and linked to the nearest Council road. Prior to any construction works being undertaken the relevant section of Crown road is to be transferred to Council.	N/A	Yes

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Element	Rule	Provides	Complies
	(e) The road fronting the subdivision shall be sealed into half width (minimum 3.5 metres). An all weather standard of road construction may be acceptable where the expected traffic volume generated by the subdivision proposal is low and no sealed road in the vicinity.	Grono Farm Road is sealed.	Yes
	(f) Water courses should be piped where they cross roads and the applicant should create drainage easements generally 10 metres long and 4 metres wide over the point of any discharge of any water from any public road onto private property.	N/A	Yes
	(g) All internal driveways shall be constructed to an all weather standard suitable for the expected traffic generation. An all weather access should also be provided across the footway to any battle-axe lot. Such access should be sealed within the vicinity of existing houses on adjoining lots where dust nuisance may occur and also on steeply sloping land.	Can be conditioned.	Yes
	(h) Where 3 or more individual access handles are proposed, common roads are to be provided.	N/A	Yes
	(i) Battle-axe handles shall have a minimum width of 6 metres.	N/A	Yes
	(j) Access ways should have a maximum grade of 25% (1:4) and be sealed if the grade exceeds 1:6, concrete if exceeds 1 in 5.	Can be conditioned.	Yes

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Element	Rule	Provides	Complies
	(k) Where an access way meets a public road there should be a minimum sight distance of 70 metres. This may be increased on roads with a high speed limit.		Yes
	(l) Cul-de-sacs for rural roads should have a minimum seal radii of 12.0 metres and boundary radii of 17.0 metres.	N/A	Yes

Variations

The width to depth ratio of the proposed lots ranges from 1:7 to 1:10. The subject land is constrained due to its flood liability. The proposed lot layout provides adequate area for future development on land above the 1-in-100 year flood level, as well as flood free access on each of the proposed lots. The proposed lots are consistent in terms of shape with the subdivision pattern of the locality.

For these reason, it is considered that the variation be supported.

Community Consultation

The amended application was publicly exhibited from 4 November 2002 to 8 November 2002. No submissions were received.

Planning Assessment

Full consideration has been given to s79C (1)(b) of the EP & A Act as contained on file. Below are the relevant matters:

Context And Setting

The proposed allotment sizes and shape is consistent with the surrounding area and allotment sizes and shape.

The proposed development is consistent with the context and setting of the immediate area.

Heritage

There will be no significant impact on the heritage item located on Proposed Lot 2.

Three dwelling houses will be situated on proposed Lot 2, one of which is a heritage item. The applicant proposes the retention of all dwellings on this lot as an incentive/leverage for the refurbishment of the heritage item and that the consent be conditioned so that none of the dwellings are able to be utilised until the conservation of the heritage dwelling takes place. It was further suggested that a reasonable incentive to a subsequent landowner of Lot 2 to refurbish the heritage dwelling would be for the two other dwellings to be retained, one as a dwelling and one for some other uninhabitable use.

It is considered that the above is an impracticable and uneconomic use of the land, as any future landowner cannot reside at the property until the heritage dwelling is refurbished. It is considered reasonable to permit the retention of the brick dwelling for habitable purposes, to facilitate the refurbishment of the heritage building. It will be a requirement of consent that the third dwelling be demolished or removed prior to the release of the linen plan (Subdivision Certificate).

Soils

It has been identified that the soil in the vicinity of the existing buildings have high levels of lead, mercury, and zinc. The consent will be conditioned so that the remediation of the site is carried out and that validation of the remediation be provided prior to the occupation of the buildings. This will involve the submission of a separate development application.

Flora and Fauna

The proposal does not involve the disturbance or removal of native vegetation. It is therefore considered that the requirements of Part 5A of the EP & A Act are satisfied in that the proposed development will have no significant impact on threatened species, populations, ecological communities or their habitats.

Conclusion

The proposed development is consistent with the provisions of Hawkesbury Local Environmental Plan 1989 and the objectives of Hawkesbury Development Control Plan. As discussed the variation sought to the Development Control Plan be supported.

The proposed allotment sizes and shape are consistent with the existing subdivision pattern in the locality. The proposed subdivision will have no significant adverse impact on the natural or built environment in the area.

RECOMMENDATION:

That the application for a four (4) lot subdivision 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 (numbered DA1625/01) submitted with the

application and any supportive documentation, except as otherwise provided by the conditions of this consent.

2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979.
3. All work must be carried out in accordance with the provisions of Council's Subdivision Construction Specification contained in Hawkesbury Development Control Plan.
4. The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include, but are not limited to, water, sewerage, drainage, power, communication, footways, kerb and gutter.

Prior to Issue of Subdivision Certificate

5. The creation of a restriction on the use of the land in respect to the following:
 - On all vacant lots that all future dwellings are to be located on the portion of the site that is above the 1:100 year flood level.
 - All future dwellings shall comply with the requirements of Planning for Bush Fire Protection prepared by Planning NSW and AS 3959 - 1999 Construction of Buildings in Bush Fire Prone Areas.
 - All sewerage Management Facilities are to be installed, maintained and operated in accordance with the Feasibility of On Site Disposal of Wastewater report prepared by Toby Fiander and Associates Report TFA 2497/02 dated 13/3/02.
 - Prior to occupation of a dwelling on Proposed Lot 2, a Development Application for the remediation of the land is to be submitted to and approved by Council, and the works required for the remediation be completed.
 - A heritage conservation plan is to be prepared in relation to the heritage dwelling on proposed Lot 2 and submitted within 12 months from the date of registration of the plan.
 - The heritage dwelling is not to be occupied until all works indicated in the conservation plan are carried out to the satisfaction of Hawkesbury City Council.
6. The existing clad dwelling on proposed Lot 2 is to be demolished or removed. Any demolition is to be undertaken in accordance with the appropriate Australian Standard and any requirements of Workcover. Council is to be provided with the necessary details in respect to method of demolition used and the disposal of the materials.

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7. Internal driveways shall be constructed to an all weather standard. Access ways should have a maximum grade of 25% (1 in 4) and be sealed if the grade exceeds 1 in 6, concrete if exceeds 1 in 5.
8. Submission of a Certificate from Integral Energy that satisfactory arrangements have been made for the provision of electricity to each of the resultant lots of the subdivision.
9. Submission of a Certificate from an approved telecommunications provider that satisfactory arrangements have been made for the provision of cables for telephones through the subdivision.
10. 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 \$6255.00
 - (b) Community Facilities \$8844.00

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. 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.

11. Each allotment created shall have an area of not less than 10 hectares.
12. The submission of a plan showing all existing services on the lots including septic tank and effluent disposal area, sewer connections, water connections and stormwater disposal, where applicable, and the correction of any encroachments or defects to the requirements of the Divisional Manager Environment and Development.
13. The submission of the plan of subdivision, together with four (4) exact copies thereof, suitable for lodgement with the Registrar General.
14. Payment of a linen release fee of \$309.90. This amount is valid until 30 June 2003.

ATTACHMENTS:

- AT-1** Locality Plan
AT-2 Subdivision Plan

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Locality Plan

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Subdivision Plan

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ITEM: 2 Water Re-use/Environmental Flows**FILE NUMBER:** 40272/GMA/ENA28NAX.G05

REPORT:

A report has been requested regarding Council's willingness to support water re-use for farmers and its preference or not for such proposals. This matter is aligned with environmental flows in the river systems and if these are such as to support the potential for effluent re-use.

Most of metropolitan Sydney's water is drawn from Warragamba Dam and the upper Nepean storages with the Hawkesbury area drawn from the North Richmond Water Filtration Plant. Less than 10 percent of the extracted water is returned to the river as highly treated effluent coming from a number of inland treatment plants including two operated by the Council. Other flows in the Hawkesbury-Nepean are comprised of releases from the storage dams, stormwater, and natural tributary inflows. Extractors include irrigators and other rural users and the Penrith Lakes Scheme.

A large percentage of the potable water reticulated around metropolitan Sydney that results in effluent is treated and discharged through ocean outfalls at Warriewood, North Head, Bondi and Malabar. These plants do not have the high quality treatment processes utilised in the inland plants and the cost of considering this is prohibitive.

The State Government has established the Hawkesbury-Nepean River Management Forum to recommend an environmental flow regime for the Hawkesbury-Nepean River. This recommendation will be made to the Ministers for the Environment and Land and Water Conservation. This is a direct response to the report of the Healthy Rivers Commission. The State Government has also established an expert panel to provide technical advice to the Forum. This is a requirement of the Sydney Catchment Authority's operating licence and the Hawkesbury-Nepean's Statement of Joint Intent.

The Healthy Rivers Commission also recommended the development of an integrated effluent management strategy for the Hawkesbury-Nepean River. Such a strategy was seen as possible to alleviate the need for additional releases for environmental flows. More importantly it would be required to cope with the additional growth which has been forecast for the Hawkesbury-Nepean Catchment. At the end of 2001 the Government announced that around 90,000 new housing lots would be created over the next 15 years. A significant proportion of this growth is in the Hawkesbury-Nepean Catchment.

There has been interest for sometime in the potential for effluent re-use in order to support increased environmental flows in the river. There are a number of localised small schemes that have been established, however, larger scale ones would require considerable stakeholder support, including that of the State and its water and planning agencies, Local Government, and users. The costs of such schemes are so significant that there would be a need to assure that land would be, and remain, available to accept the re-use water for a long period of time and that the users would take agreed quantities throughout the year. This would mean planning decisions to ensure the retention of agriculture and not permit subdivision.

There are a number of different re-use schemes that could take place and the role that these would play in managing the river system, including flows that are viable and provide natural conditions, protection of recreational activities, such as the Penrith Lakes, and secure irrigation to replace riparian extractions. At this time it is understood that only preliminary work has been undertaken for such schemes and there would be a need to indicate strong support for them to be seriously considered including long term guarantees of planning controls and water use.

It is understood that a number of environmental flow conditions are being considered by the Hawkesbury-Nepean River Management Forum that could have the potential to significantly impact on the safe yield required for metropolitan Sydney's water. This is combined with the consideration that currently water is pumped from the Shoalhaven into the Warragamba system when storages fall. Both these positions would be a major part of any decision as to what re-use is available for irrigation.

There are 19 sewage treatment plants in the Hawkesbury-Nepean Catchment that discharge treated effluent to the river or its tributaries. The sewage treatment plants and their locations are as follows:

Sub- Catchment	Sewage Treatment Plants
Upper Nepean Catchment	West Camden, Picton (wet weather discharge only) & Warragamba
Blue Mountains Catchment	Blackheath and Mt Victoria
Central Nepean Catchment	Glenbrook, Penrith & Winmalee
South Creek Catchment	Riverstone, Quakers Hill, St Marys, Sth Windsor & McGraths Hill (mainly re-use)
Cattai Creek Catchment	Castle Hill and Rouse Hill (mainly re-use)
Mid-Hawkesbury Catchment	Richmond (mainly re-use) and North Richmond
Berowra Creek Catchment	West Hornsby & Hornsby Heights

Over the last 10 years there has been very significant improvement in treatment levels at the plants and conditions in many sections of the river have improved markedly.

The flow in the river downstream of South Creek in dry weather is about 190mL a day with sixty percent of this approximately being volume from sewage treatment plant discharges with the remainder from river system flows. In South Creek the flow is just over 70mL per day with around 95 per cent of this originating from sewage treatment plant discharges.

In the South Creek Catchment effluent flows are projected to almost double with most of this being from the Riverstone Sewage Treatment Plant where increases could be up to 20 times larger.

Therefore, with rapid growth in the South Creek Catchment there is obviously a need to look at effluent discharges from the plants located thereon.

It is understood that a number of options for managing future effluent flows and loads from the South Creek Sewage Treatment Plants are being considered at this time by both the Forum and the expert panel. One of these is the provision of treated effluent for irrigation, including that in the Windsor/Richmond/Cornwallis area. Such schemes would assist river health particularly in times of low flow and also assist in regulating the amount of water currently drawn by irrigators.

Costs of such a scheme would be heavily influenced by the storage requirements and the discharge arrangements that apply when irrigators cannot accept effluent transfer. This will require confirmation of the environmental flow objectives and proposed environmental flow regime for South Creek. In any event very preliminary costs would be in the order of \$30 million. As indicated earlier such a scheme would need agreement to confirm the long term security of agricultural markets in the re-use area. Thus the need for landowners/irrigators, Councils and State agencies to confirm such long term tenure/security.

The issue of re-use schemes is intertwined with the much larger and more complex issues of river management, water required for Sydney's current and future needs, demand management and the associated range of integrated water management issues.

Given the issues and the stakeholders involved there is obviously a considerable amount of work to be undertaken to assess possible schemes and their outcomes and the likely requirements on recipients and their land.

If the Council does support the re-use schemes in principle then it could indicate this to the relevant State Ministers then seek to be involved actively in the development of the schemes and their consultations prior to any final determination.

RECOMMENDATION:

That Council advise the Ministers for the Environment and Land and Water Conservation that it sees benefits in the development of effluent re-use schemes for agricultural districts of the Hawkesbury area that include the sustaining of future agriculture, the benefits to environmental flows within the Hawkesbury-Nepean River, and in doing so understands that there are a number of issues that need to be resolved and seeks to be involved in those issues, discussions and consultations.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 2 Oooo

ITEM: 3 **Proposed Tourist Facility - 32C Berambing Crescent, Berambing**

FILE NUMBER: MA1308/01/FNC/ENA28NBX.F07

PREVIOUS ITEM: 69, GPC Section 1 - Environment (30.07.2002)

PREVIOUS ITEM: 85, GPC Section 1 - Environment (27.08.2002)

REPORT:

An application for a tourist facility at 32C Berambing Crescent, Berambing was considered by the General Purpose Committee on 30 July 2002.

The committee resolved:

1. *“The matter be deferred until the August General Purpose Committee Meeting.*
2. *A site inspection be carried out (at a time to be determined).*
3. *This report be a subject of a Councillor briefing session after the August General Purpose Committee Meeting where the proposal can be more fully investigated and further discussed.”*

The applicant has amended the proposal in response to the issues raised in the report dated 30 July 2002.

The amended proposal is for tourist accommodation consisting of 6 (six) cabins in 5 (five) individual buildings. As a result there is a reduction in the amount of vegetation to be cleared.

Councillors were briefed on the application at a briefing session which was held on 6 August 2002.

Amended Development

The amended development has:

- Located the cabins closer together.
- Reduced the number of individual buildings to 5 (five) by combining 2 (two) cabins into one building.
- Relocated the effluent disposal to within the Asset Protection Zone (APZ).
- Reduced the extent of the APZ and clearing of vegetation.

The amended site plans and cabins are attached to this report.

Planning Assessment**1.1 Flora and Fauna / Bushfire hazard**

The applicant has submitted a Bushfire Hazard Assessment report and a revised report from Blue Mountains Wilderness in respect to flora and fauna.

The revised layout has reduced the amount of area to be cleared for bushfire protection from 2.4ha to approximately 1.5ha for the inner protection zone (IPA).

The additional fauna and flora report has indicated that the revised layout with the inclusion of the effluent disposal area within the APZ has reduced the impact on native vegetation.

The applicant has now minimised the clearing of land by reducing the distances between cabins and the number of structures.

The Bushfire Hazard Assessment report was referred to NSW Rural Fire Service who are now prepared to grant a Bushfire Safety Authority subject to conditions which are contained in the recommendation.

The use of underground disposal and trenching will also further reduce the impact on the flora and fauna.

1.2 Soil structure and Construction Impact

This was a matter of concern given the extent of the previous APZ and internal access and vehicle manoeuvring area. The revised layout has significantly reduced the APZ and thus the potential impact of erosion due to construction.

1.3 Waste Water

The revised layout has now located the disposal area to within the AZP which is a better designed development to reduce any impact.

1.4 Suitability of the Site

The revised layout has reduced the potential impact on the environment in terms of loss of vegetation due to the reduced APZ and it is considered that the revised development is now suitable for the site.

Conclusion

The key environmental issues relating to this development are bushfire hazard, clearing of land, waste water management, potential for soil erosion and sedimentation and the suitability of the site. The initial development layout did not minimise environmental impact and adequately preserve or protect the existing vegetation communities and was in excess of the capabilities of the site.

The revised layout has address the previous concerns by reducing the extent and area of the development which has reduced the impact in respect to clearing of vegetation and also meets the bushfire requirement.

It is therefore recommended that the development be approved.

RECOMMENDATION:

That the application be approved subject to the following conditions:

General

1. To confirm and clarify the terms of this approval, the development shall take place in accordance with the plans submitted with the application, as amended in red and as modified by these further conditions.
2. To ensure the external appearance of the development is not intrusive or offensive, and does not degrade the visual quality of the surrounding area, the development shall be completed in accordance with the approved colours and finishes and shall not be altered.
3. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
4. Prior to construction of the approved development it is necessary to obtain a Construction Certificate.
5. No excavation or site works shall be commenced prior to the issue of the Construction Certificate.
6. All building shall comply with the requirements of Planning for Bush Fire Protection prepared by Planning NSW 2001 and AS 3959 - 1999 Construction of Buildings in Bush Fire Prone Areas.
7. The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) in order to assess their responsibilities and liabilities with regards to the provision of access for all people.

Rural Fire Services

8. The recommendations contained on pages 13 to 16 of the *Bushfire Hazard Assessment Report - Proposed Tourist Cabin Development 32C Berambing Crescent, Berambing* prepared by Building Code & Bushfire Hazard Solutions dated September 2002 shall be incorporated into the development.
9. The property shall be provided with an external bushfire sprinkler system. Such sprinkler system is to be constructed of metal fittings and linked to the proposed on-site bushfire water tank system.
10. Each cabin unit shall be provided with a well maintained Asset Protection Zone at all times in accordance with the requirements of Planning for Bushfire Protection 2001.
11. The proposed cabins shall be provided with boxed-in eaves and no stormwater guttering should be provided to any of the cabins.
12. The intersection of the main roof and the verandah roof of each cabin unit shall be continuous so as not to create any area for leaf litter to accumulate thus causing a build up of potential flammable material.
13. Timber used for external cladding must be selected from species tested and endorsed for that purpose in the report provided by Warrington Fire Research.

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. Submission and approval of a detailed landscape management plan. The plan is to be consistent with recommendations of the flora and fauna assessment prepared by Blue Mountains Wilderness and the provisions of Planning for Bushfire Protection, NSW Planning, December 2001.
15. Submission of an "Application to Install a Sewerage Management Facility" accompanied by full manufacturers and installers plans and specification. The proposed facility is to be consistent with the findings of the wastewater management study prepared by Toby Fiander and Associates. Note the land application area is to be serviced by subsurface drip irrigation.
16. The submission of a satisfactory soil and water management plan (SWMP) prepared in accordance with the State Government guidelines titled "Managing Urban Stormwater: Soils and Construction (1988)".

17. Detailed engineering plans and specifications relating to the work shall be submitted. Plans and specifications are to comply with the requirements of the Hawkesbury Development Control Plan.
18. Details demonstrating that the proposed buildings will comply with the Building Code of Australia and AS3959-1999 are to be submitted to Council.
19. The submission of a bushfire safety authority issued under Section 100B of the Rural Fires Act 1997.

Prior to Commencement of Works

20. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of 1 toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided:
 - (a) must be a standard flushing toilet; and
 - (b) must be connected;
 - (i) to a public sewer, or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.
21. 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.
22. 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.
23. 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.
24. The applicant shall advise Council of the name, address and contact number of the principle certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1997.

25. The name and licence number of the licensed contractor/builder who has been contracted to do or intends to do the work must be submitted to Council in writing by the owner prior to the commencement of any work relevant to this approval.

During Construction

26. Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.
27. All building work must be carried out in accordance with provisions of the Building Code of Australia.
28. Inspections shall be carried out and compliance certificates issued by Council or an appropriately accredited person for the following components of construction:
- (a) erosion controls, site works and site set out;
 - (b) piers;
 - (c) foundations;
 - (d) framework, after the installation of all plumbing, drainage and electrical fixtures, and after the external cladding and roof covering has been fixed prior to fixing of internal linings and insulation;
 - (e) wet area flashing, after the installation any bath and shower fixtures;
 - (f) external drainage lines, prior to backfilling;
 - (g) on completion of the structure; and
 - (h) landscaping.
29. All roofwater shall be drained to the water storage vessel/s.
30. Dust control measures, eg vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
31. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by running water to be stored clear of any drainage line, easement, natural watercourse, footpath, kerb or road surface.
32. 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.
33. No burning of demolition or construction material being carried out on the site.

34. 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.
35. A sign is to be erected adjacent to the access point to the site for the duration of the site works stating the following:
- (a) owner of site and address;
 - (b) person/company carrying out site works and phone number;
 - (c) consent number and date of approval; and
 - (d) approval duration of site works.

Prior to Issue of Occupation Certificate

36. An occupation certificate is to be obtained on completion of all works and prior to commencement of the approved use. The occupation certificate will not be issued if any conditions of this consent are outstanding.
37. The cabins are to be connected to a fully installed and approved waste water treatment system.
38. The following documentary evidence is to be obtained prior to the issue of any Occupation Certificate, whether by Council or an accredited certifier:
- (a) A written clearance from Integral Energy, stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

Separate documentary evidence from Integral Energy shall be provided stating that the requirements of that Authority have been met with regard to the nearby high voltage transmission line.

39. Completion of all road and drainage works required by subdivision consent SA0007/94.

The Use of the Site

40. The cabins are to be used for short term tourist accommodation only.
41. The combined number of persons accommodated in the cabins are not to exceed a combined total of 18 (eighteen) persons at any one time.
42. Guests of cabins are not to bring domestic pets onto 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.

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45. All landscaping shall be permanently maintained in a good condition and in accordance with the intent of the landscaping plan.
46. No advertising structures to be erected, displayed or affixed on any building or land without prior approval. Any unauthorised advertising structure will be removed at the expense of the advertiser.
47. No signs shall be displayed on the footpaths, pedestrian ways, roadways or in the vicinity.
48. All waste materials to be stored and disposed of at regular intervals.
49. All Asset Protection Zones are to be maintained in accordance with the provisions of NSW Planning's "Planning for Bushfire Protection".

ATTACHMENTS:

- AT-1** Revised Site Plan
- AT-2** Revised Elevations
- AT-3** Report to General Purpose Committee meeting of 30 July 2002 (distributed separately)

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Revised Site Plan

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Revised elevations

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Revised elevations

oooO END OF ITEM 3 Oooo

ITEM: 4 **Rezoning requests - Draft Local Environmental Plan 8/98 (Amendment 108)**

FILE NUMBER: LEP 8/98/EVD/ENA28NBX.V08

REPORT:

Introduction

During the exhibition of draft Amendment 108, approximately forty submissions were received. Council at its meeting of 10 December 2002 considered a report relating to these submissions excluding those requesting a rezoning. The purpose of this report is to advise Council of the details of these requests.

The requests fall into three broad categories:

- Requests for subdivision
- Requests for an alternate zone
- General inconsistencies

Each of these categories are discussed in this report.

1. Requests for subdivision

Rowland Avenue, Kurmond (J & M de Vries)

This submission requests that land in Rowland Avenue be rezoned to allow the owner of 13 Rowland Avenue to achieve a two lot subdivision.

Comment: The subject land is located on the northern side of Bells Line of Road and has an area of approximately 2 hectares (ha). The land is currently zoned Rural 1(c1) and the proposed zone under draft Amendment 108 is Rural Living. The existing Residential 2(a) zone is located on the southern side of Bells Line of Road, behind the commercial land.

Lots surrounding Rowland Avenue range in size from 2 ha to 12 ha and are consistent with the proposed Rural Living zone. Closer to Bells Line of Road, there are several small lots in Rowland Avenue that range from 2000 sqm to 2 ha.

50 Jordan Avenue, Glossodia (J Sheerin, I Charville, J & D Green)

This submission requests a rezoning to allow 2 ha (5 acre) subdivision. The submission suggests that the locality would make an appropriate buffer zone between the Mixed Agriculture zone and the "village living areas" (Glossodia Residential land). The justification is based on several surrounding lots being less than 2 ha.

Comment: The current zone is Rural 1(b) and the proposed zone is Mixed Agriculture. The subject land has an area of 7.8 ha and surrounding lots vary in size from 2 ha to 28 ha. Whilst past planning practices have allowed some smaller lot development, the majority of lots to the north, south and west of the subject land are larger, ranging from 7 ha to 44 ha.

Draft Amendment 108 recommends that the Freemans Reach "village area" be zoned Rural Village and this issue is discussed further below.

17 Inverary Drive Kurmond (Falson and Associates)

This submission was received in February 2002, prior to the exhibition of draft Amendment 108 and requested that consideration of a two lot subdivision be given at the appropriate time. The applicant and owner were advised at this time that the request would be considered following the exhibition of draft Amendment 108.

The submission requests that the land be rezoned to allow a two lot subdivision of the existing 2 ha property. The following justification was provided:

- The existing pattern, size and use of the allotments are inconsistent with agriculture being the primary aim of the existing Rural 1(b) zone.
- The land is suited to low-density residential development and reticulated water is available.
- Any newly created lots would have adequate area for onsite effluent disposal.
- No ability to contain agricultural activity and neither the current or the proposed zone objectives fit the current use of the properties in Inverary Drive.

Comment: The land is currently zoned Rural 1(b) and lots sizes vary significantly on the stretch of Bells Line of Road to the Kurmond Residential zone. On the north eastern side of Bells Line of Road lot sizes range from 2100sqm to 7 ha. However, closer to the subject site, land sizes increase and average approximately 2ha. On the western side to Bells Line of Road, lots sizes average approximately 5ha and land has a distinctive rural character.

112 Horans Lane, Grose Vale (J Mahaffy & P Young)

This submission requests that a zone anomaly be removed and the subject land be included under draft Amendment 108. The submission outlines that the property once had subdivision potential and was rezoned in 1989 to the current zone (Environmental Protection 7(d)) which has a 40 hectare minimum allotment size for subdivision. The owners therefore request that the Rural Living zone be applied to the land so that a 2 lot subdivision can be achieved

The following information is provided with the submission as justification for the proposed change:

- The property cannot be seen from either Grose Vale Road or Horans Lane.
- Little Wheeny Creek forms the northern and western boundary of the property and is the natural dividing line where the foothills meet the escarpment.

Comment: Council first considered the issue of the appropriateness of the location of the zone boundary between the Environmental Protection 7(d) zone and the Rural 1(c1) zone in 1995. This was as a result of submissions received during the Our City Our Future consultations and in 1995 Council resolved to review this zone boundary. This review was undertaken and no changes were recommended.

By way of background, the zone was amended in 1989 as result of the Blue Mountains Eastern Escarpment Study. This Study was prepared by the Department of Planning in 1989 and aimed for the conservation of the environmental quality of the Blue Mountains Eastern Escarpment. The Study recommended zoning controls and these formed the basis of the Environmental Protection zone currently in existence.

In order to justify any changes to zone boundaries or the various changes suggested in this report Council must consider the Section 117(2) Ministerial Directions under the Environmental Planning and Assessment Act 1979. Direction G12 relates to the alteration of Environmental Protection zones and states that such amendments must be justified by a Local Environmental Study. Substantial work would need to be undertaken to justify such a proposal and Council has not resolved to undertake a LES for this purpose.

Gadds Lane, Kurmond (Richmond Estate Winery and J & P Smits)

Two submissions were received from residents in Gadds Lane (Nos. 17 and 99) requesting that the Rural Living zone be applied to Gadds Lane. The reason for this request is outlined below:

- The winery is no longer viable economically or agriculturally.
- Newly created properties are less than the required minimum allotment size and have set a precedence.
- Intensive farming practices required on marginally fertile land is detrimental to the environment.
- Substantial irrigation required due to "rain shadow".
- Land vegetated, reducing the land available for agriculture.
- Increased rural land use conflict.

Comment: The subject properties are zoned Rural 1(b) and have an area of 7.5 ha and 19.6 ha respectively. Surrounding lots range from 2ha to 11ha.

The zone boundary between Rural Living and Mixed Agriculture is located to the north of Gadds Lane, along Currency Creek and several subdivisions have occurred in the Rural 1(c1) zone (proposed Rural Living Zone).

This proposal has previously been considered by Council in the form of a development application for subdivision and was not supported.

General Conclusions and Recommendations for Subdivision Requests

The intention of the Hawkesbury Sustainable Agricultural Development Strategy (HSADS) and subsequent draft Amendment 108 is to protect existing agriculture activities and encourage new pursuits to the City. Draft Amendment 108 does this by providing some security of tenure, by not allowing further

subdivision of the rural land, and new objectives specifically addressing agricultural issues. It also aims to ensure that these activities are conducted in an environmentally sensitive manner. The proposed new zone objectives seek to ensure better environmental management as well as the protection of agriculture.

Council will also recall that HSADS arose from recommendations of the Our City Our Future Strategy where it was also resolved that "consolidation within and on land contiguous with existing towns and villages be preferred over smaller lot subdivision away from existing towns and villages". Both HSADS/Draft Amendment 108 and the Urban Land Strategy are inextricably linked and attempt to provide proper planning solutions for the City as a whole.

Council has consistently resolved that HSADS and the subsequent amendments to HLEP 1989 were not about providing additional land for subdivision. Further, Council has consistently refused requests for rezoning received over the past 3 years which proposed additional subdivision of the City's rural lands. This position has also been re-iterated at the last two Council Strategic Planning Workshops.

2. Requests for an Alternate Zone

Creek Ridge Road, Glossodia locality (RAPPinG ASS Inc & L Cox)

RAPPinG ASS Inc has requested that the Freemans Reach and Glossodia areas should be zoned Rural Village under draft Amendment 108. The reasons for this request are summarised below:

- Property sizes are well below the 10 ha recommended in the new LEP
- In excess of 40 blocks of land well under the 10 ha requirement for Mixed Agriculture.
- Council should consider the needs of all ratepayers and not just the farming minority.
- Intensive agriculture is inappropriate within this zone and has the potential to pollute beyond boundaries and impact on the amenity of neighbours.
- A special zone should be created for offensive industries away from small landholders.
- New zone objectives will create enormous division in the community and will severely disadvantage small landholders.

A second submission relating to this issue was received from L Cox of 435 Creek Ridge Road. This submission suggests that neither the Mixed Zone nor the Rural Living Zone is appropriate for this locality due to the small lot sizes.

Comment: The land within this locality is currently zoned Rural 1(b) and land sizes range in this locality as mentioned in the previous submissions requesting subdivision. Several small lots, ranging in size from 1ha to 3 ha can be found along the northern section of Shepherds Road, running east to Creek Ridge Road. However, the majority of the lots in this general locality range from 4 ha to 44 ha.

The current 1(b) zone currently allows a majority of agricultural land uses. The proposed draft Amendment does not amend the land use matrix of HLEP 1989 or the minimum allotment sizes for subdivision.

In establishing the proposed Rural Village Zone the HSADS Committee agreed that it was inappropriate to zone existing small lots within the rural zones as Mixed Agriculture. It was therefore agreed that several clusters of small lots, ranging in size from 1000 sqm to 4000 sqm would be zoned Rural Village. An example is the Freemans Reach "village" which has a strong residential character yet is currently zoned Rural 1(b) and Environmental Protection 7(d1).

Whilst it is acknowledged that some small lot development has occurred within the Creek Ridge Road area, it does not fulfil the requirements developed for the Rural Village zone. Furthermore, the area is characterised by its rural nature and not a "village".

It is therefore recommended that the request for an alternate zone not be supported and that the proposed Mixed Agriculture zone remain in this locality.

61 Wallace Road, Vineyard (Perram and Partners)

This submission was prepared by Perram and Partners for Elf Mushrooms and objects to the proposed Rural Living Zone. The reason for the objection is that "it does not assist the company to gain the security of tenure it desires to confidently plan for future growth and development of mushroom growing on its current premises".

The concern is that Elf Mushrooms cannot confidently make decisions about the future of the site due to concerns about Council's intention to increase rural/residential development, which will lead to conflicts with the plant's operation. The submission also suggests that the proposed Rural Living zone is at odds with HSADS which highlighted the importance of the mushroom industry.

The submission requests that the most appropriate zone is the Mixed Agriculture zone and this should extend approximately 500 metres, centred on 61 Wallace Road.

The submission also objects to the prohibition of intensive agriculture in the proposed Rural Living Zone. As Council is aware, this issue has now been addressed and the subsequent re-exhibition of the draft plan will allow for intensive agriculture in the Rural Living zones.

Comment: The current zone of this land is Rural 1(c) which is essentially a rural/residential zone. Draft Amendment 108 does not alter this situation.

As Council is aware, the Vineyard and Oakville areas have been identified on Sydney Regional Environmental Plan No. 19 (Rouse Hill Development Area). The Department of Planning is currently embarking on a structure planning exercise for the remaining areas on SREP 19 which are not yet zoned for residential development. The details of this exercise, including intensive workshops, will be announced by the Department of Planning in the first half of 2003.

Council has consistently supported the notion of residential development within Vineyard. It has also supported the protection of rural land and agricultural activities and this poses a dilemma for the future of this land. For this reason it is premature to consider a request for rezoning 61 Wallace Road

Ebenezer (North Western Surveys)

This submission requests that land in the general vicinity of Sackville Road, the former Post Office, Tizzana and Kolora Roads be rezoned. It suggests that the local community regards the area encompassing the Rural Fire Brigade, the old Post Office, Kings Hardware and Robank Farm Supplies as being the centre of Ebenezer. The submission therefore requests that this area be zoned Rural Village as the proposed Mixed Agriculture land uses are in conflict with good planning principles.

A radius of 500m and 1000m from the school has been suggested for inclusion as a Rural Village. The submission also suggests that this will provide a viable village centre for Ebenezer.

Comment: Many of the lots within the subject area are 8 ha - 10 ha. Approximately 4 lots are less than 1 ha. As mentioned above, the parameters for the Rural Village were very clear and included clusters of development ranging from 1000 sqm - 4000 sqm. It should also be noted that the Rural Village zone does not allow for further subdivision apart from minor adjustments to boundaries.

There is insufficient justification to warrant the requested change to the zone at Ebenezer.

8 Burgess Road, Freemans Reach (North Western Surveys)

This request also suggests that a Rural Village zone be applied to land in a radius of 500m from the school site in Freemans Reach and incorporates No.8 Burgess Road. The following justification is provided:

- Aims and objectives of the (proposed) Agriculture zone are detrimental to the amenity of the existing village and school area.
- Land with a Village zone would prevent an agricultural pursuit which may create chemical spray, noise and dust pollution and offensive odours.
- The subject land is steep, has poor fertility and unsuitable for broad acre farming.
- It will give Council more control and allow a better planning outcome in the future, when services become available

Comment: The subject land is zoned Environmental Protection 7(d1) and has an area of approximately 3 ha. The proposed zone is Environmental Protection-Agriculture Protection. As mentioned above, the new Rural Village Zone has been applied to land within Freemans Reach and covers much of the small lot development (approximately 800 sqm - 4000 sqm) which is currently zoned either Environmental Protection 7(d1) or Rural 1(b). The subject land falls out of the proposed "village" zone and surrounding lots are similarly sized.

It is considered inappropriate to extend the Rural Village to cover No. 8 Burgess Road and, therefore, this request is not supported.

Windsor Downs (Windsor Downs Home Owners' Association)

The Windsor Downs Home Owners' Association suggests that the Windsor Downs area is fundamentally a "residential development on 1 acre lots". The submission does not object to the proposed Rural Living

zone, rather questions the land uses permissible within the zone. The submission suggests a number of land uses are inappropriate within Windsor Downs.

Comment: Whilst it is understood that Windsor Downs has a different character to other Rural Living zones, it still provides for a rural/residential style of living. In the past Council has not resolved to adopt the private covenants of the Windsor Downs Progress Association and the provisions of HLEP 1989 override many of these covenants.

The proposed Rural Living zone already restricts some inappropriate land uses, for example, truck depots, and it is not considered appropriate to make wholesale changes to the land use matrix for one locality. It may be more appropriate to review the land use matrix as it applies to all Rural Living zones when a comprehensive review of HLEP 1989 is undertaken.

The request to amend the land use matrix for Rural Living is not supported.

Prestonville, Clarendon (Perram & Partners)

This submission was lodged by Perram and Partners on behalf of RN & NR Tolson and relates to Lot 1 and Part Lots 2 and 3 DP700263. The submission requests that a commercial zone be applied to the site with the following justifications:

- The proposed Rural Living zone is considered unsuitable as the land is affected by aircraft noise and therefore unsuitable for rural/residential development.
- The subject property is the only remaining vacant land in this strip
- The land is above the floodplain of Rickabys Creek, in close proximity to Clarendon Station, and has good visibility in relation to traffic access to the site.

Comment: The subject land is currently zoned Rural 1(c). There are several “commercial” operations within the stretch of Richmond Road, all of which are permissible under HLEP 1989.

It is not appropriate under draft Amendment 108 to rezone the land for commercial purposes, and it is not in keeping with the Rural Living zone in this locality. Given the flood affectation of the subject allotments, it may in fact be more appropriate that this land be zoned Mixed Agriculture. However, there are other localities, such as McGraths Hill, where similar issues may arise and these have not had similar reviews at this stage. This would be appropriate at the time of a comprehensive review of HLEP 1989.

It therefore recommended that the request to zone the “Prestonville” not be supported.

3. General Inconsistencies in Zone Boundaries

Kurrajong Locality

This submission was lodged by L McMahon and suggests that there are inconsistencies between the Rural Living Zone and the Mixed Agriculture Zone in the Kurrajong area. These inconsistencies are specifically around the eastern extremities of the Kurrajong Village extending from Vincent Road, behind Robertson

Street to Greggs Road. The zone changes from Rural Living to Mixed Agriculture and it is suggested that these properties should all be zoned Rural Living.

The submission also suggests that the Kurmond Village area should not be split into three zones but treated as one residential zone (including the school and Rowland Avenue) surrounded by a Rural Living zone.

Comment: The proposed draft Amendment 108 zone boundaries correlate to the existing zone boundaries of Hawkesbury Local Environmental Plan 1989 excluding the newly created Rural Village zone.

The resolution to prepare a draft local environmental plan did not provide for making significant changes to existing zone boundaries and is therefore beyond the scope of this draft Amendment. Amending the plan in this manner would create additional land for subdivision, also beyond the scope of draft Amendment 108.

Conclusions

It is important to realise that inconsistencies exist in lots sizes throughout the City due to past planning policies and an historical pattern of subdivision. Land has been developed for some two hundred years and anomalies exist in lots sizes, however, this is not sufficient justification to allow further subdivision or create further inconsistencies.

It is interesting to note that HSADS was one of the first “rural lands study” to be carried out in Sydney that was not about providing additional land for subdivision but about protecting land for agriculture. Other Councils such as Penrith and Baulkham Hills have since carried out similar studies to HSADS. It would appear that the community has become more interested in protecting the rural amenity of the City as is evidenced in the Hawkesbury Our Future Consultations held in 2002.

Demand for rural and rural/residential subdivision still occurs, as outlined in this report, and must be balanced with the need to protect agricultural resources. Council is faced with some interesting opportunities in finding solutions to this conundrum. Further reports will be prepared for Council to consider alternate options of rural subdivision.

As mentioned above, Council has consistently resolved that HSADS and the subsequent amendments to HLEP 1989 were not about providing additional land for subdivision. Council has consistently refused requests for rezoning received over the past three years which proposed additional subdivision of the City's rural lands.

Further, the requests for alternate zones are limited by Council's original resolution to prepare the draft Local Environmental Plan. These requests are therefore not recommended for support.

RECOMMENDATION:

That:

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1. The information be received.
2. Council not support the requests for rezoning of the following properties/localities:
 - Rowland Avenue, Kurmond
 - 50 Jordan Avenue, Glossodia
 - 17 Inverary Drive Kurmond
 - 99 Gadds Lane, Kurmond
 - 17 Gadds Lane, Kurmond
 - 8 Burgess Road, Freemans Reach
 - Freemans Reach/Glossodia locality
 - Ebenezer locality
 - 61 Wallace Road, Vineyard
 - 112 Horans Lane, Grose Vale.
 - Prestonville, Clarendon

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 4 Oooo

ITEM: 5 Amendment to Exempt and Complying Development**FILE NUMBER:** LEP2/02/EVD/ENA28NBX.V10

REPORT:**Introduction**

On 9 July 2002 Council resolved to carry out amendments to the Hawkesbury Local Environmental Plan in regard to the exempt and complying development provisions. The purpose of this report is to recommend to Council, following a review of these provisions, that further changes can be made, thus removing the necessity for development applications for a wider range of uses.

Attached to this report are excerpts from the LEP, being Schedules 6 and 7, altered to meet the requirements of the 9 July 2002 resolution and the recommendations contained in this report. The changes are shown in italics and deletions are shown crossed out.

Report

A review of development over the past twelve months has revealed that a large number of applications have been made for activities for which it is considered consent should not be required, provided normal conditions are complied with. Hence, the substantial number of changes proposed to the exempt development provisions. This will mean that these works no longer require Council approval, provided they meet the requirements listed in the Schedule.

Major recommendations relate to ancillary structures to a dwelling house such as awnings, shade canopies, storm blinds, pergolas, etc. increasing the maximum area and their location criteria is slightly altered. There are further recommendations relating to fences, dog kennels and, to meet the recent amendments to SEPP 4, substantial changes to the provisions relating to water tanks.

In respect of complying development, it is considered that garages below a certain size and carports below a certain size should become exempt development. The sizes allow for the construction of a two-car garage or carport to meet the requirements of the Development Control Plan (DCP). Advertising signs generally below the awnings of commercial premises, provided they do not exceed a certain size, should also become exempt development.

Alterations will also need to be made to the introductory part of both Schedules, where the reference to a Hawkesbury Development Control Plan needs to be updated to relate to the new DCP and its chapter on exempt and complying development. Council has already resolved to amend the DCP at its meeting on 9 July 2002 and the amendments discussed above will need to be included in this alteration. It will be necessary to exhibit both the LEP amendment and the DCP amendment simultaneously, and also to include the adoption date of the DCP changes in the LEP when it comes back to Council for adoption following exhibition.

The exempt and complying components of the Hawkesbury Control Plan will need to be amended to ensure cross references to the building height plane and carparking provisions contained in the plan are made.

RECOMMENDATION:

That:

1. Pursuant to Section 54 of the Environmental Planning and Assessment Act, a draft local environmental plan be prepared to amend Hawkesbury Local Environmental Plan 1989, as shown in the attached Schedules 6 and 7
2. The Hawkesbury Development Control Plan be amended and placed on public exhibition for a period of 28 (twenty-eight) days in accordance with the Act
3. These amendments be amalgamated with those adopted by Council on 9 July 2002.

ATTACHMENTS:

AT-1 Schedules 6 and 7 - Exempt and Complying Development

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Schedules 6 and 7 - Exempt and Complying Development

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Schedules 6 and 7 - Exempt and Complying Development

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Schedules 6 and 7 - Exempt and Complying Development

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Schedules 6 and 7 - Exempt and Complying Development

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Schedules 6 and 7 - Exempt and Complying Development

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Schedules 6 and 7 - Exempt and Complying Development

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Schedules 6 and 7 - Exempt and Complying Development

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Schedules 6 and 7 - Exempt and Complying Development

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Schedules 6 and 7 - Exempt and Complying Development

ITEM: 6 **Application to Modify Development Consent DA 854/88 - Medical Centre, 2 Kable Street, Windsor**

FILE NUMBER: DA 854/88/EVD/ENA28NBX.V13

PREVIOUS ITEM: 32, GPC Section 1 - Environment (23.04.2002)

REPORT:

Introduction

This application to modify car parking arrangements is reported to Council following concerns raised by Councillor Paine at the Ordinary meeting of 12 November 2002.

Background

Consent was issued on 31st January 1989 for a two-storey medical centre and shops. A subsequent strata subdivision approval was issued in 1992.

Council has previously raised concerns that the basement parking was not accessible to patients. These concerns resulted in an Order being issued to the owners of the property requiring the roller door to be kept open for access to the car parking area.

On 11 September 2001 the owners of the property lodged an application to modify the consent, essentially to allow the roller shutter to remain closed.

The Proposal

The application seeks to modify Development Consent DA 854/88 by modifying Condition 2 and deleting Conditions 23 and 24.

Statutory Situation

Section 96 Environmental Planning and Assessment Act 1979

The proposed modification falls under Section 96 1(A) being a modification involving minimal environmental impact.

Planning Assessment

Details of the conditions to be modified

The conditions to be deleted involve:

- Condition 2
“Parking to be provided for 10 vehicles in accordance with the regulations of Council’s Code for Off Street Parking. Parking spaces and aisle widths to conform to Council’s specifications for the Layout of Parking Areas and to be constructed, drained, sealed and marked to the requirements of Council’s Manager of Engineering Services, full details of which are to accompany the building application.”
- Condition 23
“Car parking space No 7 is to be designated for ‘staff only’”.
- Condition 24
“A sign indicating that parking is available on the site shall be erected to the satisfaction of the Manager Town Planning”.

In support of the application the applicant has provided the following arguments:

1. *The parking conditions attached to DA 854/88 should have rendered redundant by a 1992 DA (SA 38/92) whereby consent was granted for the conversion of the building to 12 strata units. It is obviously not practical to suggest that any single proprietor would need to provide public parking with its one single car space.*
2. *A condition of the original DA 854/88 required payment to Council of an amount of \$44,000.00 being for contribution in lieu of the provision of 8 car spaces. Presumably Council provided these spaces in the public car park immediately opposite the building.*
3. *The presence of drugs, medical waste, used needles, etc, on the premises would pose a severe security and safety risk to both the public and medical staff should the basement be accessible to the public. Break-ins, physical attacks on staff, children injured by discarded needles, etc, are only a few of the possible consequences.*
4. *The suggestion of providing disabled parking in the basement is quite impractical. No lift exists in the basement level and any disabled visitor parking there would then need to exit the car park again to access the outside entrance ramp at the other end of the building. This, together with the problems associated with the tight configuration of the car park would in fact make it far more difficult for a disabled person to access the building from the basement. We are also advised that the roof level is too low to provide access for many disabled vehicles.*
5. *It would appear the main concern for Council is to provide disabled parking for the building. However, as it is obvious that the basement car park is not suitable for this purpose we propose the following suggestion. That Council relocate existing disabled spaces in the Kable Street car park to a suitable location opposite the medical centre and provide a pedestrian crossing across Kable Street with gutter laybacks to permit disabled access. This option also addresses the existing and real*

problem of shoppers (often with trolleys crossing Kable Street in an ad hoc and often unsafe manner to access the shopping centre.

6. *An alternate option would be to designate two existing car spaces alongside or opposite Liquorland (the building next door to 2 Kable Street) as disabled spaces for the Medical Centre. The shopping Centre alongside is also owned by the owner of 2 Kable Street.*

Car Parking

The initial approval for the medical centre required the provision of 18 spaces for the development.

The applicant at the time provided 10 spaces within the basement on site and paid a car parking contribution in lieu of the 8 spaces that could not be accommodated on site. The car parking contribution was used by Council to provide public car parking in various areas within the Windsor commercial centre.

A Council public car park is located directly opposite the medical centre and this car park also provides disabled car parking spaces.

The initial car parking calculation was based on a floor area and did not differentiate between public and employee parking, however, it is reasonable to assume that the rate included parking required for both staff and the public.

In this case the applicant has argued that ten spaces have been provided on site for staff parking and the contribution paid for 8 spaces is for public parking which has been provided opposite the site.

This matter is further enforced by the registration of the strata plan which allocates each car parking space on site to each strata unit. It would seem reasonable to accept the applicant's argument that the provision for public parking associated with the medical centre has been satisfied with the payment of the car parking contribution to council for 8 spaces.

Security and Safety Concerns

Following the Ordinary meeting in May 2002, the Managing Agent agreed to make the car parking area available during business hours for restrictive parking involving disabled spaces. Since that time the roller shutter door has been opened during business hours, with the car park being accessible to the public.

The occupiers of the building have since reported that there has been at least two incidents of illegal drug activity within the basement car parking area. This has threatened the safety and security of staff and owners of the building, who have no option other than to restrict access again to the basement.

Disabled Access

The inspection revealed that although the first two car parking spaces in the undercover parking area (the only ones available to the public) are marked for disabled parking, the ramp from the footpath to the

parking area is too steep and unsafe for disabled use. The elevator within the building does not service the parking area and, therefore, people with disabilities who may park in one of the disabled spaces, would be faced with a difficult, if not impossible, ramp to negotiate to access the building.

After a cursory inspection of the area immediately surround the building, the Chairman of the Disability Advisory Committee recommended that the most appropriate disabled parking would be on the level area of the Council car park adjacent to The Terrace. It would appear that there is room for one or two disabled spaces in this location which could be in addition, or instead of the spaces which are currently located along the eastern boundary of the car park.

The private property adjoining the subject building is less suitable due to the slope of the land.

Conclusion

The application to modify the consent was considered by Council at the Ordinary meeting of 7 May 2002, however, was not determined in view of discussions with the applicant at the time.

Having reviewed the matter, in light of recent security breaches and a further inspection with the Chairman of the Disability Advisory Committee, the modification is now recommended for approval.

RECOMMENDATION:

That:

A. Development consent No.DA 854/88 be modified as follows:

1. Condition No. 2 be deleted and replaced with the following:

“Ten (10) car parking spaces to be provided within the building for the occupants of the building”.

2. Condition No.23 be deleted; and

3. Condition No.24 be deleted

B. The provision of additional/alternative disabled spaces within the public car park on the corner of Kable Street and The Terrace be investigated.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 6 Oooo

ITEM: 7 **Waste Not Development Control Plan****FILE NUMBER:** 73947/EVD/ENA28NBX.V09**PREVIOUS ITEM:** 60, GPC Section 1 - Environment (25.06.2002)

REPORT:**Introduction**

Council at its meeting of 9 July 2002 resolved to publicly exhibit the draft 'Waste Not' chapter of Hawkesbury Development Control Plan for a period of 28 days in accordance with the Environmental Planning and Assessment Act 1979. The purpose of this report is to consider any submissions and to finalise the chapter.

Public Exhibition

The draft 'Waste Not' chapter was placed on public exhibition from 4 October 2002 to 1 November 2002 and was advertised in the Hawkesbury Gazette prior to exhibition.

The chapter was available free of charge in hard copy from Council offices and was also available on Council's web site.

No submissions were received during the public exhibition period.

Adoption of the 'Waste Not' chapter

Only minor changes are required to the DCP relating to formatting changes to improve the layout, consistency and readability, as well as typographical errors. No changes will be made to any requirements/standards/rules.

It should be noted that Section 1.9 'Complying Development' will not become effective until amendments to the complying development schedule in Hawkesbury LEP (1989) is amended. A separate report covering proposed amendments to the exempt and complying development provisions of the LEP appears on this agenda.

Conclusion

The proposed 'Waste Not' chapter for the Hawkesbury Development Control Plan will encourage builders to manage construction and demolition waste more effectively and significantly reduce waste generation in the Hawkesbury. It is therefore recommended that the 'Waste Not' chapter be adopted.

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RECOMMENDATION:

That:

1. The 'Waste Not' chapter for the Hawkesbury Development Control Plan be adopted and made effective in accordance with Clause 21(2) of the Environmental Planning and Assessment Regulation 2000.
2. Council resolve to prepare a draft local environmental plan pursuant to section 54 of the Environmental Planning and Assessment Act to amend Schedule 7 - 'Complying Development' in Hawkesbury LEP (1989) to include a requirement that a Waste Management Plan is submitted for development that includes industrial buildings, additions to industrial buildings, single storey dwelling houses and single storey dwelling house additions.

ATTACHMENTS:

AT-1 Draft DCP - "Waste Not" chapter (distributed separate to the business paper).

oooO END OF ITEM 7 Oooo

ITEM: 8 **Determination of Submissions on Draft Hawkesbury LEP No 3/02 (Amendment 140) - Rezoning of land within Zone 3(b) (Business Special) and to allow recreation areas on land classified as community land**

FILE NUMBER: LEP003/02/EVD/ENA28NBX.V11

PREVIOUS ITEM: 57, GPC Section 1 - Environment (25.06.2002)

PREVIOUS ITEM: 57, Ordinary (9.07.2002)

REPORT:

On 9 July 2002 Council resolved:

- “1. *To prepare a draft local environmental plan in accordance with the Best Practice Guidelines to incorporate the following amendments (into Hawkesbury Local Environmental Plan 1989) being:*
2. *To rezone land within Zone 3(b) (Business Special) in accordance with the review of the zone in the report to either Zones 2(a), Zone 3(a) (Business General) or 4(b) (Industry Light);*
3. *To permit a limited range of service shops in the Industrial zones; and*
4. *To permit recreation areas (in accordance with Plans of Management) without consent on and which is classified as community land.”*

The purpose of this report is to allow Council to consider and determine the submissions received to the public exhibition of Draft Hawkesbury Local Environmental Plan No 3/02 (Amendment 140).

Introduction

To achieve the intent of Council's resolution above, Draft Hawkesbury Local Environmental Plan No 3/02 (Amendment 140) was prepared to amend Hawkesbury Local Environmental Plan 1989, which is the principal environmental planning instrument for the area. Amendment 140 is prepared in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act) and the Environmental Planning and Assessment Regulations 2002. Relevant matters are:

1. Section 62 Consultation with public authorities, adjoining Councils and relevant persons

Section 62 of the EPA Act requires a Council to consult with relevant public authorities, other adjoining council's and other interested persons as it determines when a local environmental plan is prepared:

Council undertook no consultation with the above parties in regard to Amendment 140 as it is primarily an administrative plan that consolidates and improves planning provisions for land to which the plan applies. It is considered that no public authorities will or may be affected by Amendment 140 because:

- the change in zoning will remove the current redundant zone and put in place zones that better reflect existing, approved or likely land uses;
- the change in zoning is from one urban zone to other urban zones within the established urban area; and
- there would be no change in the demand for services provided by public authorities.

Amendment 140 does not involve land adjoining another council's area and there are no likely other persons who would be interest in the matter (other than landowners which were consulted during the public exhibition of the plan.)

2. Section 66 Public Exhibition of Amendment 140

Amendment No 140 was publicly exhibited for a period of 28 days from 11 September to 9 October 2002. A public notice was placed in the Hawkesbury Gazette on 11 September and 25 September 2002. Council also wrote to all landowners affected by Amendment 140.

In response to the public exhibition, Council received five submissions. A summary of relevant issues are outlined below along with recommendations for Council to determine the submissions.

Submission 1 - Jonathan Stack (Action Insurance Brokers P/L)

Property: Lot 2 DP191236 No.333 George Street, Windsor
Zone Change: 3(b) to 3(a)

The respondent objects to a change in zoning from Zone 3(b) to Zone 2(a) without their input. It is indicated that if the property is rezoned to 2(a) there would be a drop in the market value with no foreseen benefit.

Comment

The property is located in the Windsor Township area in which Amendment 140 will rezone the Zone 3(b) to Zone 3(a) (Business General). Council Officers liaised with the submission author and explained the proposed zoning would be 3(a) and not 2(a). It was indicated by the respondent that the 3(a) zone is satisfactory.

The 3(b) zone is redundant in the Windsor Township and Amendment 140 enables Council to consolidate the current business zones as they are generally the same (only Light Industries and Truck Depots would not be permitted on the property under the 3(a) zone.)

It is recommended that Council determine Submission 1 by making no changes to Amendment 140.

Submission 2 - John Greer (Winford Motors Holdings)

Property: Winford Motors Holding and land between Curtis and Park Roads, Mulgrave

Zone Change: 3(b) to 4(b)

The respondent objects to the 4(b) zone because:

- (i) The current Retail zone should remain as an Industrial zone would remove the right to existing approved developments on the land;
- (ii) There would be a loss in employment opportunity in the area if all the land in Hawkesbury is rezoned to Industrial. The zone enables developments that are cleaner than Industrial to be the "doorway" to Windsor on Windsor Road;
- (iii) There would be a lost opportunity for residents to shop locally;
- (iv) The current zoning attracts business to the Hawkesbury from other council areas, which are becoming prohibitive in terms of tenant costs; and
- (v) There would be an impact on the Winford Motor Holding which is being developed as a "business park" in accordance with the current 3(b) zone, which could not take place under the 4(b) zone.

Comment

The relevant zone objectives for the zones in question are:

- | | |
|-----------|---|
| Zone 3(b) | <ul style="list-style-type: none">(i) to promote office development to meet employment and social needs of Hawkesbury; and(ii) to permit non-commercial development which is compatible with the commercial character of the locality. |
| Zone 4(b) | <ul style="list-style-type: none">(i) to set aside land for light industry within convenient distances of the urban centre of Hawkesbury;(ii) to allow commercial and retail development for uses ancillary to the main use of the land, for bulky goods retailing and for day to day need of occupants and employees of the surrounding industrial areas. |

The land use table for the zones shows:

- There are 59 common uses that are permitted in both zones, which includes Light Industries, Bulky Goods Retailing, Professional and Commercial Chambers, Hotels, Motels, Motor Show Rooms, Refreshment Rooms and Warehouses;

- The additional uses that are only permitted in the 3(b) zone and prohibited in the 4(b) zone are Bed and Breakfast Accommodation, Commercial Premises, Dual Occupancies, Dwelling Houses, Educational Establishments, Residential Flat Building Buildings and Shops; and
- The additional uses that are only permitted in the 4(b) zone and prohibited in the 3(b) zone are Extractive Industries, Institutions, Liquid Fuel Depots, Mines, Mineral Sand Mines, Road Transport Terminals, Rural Industries, Stock and Sale Yards and Transport Terminals.

For a land use to be approved in accordance with the primary objective of the 3(b) zone, being offices, it would be approved as a Commercial Premises. From Council records it appears that only one approval has been issued to date for offices in the 3(b) zone at Mulgrave. Therefore, the majority of land uses currently in the 3(b) zone at Mulgrave have been approved in accordance with the secondary objective of the zone being motor vehicle show rooms, refreshment rooms, industrial buildings (which are or subsequently approved for uses like light industries and bulky good retailing or which may also be used as offices) and the like. All of these uses are characteristically "light industry" which are also permitted in the 4(b) zone.

The only real difference between the two zones from a commercial point of view is that there would be a change in zone name and that offices and shops would not be permitted in the 4(b) zone. With this in mind Council needs to determine whether there would be a significant loss of potential office space in the area as a result of the rezoning and whether the loss is contrary to Council's strategic direction. Comments are:

- (i) It is likely that subject land at Mulgrave will be developed for light industry regardless of whether it zoned 3(b) or 4(b) given the approved and likely uses and the adjacent 4(a) (Industry General) zone;
- (ii) Generally, offices are located in business zones, which are primarily found in town/regional/district/local centres which are commercial, employment and transport hubs. Established centres should primarily provide for office accommodation which supports their role. However, there is merit in providing limited office space in locations outside the these centres to allow for any evolution in office practices and to recognise local development constraints like location, distance, flooding, access, heritage, parking and land holding sizes.

As a matter of precaution Council should retain some land outside the established centres where offices are permitted. This office space should be limited in size so that the established centres are not disadvantaged by their local development constraints. In this regard, the recommended options available to Council are:

- (a) To retain part of the 3(b) zone at Mulgrave. It is noted that shops and brothels would be permitted in the zone as SEPP 22 allows commercial premises (offices) to be changed to shops and vice versa. However, a floor space limit for commercial premises and shops would control the size of any offices and shops;

- (b) To allow offices on part of the 4(b) zone at Mulgrave as an additional defined use, limiting floor space.

Comments on Submission 2 are:

- The 4(b) zone would not remove any right of any existing approved development, including Winford Motor Holding, to lawfully operate under the EP&A Act. Retailing would still be permitted in the 4(b) zone in conjunction with the main use of the land;
- Both Business and Industrial zones are "employment lands" which can generate employment. Offices could however provide a denser level of employment.
- The 4(b) zone only allows light industrial uses, which are cleaner than the heavy industrial uses. This zone provides for similar developments which are currently in the 3(b) zone and would function as a gateway to the area.
- Shops are not permitted in the 4(b) zone as they are more appropriate in business zones in town centres. Mulgrave is not a "centre" of Hawkesbury. Council should only allow shops in the 3(a) (Business General) zone, which consolidates growth in the established centres. The development of shops in the current 3(b) zone at Mulgrave would only serve to misdirect this type of use away from the established business centres.

Notwithstanding the above, Amendment 140 permits a limited range of service shops in the Industrial zones to serve the daily needs of industrial workers.

- The development of Winford Motor Holdings as a business park can still take place under the 4(b) zone. The development of the property has been in the form of a light "industrial" business park with units available for subsequent use. A full range of uses can be approved in the units in the 4(b) zone and associated retailing. It is apparent that the business park is not solely marketed for office space.

It is recommended that Council determine Submission 2 by retaining the 3(b) zone on land between Curtis Road and Groves Avenue, Mulgrave with a limited floor space area of 1000sqm for commercial premises and with a limited floor space area of 200sqm for shops.

Submission 3 - Hawkesbury Branch, NSW National Trust

Property 1: Lot 1 DP1010739, 10 Macquarie Street, Windsor
Zone Change: 3(b) to 3(a)

Property 2: Lot 1 DP743689, 63 Mileham Street, South Windsor
Zone Change: 3(b) to 4(b)

Property 3: Various properties that would be rezoned that have potential heritage items significance

The respondent objects to the above changes in the following ways:

1. The 3(a) zone on the south-western corner of the property should be zoned 7(d1) Environmental Protection (Scenic). The ridgeline through the property is of high heritage significance as part of a site line from the floodplain to Windsor Township and because it forms part of the pre-town rural landscape. It is part of entry view from Windsor Road and un-landscaped urban uses should not intrude on the ridge line;
2. The change in zoning removes any heritage protection for the cottage and the 3(b) zone should remain.
3. Some of the properties affected by Amendment 140, which are considered to be heritage items do not have formal protection under Hawkesbury LEP. The identified properties should be included as heritage items as part of Amendment 140 (4, 6 and 10 Bosworth Street, Richmond; 118 and 157 March Street, Richmond; 273-277 and 333 George Street, Windsor; and "Chandlers" cnr Suffolk and Macquarie Streets.)

Comment

The property is part of the Hawkesbury Valley Holden complex. It is not appropriate to rezone part of the property to a 7(d1) zone as it is in an urban environment. The assessment of any development application must have regard to heritage as a matter of consideration under Section 79 -Evaluation of the EP&A Act. In this regard, there is an ability to protect the view line as part of the development application process. Should Council wish to explore the protection of the view line, it should be undertaken as part of the heritage program which includes the Heritage Study and which could include heritage development provisions in Hawkesbury LEP or in a development control plan.

The heritage provisions of Hawkesbury LEP apply to all land identified as a heritage item regardless of land use zoning.

The inclusion of a number of additional heritage items in Hawkesbury LEP should be undertaken in a local environmental plan for that purpose. Council would need to complete heritage assessment for the properties, if they do not already exist, to justify their significance. It would also need to liaise with the owners as interested/affected person. It is not appropriate for Council to action this request in Amendment 140 as it would significantly delay the gazettal of the plan. The proposed amendments do not affect existing heritage status of any property.

It is recommended that Council determine Submission 3 by making no changes to Amendment 140.

Submission 4 - Robert Calvert (Calcorp Pty Ltd Developments)

Property 1: Lot 1 DP815214, 31 Brabyn Street, South Windsor
Zone Change: 3(b) to 3(a)

Property 2: Lot 3, 4 and 5 DP 749170, Nos 8, 16, 7 18 Groves Avenues, Mulgrave

The respondent objects to the above changes in the following ways:

The property is developed with a mix of retail and professional use under the 3(b) zone. In the 4(b) zone the uses would become non-conforming uses, dirty industries like panel beaters are allowable and industrial uses in the centre of town would create associated problems. A zone change to 3(a) is put forward.

There should be no change in the zoning as a clean modern business park is being created by the author of Submission 4 and Submission 2 as a bulky goods retailing complex. It is suggested that the zoning will destroy future opportunities.

Comment

Refer to previous comments in Submission (2). The 4(b) zone allows uses not previously permitted on the property which are not be appropriate in this residential area. The 3(b) zone at South Windsor should be zoned 3(a), which will consolidate the Business zones and allow more appropriate land uses.

See previous comments in Submission (2) about the development of the "industrial" business park for bulky goods retailing, which is also permitted in the 4(b) zone. The 3(b) zone is not a "commercial" zone that will protect the business park. This will come down to marketing and management and the range of uses permitted.

It is recommended that Council determine Submission 4 by changing the 3(b) zone in South Windsor to the 3(a) zone in Amendment 140.

Submission 5 - PriceWaterhouseCoopers Legal on behalf of ICA Property Pty Ltd.

Property: Lot 180 DP79731 and Lot 2 DP535140 Nos 264-272 Windsor Road, Vineyard
Zone Change: 3(b) to 4(b)

The respondent objects to the 4(b) zone and Amendment 140 because:

- The owners are currently preparing a proposal for a development comprising bulky goods retailing and associated retail shops and possibly a supermarket or large hardware outlet, which has incurred substantial costs. The rezoning would prohibit components of the proposal and reduce development options and the value of the property;

Comment

Council's decision to prepare an LEP is undertaken for strategic planning reasons. It is the responsibility of the applicant to prepare an application based on the current and draft planning provisions etc for the land.

- Amendment 140 does not satisfy the reform objectives of the PlanFirst white paper in which amendments to planning instruments need to remain part of a single planning instrument and that land use rules should apply to localities and not be generic zones.

Comment

Amendment 140 amends the principal consolidated planning instrument. PlanFirst advocates locality based planning which Council will need to consider if and when the legislative reforms are gazetted.

- Amendment 140 is inconsistent with Planning NSW Circular C1 - Preparation of Local Environmental Plans - does not include and explain its aims and objectives.

Comment

Circular C1 is a guide for councils on the process for making a plan, which is being followed. Amendment 140 does explain its purpose.

- Planning NSW Circular C30 - Local Government Plans prepared for Development Applications under appeal (C30). Council's should in reviewing LEPs consider savings and transitional provisions for DAs which are undermined or under appeal at the time legislation comes into affect (from case law.)

Comment

Circular C4 relates only to LEPs that are prepared in response to an appeal in the Land and Environment Court on a determined DA. The property is not subject to a current appeal in the Court. However, DA1389/02 was lodged on 4 November 2002 for a building complex to be used for bulky goods retailing, specialty shops and a supermarket, after the close of the exhibition period for Amendment 140.

- Amendment 140 is contrary to Section 117 Direction G10 - Business Zones - LEPs shall not substantially alter the location of existing zonings or substantially reduce zonings of land for business development. No economic or environment; study has been completed to justify the rezoning.

Comment

S117 Direction G10 requires Council to consider the extent of the alteration or reduction from the point of view of the total areas of existing land zoned for business development in Hawkesbury. The current Business Zones totals 78.78 ha (see table below.) The exhibited Amendment 140 Business Zones totals 46.55ha, which is 60% of the original. The recommended changes to the exhibited Amendment 140 would result in a Business Zones total of 56.06ha which is 71% of the original.

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The reduction in Business Zones, being about 29% to the 4(b) zone is not considered to be significant, especially considering for all intents and purpose the 3(b) and 4(b) zones are the same. Overall, Amendment 140 reflects existing, approved or likely residential, commercial and industrial land uses.

(1) Current Business Zones	Area
3(a) zone	36.59 ha (47%)
3(b) zone	42.19 ha (53%)
Total	78.78ha
(2) Exhibited Zones - Amendment 140	
(a) Business Zones	
Current 3(a)	36.59 ha
3(b) to 2(a) and 3(a)	9.96ha
Total	46.55ha
(b) Total Other Zone - 3(b) to 4(b) at South Windsor & Mulgrave	
	32.21ha
(3) Alterations to Zones (after S68) - Amendment 140	
(a) Business Zones	
Current 3(a)	36.59ha
Exhibited 3(b) to 2(a) and 3(a)	9.96ha
3(b) to 3(a) at South Windsor	1.57ha
3(b) retained at Mulgrave (between Curtis Road and Groves Avenue, Mulgrave)	7.94ha
Total	56.06
(b) Total Other Zone - 3(b) to 4(b) at Mulgrave (remaining)	
	22.7ha

- A public meeting should be held before Council makes a decision on the matter considering the number of land parcels that will be rezoned to three other zones and because Amendment 140 does not justify the proposed 4(b) zone;

Comment

It is considered that the issues raised in Submission 5 are not of significance to warrant a public hearing.

It is recommended that Council determine Submission 5 by making no changes to Amendment 140, other than those recommended earlier in this report.

Conclusion

Having considered the five submission to the public exhibition of Amendment 140 it is recommended that Council proceed with the amendment with the changes to the exhibited plan recommended in the body of the report before forwarding it to the Minister for Planning for making. It should be noted that Council Staff will need to liaise with the Parliamentary Council in regard about the changes to ensure Amendment 140 can be legally made.

Amendment 140 reflects existing, approved or likely uses and will consolidate a number of zones in the area which is a general objective of the planning process.

RECOMMENDATION:

That:

1. Council determine the Submissions to Draft Hawkesbury LEP No 3/02 (Amendment 140) to rezone all land in Zone 3(b) (Business Special) and to allow recreation areas on land classified as community land by proceeding with the plan with the following changes to the exhibited plan being made:
 - (a) the land between Curtis Road and Groves Avenue, Mulgrave remain as the 3(b) (Business Special) zone with a limited floor space area of 1000sqm for commercial premises and 200sqm for shops; and
 - (b) the land in the 3(b) (Business Special) zone at South Windsor be zoned 3(a) (Business General).
2. Subject to (1) above that Draft Hawkesbury LEP No 3/02 (Amendment 140) to rezone land in Zone 3(b) (Business Special) and to allow recreation areas on land classified as community land be forwarded to the Minister for Planning for making.
3. The submission authors be advised of (1) above.

ATTACHMENTS:

- AT-1** Draft LEP Map as exhibited (separate distribution).
AT-2 Draft LEP Map as proposed (separate distribution).

oooO END OF ITEM 8 Oooo

ITEM: 9 **Unsightly Conditions - 57 Uworra Road, Wilberforce**

FILE NUMBER: P2116/20/EVD/ENA28NCX.V14

REPORT:

Introduction

This report is submitted for Council's information in response to a question from Councillor Davies at the Ordinary meeting of 10 December 2002.

Report

The property has been the subject of occasional complaints since 1996. The complaints relate to derelict motor vehicles and various other items stored at the front of the property and on the adjoining road reserve. Correspondence was issued to the owner in December 1997 which resulted in the derelict vehicles, etc., being removed from the road reserve and placed on the property. Further correspondence was forwarded to the owner on 11 October 2000.

An inspection conducted in August 2002 revealed that a large unregistered motor home was parked on the road reserve and various unsightly materials were dumped/stored on the road reserve and on the front of the property. A Notice of Intention to Serve an Order was issued to the owner on 30 August 2002. No response was received and an Order was issued under Section 124 of the Local Government Act requiring removal of metal containers, etc. to a proper place of disposal and to relocate the motor home to a more suitable location within the property.

Further inspections have revealed that the works have not been carried out and there has been no improvement at all. Accordingly, on 22 January 2003 the motor home was removed from the road reserve by Council officers and placed on the owner's property. Other items will be removed and disposed of as soon as possible.

It should be noted that the owner will be required to pay the costs of this work and will also incur a fine for non-compliance with an Order.

RECOMMENDATION:

That the information be received.

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ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 9 Oooo

ITEM: 10 Green Waste Collection**FILE NUMBER:** 8009/EVD/ENA28NCX.V06

At the Ordinary Meeting on 10 December 2002 reference was made to Baulkham Hills Shire Council having a third waste cart for the collection of household green waste (garden clippings and prunings) and requested a report on the feasibility of such a system being implemented in the Hawkesbury area.

Discussions with representatives of Baulkham Hills Shire Council, revealed that they do not currently operate a third bin system for green waste collection, and do not have any immediate plans to implement such a system in the near future.

Information gathered in relation to this matter indicates that the proposed Pre- Treatment Facility which is the subject of a development application and environmental impact statement, currently lodged with Council for consideration in the near future, will adequately meet the needs of the community. Households will be encouraged to place their green waste in with the normal domestic waste material in the existing bin, as the pre treatment process will extract this organic fraction from the waste stream in the rotating drum which forms the major component of the proposed system.

By using the current domestic waste collection system, the additional infrastructure costs would be avoided. Not running a third vehicle to collect the material would also be beneficial to the environment.

In some areas where the system of three waste carts has been introduced, there has been objections from the community regarding the problem of finding space to store the bins.

It is suggested that the best option for Hawkesbury City Council at present, is to await the outcome of the development application process for the Pre Treatment Facility, which if approved, would adequately handle the green waste from our community.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 10 Oooo

ITEM: 11 **Development Application for Retail Commercial Development - 264-272 Windsor Road, Vineyard**

FILE NUMBER: DA1389/02/EVD/ENA28NCX.V15

REPORT:

Introduction

A development application was received on 4 November 2002 to construct a retail/commercial development on the land comprising a supermarket, bulky goods outlet and speciality shops.

This report is submitted at the request of Councillor Gilling to provide Council with information about the development and the status of processing.

Report

The proposed development comprises the following:

- Supermarket of approximately 3,200sqm
- 7 (seven) bulky goods outlets with combined floor space of approximately 7,138sqm
- 17 (seventeen) specialty shops with combined floor space of approximately 2,270sqm
- Carparking for 447 cars
- Access and egress via Industry Road and Groves Road with provision of traffic signals at the intersection
- Egress only to Windsor Road

The application has been referred to the Regional Traffic Committee which has provided a number of comments. Preliminary assessment of the application has revealed some deficiencies and requirements for further information. Upon receipt of further information, the application will be publicly notified in accordance with Council's Development Control Plan and subsequently reported to Council for determination.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

AT-1 Locality map

Locality Map
oooO END OF ITEM 11 Oooo