



general
purpose
committee

1
section

environment

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ITEM: 42 **Animal Establishment - Housing of two Leopards, Lot 2 DP 746717, 691 George Street, South Windsor**

FILE NUMBER: DA0325/03/EVD/ENG29NAX.V06

Applicant: Kirstin Justine Irene Feddersen
Applicants Rep: N/A
Owner: Ms K J I Feddersen
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 3039.000sqm
Zone: Part Residential 2(a) and Part Rural 1(c)
 Residential 2(a) under Hawkesbury Local Environmental Plan 1989
Advertising: 31 January 2003 to 14 April 2003
Date Received: 24 March 2003

Key Issues: ? Safety and Security
 ? Noise
 ? Waste

Action: Approval subject to conditions

REPORT:

Introduction

Council has received a development application seeking approval for the keeping of 2 (two) leopards.

This matter is being reported to Council at the request of Councillor Finch.

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

The Proposal

The proposal involves the erection of a cage complex, 20 (twenty) metres by 11 (eleven) metres, with a 3.6 (three point six) metre eave height and a ridge height of 5 (five) metres.

The complex includes a main cage, a holding cage and drive in loading area, all contained within an exterior cage. The south western side, the south eastern side and the roof of the internal cage complex will be constructed of colourbond. The other sides will consist of weldmesh.

The frame is to be constructed of steel; the roof and walls will be green colourbond and the floor will be concrete. Chain wire is to be used for the external cage.

Statutory SituationSydney Regional Environmental Plan No. 20 (Hawkesbury Nepean River)

The proposed development is consistent with the relevant provisions contained in SREP 20.

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject land is zoned part Residential 2(a) and part Rural 1(c) under Hawkesbury Local Environmental Plan 1989. The proposed development is defined as an “original establishment” and is permitted with consent in both the Residential 2(a) and the rural 1(c) zone.

Hawkesbury Development Control Plan - Rural Sheds Chapter

The aim of this Chapter is to enable the erection of sheds on rural properties in a manner which compliments the rural character of the landscape and has minimal impact on the scenic qualities of an area and to provide design principles for the construction of these buildings.

While the proposed cage complex is to be located on land that is zoned Residential 2(a), the character of the locality is rural residential and the internal cage will appear shed like.

The proposal complies with the requirements of the DCP for Rural Sheds.

Community Consultation

Following notification of the proposal, one submission was received from a resident of Hobartville. This submission raised the issue of safety, which will be addressed in the planning assessment below.

NSW Agriculture

The proposal was referred to NSW Agriculture for their comment. In their letter of 22 April 2003, NSW Agriculture provided the following comments:

The applicant will need a licence either under the Exhibited Animals Protection Act (EAPA) or the Non Indigenous Animals Act (NIAA) to use exotic animals.

Comment

The licence that is most likely to be required will be one under the Non Indigenous Animals Act.

Council could proceed to assess the development application knowing that a licence under one or the other will be needed. If the Council does proceed NSW Agriculture would recommend that any approval contain a condition preventing construction or housing of the Leopards until the applicant has obtained the necessary approvals/licences under one or the other of NIAA or EAPA.

Comment

The Department of Agriculture has advised that they cannot issue the required licence/s until an inspection of the cages is carried out. A condition has been imposed preventing the relocation of the leopards to the subject premises prior to providing evidence that the required licence/s have been obtained.

To minimise potential conflicts with neighbours it would be advisable to place the cages, if possible, behind the existing house on the allotment to maximise the separation distance from other houses in the vicinity.

Comment

The location of the cages has been chosen due to the flood liability of the land. The rear of the land, behind the existing house is flood liable having contours of approximately 12 (twelve) metres to 14 (fourteen) metres AHD. The cages will be located in front of the dwelling house. The contour of the land in this area is approximately 15 (fifteen) metres. As the leopards are contained and restricted within the cages, it is considered that the location of the cages will provide optimum health and safety conditions when housed on the site.

Planning Assessment

Full consideration has been given to s.79C (1)(b) of the EP & A Act as contained on file. Below are the relevant matters:

Context And Setting

The locality is rural residential in character. Adjoining landuses consist of predominantly dwelling houses, and the keeping of domesticated animals. The proposed development is consistent with the adjoining land uses.

The applicant has chosen to enclose the southwestern boundary of the cage to screen the leopards from view from the adjoining rural property as this property is used for the keeping of horses.

The proposed building will not impact on the existing views and vistas of the area.

The cage complex will be located 2 (two) metres from the rear boundary of the property in front. This property is residential in size and use. It is considered that the location of the cage complex should be a minimum of 6 (six) metres from this boundary to reduce its potential impacts and to ensure privacy. This is consistent with the setback requirements of the Residential Chapter of Hawkesbury Development Control Plan. There is sufficient room on the site to accommodate the 6 (six) metres setback.

It is therefore considered that the proposal will not unreasonably impact on adjoining properties in terms of overshadowing, or loss of visual or acoustic privacy.

Noise and Vibration

The applicant advised that the loudest noise that leopards make is a sound, which is quieter than a barking dog.

Safety and Security (issue raised by respondent)

The applicant advises:

"Safety of residents in the area is obviously of prime concern. Therefore, the cages have been designed so that there is a cage inside another cage (this is above and beyond the

Department of Agriculture's Standards). It will be possible to drive inside the exterior cage, lock the vehicle in, then ,open the interior leopard cages to load the leopards. The leopards will be transported in lockable cages in the back of a utility truck. When they are locked inside the truck, the exterior cage can be unlocked and the leopards transported safely to the site where they will be working (mainly studio locations in and surrounding Sydney). They will be working approximately once a month which will be the only time they are transported”.

The enclosure will be protected from vandalism not only by the exterior cage (both interior and exterior cages will be padlocked), but also a locked front gate and security cameras."

Comment

The enclosing of the cage complex on the south western and south eastern elevations will ensure that the leopards cannot be viewed from public areas including George Street.

It is considered that the applicant has demonstrated that reasonable measure will be taken to ensure the safety of the community.

Waste

Waste generated by the leopards will be composted on site using special worms that break down faeces.

This is an acceptable method of waste disposal.

Conclusion

The proposed development is permissible in the locality and it is considered that it will have no significant impact on the amenity of the locality, the natural environment or safety within the community.

The safety concerns raised in the submission have been notified by the applicant.

RECOMMENDATION:

That the application for an animal establishment to house two leopards be approved subject to the conditions in the attached consent:

General

1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans submitted with Development Application and any supportive documentation, except as otherwise provided by the conditions of this consent and as amended in red on the plans.

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

2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
3. Prior to construction of the approved development it is necessary to obtain a Construction Certificate.
4. No excavation or site works shall be commenced prior to the issue of the construction certificate.
5. The construction of the building, including the roof, shall be in materials of a low reflective quality or similarly treated materials.
6. The cage complex is to be located at least 6 (six) metres from the rear boundary of the property in front.

Prior to Issue of Construction Certificate

7. Separate practising Structural Engineer's details of all structural concrete and steelwork shall be lodged prior to issue of construction certificate.
8. The submission of a landscaping plan. Such landscaping is to provide a mixture of trees, shrubs and ground cover and suitable screening of the shed/cage complex when viewed from surrounding areas. Trees shall include species that at maturity have a height above the ridge line of the shed. Shrub mass shall provide adequate screening. Plants native to the area are to be chosen. The landscaping plan shall detail the species, the mature height of each species, the number of plants to be used and the distance between plantings.
9. All waste water generated by the washing out of the cage is to be collected via a pit connected to an absorption trench to ensure that polluted water is not discharged into the stormwater system or on adjoining land. Details to be submitted and approved prior to the issue of a Construction Certificate.
10. A Management Plan is to be submitted to Council for approval. The Management Plan address:
 - Cleaning of the cage
 - Disposal of waste
 - Odour
 - A flood evacuation plan is to be prepared for the evacuation of the leopards in the event of a flood.
 - Safety and security measures

Prior to Commencement of Works

11. Sanitary accommodation shall be provided for workmen throughout the course of the building operations in accordance with the Local Government Act 1993 and the Environment Planning and Assessment Act.
12. A sign must be erected in a prominent position on any work site on which the erection or demolition of a building is being carried out:
 - (a) stating that unauthorised entry to the work site is prohibited; and
 - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

This condition does not apply to:

- (a) building work carried out inside an existing building; or
 - (b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
13. 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.
14. 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.
15. The applicant shall advise Council of the name, address and contract number of the principal certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1997.

During Construction

16. All building work must be carried out in accordance with provisions of the Building Code of Australia.
17. 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) steel reinforcement;
 - (c) on completion of the structure;

18. 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.
19. To reduce nuisance to the surrounding properties, all demolished material and excess spoil from the site shall be disposed of to a location and in a manner to the approval of this office (Note: no material shall be burnt or buried on the site).
20. 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.
21. 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.
22. All roof water shall be drained to the water storage vessel/s.
23. The storm water (including over flow from the water storage vessel/s) shall be drained to an absorption trench complete with 600mm plastic high dome void former, minimum length 1.8m plus 1m per 10m of guttering. The high dome to be covered with minimum 100mm of aggregate. Such trenches shall be located a minimum of 4m clear of any building/vessel/allotment boundary.

Prior to Occupation

24. Prior to the occupation of the cage complex, evidence that the required licences under the Exhibited Animals Protection Act (EAPA) or the Non Indigenous Animals Act (NIAA) is to be provided to Council.
25. In order to ensure that the development complies with this consent, the approved use shall not commence until all conditions of this Development Consent have been complied with.

Use of the Site

26. The shed/cage complex shall not be used or adapted for use for human habitation, or for commercial or industrial purposes, without the approval of Council.
27. The leopard cage is to be kept clean and maintained in a satisfactory condition at all times, with excess food being removed from the cage daily.
28. The maximum number of leopards to be kept on the premises is 2.

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29. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
30. The development shall be conducted in such a manner that the LA(eq) noise levels, measured at any point in accordance with the NSW EPA's Industrial Noise Policy (2000), do not exceed 5dB(A) (LAeq) above background noise levels with respect to noise amenity of residential dwellings.

ATTACHMENTS:

- AT-1** Locality Plan
- AT-2** Site Plan
- AT-3** Elevation Plan

At1 - Locality Plan

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At 2 - Site Plan

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At 3 - Elevation Plan

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ITEM: 43 **Sale and Warehousing of Adult Material, Lot 6 DP 634414 Vol 15122
Fol215, 230 Windsor Road, Vineyard**

FILE NUMBER: DA0587/03/EVD/ENG29NAX.V08

Applicant: Acroplan
Applicants Rep: Glenn Ziemik
Owner: Winford Motors Pty Ltd
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: Unit - 270sqm
Zone: Business Special 3(b) under Hawkesbury Local Environmental Plan 1989
Advertising: Not Required
Date Received: 26 May 2003

Key Issues: ? Parking
 ? Social Impact

Action: Deferred Commencement Approval subject to conditions

REPORT:

Introduction

Council has received a development application seeking approval for the first use of a factory/showroom for the sale and warehousing of adult material.

This matter is being reported to Council at the request of Councillor Sheather.

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

The Proposal

The application seeks approval to use unit 20 (twenty) (previously know as unit 7 (seven)) for the sale and warehousing of adult material such as lingerie, adult games, gifts and novelties of an unrestricted nature together with the sale of magazines and videos, classified by the Film and Literature Classifications Board as category 1 and 2. The application proposes the erection of internal walls to divide the existing unit into a retail area of 165sqm (one hundred and sixty five) and a warehouse area of 105sqm (one hundred and five). The application also proposes a wall sign within the existing recessed sign panel area which states the name and contact details of the proposed business. A partition wall is also proposed internally around the front entry and windows and doors will be 'blackened out' to ensure that retail goods and sale activities are not visible from outside areas.

The proposed hours of operation are 9.00am to 10.00pm, 7 (seven) days per week.

Background

Development application M0594/01 for the erection of 17 (seventeen) units for use as factory/showrooms was approved 18 July 2001. 8 (eight) of these units have since been constructed. The parking required for all 17 (seventeen) units have also been constructed.

Statutory Situation

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject land is zoned Business Special 3 (b) under Hawkesbury Local Environmental Plan 1989.

The objectives of the zone are:

- (a) to promote office development to meet the optimum employment and social needs of the City of Hawkesbury;
- (b) to permit non-commercial development within the zone where such development is compatible with the commercial character of the locality;
- (c) to ensure that there is adequate provision for car parking facilities within the zone;
- (d) to minimise conflicts between pedestrians and vehicular movement systems within the zone; and
- (e) to preserve the historic character of the City of Hawkesbury by protecting heritage items and by encouraging compatible development within and adjoining historic buildings and precincts.

While the proposed development is permitted within the Business Special 3(b), its consistency with the zone objectives is subject to the assessment of the development application. Specifically, this report discusses the proposal's consistency with objective (c) above.

Hawkesbury Local Environmental Plan 1989 (HLEP 1989) - Draft Amendment No.140.

The proposed retail component falls under the definition of 'Business Special Shops' as it does not exceed a gross floor area of 200sqm (two hundred). In accordance with the draft amendment, 'Business Special Shops' would be permissible on land zoned Business Special 3(b). In this regard the proposed development is consistent with the draft amendment.

Hawkesbury Development Control Plan (DCP)

Car Parking Chapter

This chapter aims to ensure that adequate and convenient off-street parking facilities are provided for all vehicles generated by the new development.

The following outlines the requirements for the proposed development in accordance with Clause 2.5 of the DCP.

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Proposed Use	Area Allocated to Proposed Use	Hawkesbury DCP Parking Spaces Requirements	Spaces Required
Warehousing	Approximately 105sqm	4 spaces for area up to 300sqm of GFA, then 1 space for each 90sqm of GFA or part thereof, in excess of 300sqm.	4 spaces required
Shops	Approximately 165sqm	1 space per 30sqm of GFA	5.5 spaces required

As outlined above a total of 9.5 (nine point 5) car parking spaces are required to service the proposed use. In accordance with initial approval granted for the construction of the units, 4 (four) spaces are provided for the unit. This matter is discussed further in the report.

Community Consultation

The proposed development does not require notification in accordance with Chapter 3 of the DCP. Notwithstanding this, 1 (one) submission was received from a resident of Richmond. The submission raised concern regarding the proposed use and its location near schools, McDonalds etc. These concerns are addressed in the planning assessment below.

Planning Assessment

Full consideration has been given to s.79C (1)(b) of the EP & A Act as contained on file. Below are the relevant matters:

Parking

Development Application M0594/01 for the construction of the 17 (seventeen) units was assessed and approved as factory/showroom units. Parking for the units was therefore required and provided in accordance with factory parking requirements. As such the unit subject to this application was allocated 4 (four) spaces. No surplus parking was provided for the development. The proposal involves use of a portion of one of these units for retail/shop use. The parking requirement rate for a shop is higher than the parking requirement rate for a factory/showroom. As such parking in addition to the allocated 4 (four) spaces is required.

Council's requirements for parking are outlined in the DCP assessment above. In accordance with these requirements 9.5 (nine point five) spaces are required for the proposed development. The applicant interprets the DCP requirement for warehouses of 4 (four) spaces for all development up to 300sqm (three hundred) of GFA as 1 (one) space per 75sqm (seventy five) of gross floor area. As such the applicant considered that the warehousing component requires only 1.4 (one point four) spaces. This together with the above calculated shop component of 5.5 (five point five) spaces results in a requirement of 6.9 (six

point nine) car spaces. This is considered to be an incorrect interpretation of the DCP requirements. Notwithstanding this incorrect interpretation, the DCP allows for variations where a traffic impact statement is submitted. In this regard, the Statement of Environmental Effects (SEE) submitted with the application indicates that there will be 3 (three) staff (1 (one) full time and 2 (two) part time) associated with the proposed use and based on movements to an existing "Nauti & Nice" retail and warehouse centre currently located at Wyong, a maximum of 3 (three) customers per any given hour are also expected. Van deliveries will be unloaded internally. Overall the applicant's 6.9 (six point nine) car space calculation is acceptable. However, the unit is only allocated 4 (four) spaces, a short-fall of 3 (three) spaces.

Currently only 8 (eight) of the 17 (seventeen) units approved under M0594/01 have been constructed. However, all of the parking required for the 17 (seventeen) units has been constructed. As such there is currently a surplus in parking. However, should any person act on the consent for the remaining units no surplus parking will remain. The applicant has provided written evidence from the current owners of the property that they do not intent to proceed with the construction of the remaining units at this time and, should they do so in the future, they will provide an additional 3 (three) parking spaces. The potential exists for these spaces to be provided on the site. However, details of these parking provisions have not been provided. The provision of these spaces may result in the need to modify or surrender consent for approved unconstructed units.

Social Impact

The respondent has raised concern regarding the proposed use and its location. The use involves the sale and warehousing of adult material such as lingerie, adult games, gifts and novelties of an unrestricted nature together with the sale of magazines and videos, classified by the Film and Literature Classifications Board as category 1 and 2. Access to the premises will be restricted to people 18 (eighteen) years and over. A partition wall is proposed internally around the front entry and windows and doors will be 'blackened out' to ensure that retail goods and sale activities are not visible from any outside areas. The unit is currently visible from Windsor Road. However, the unit is setback approximately 175 (one hundred and seventy five) metres and is likely to be screened from Windsor Road by any further development of the land. The unit is not visible from the dining areas of the fast food restaurants in the locality.

The unit is located in an area with a business / warehouse character and does not experience a high level of general pedestrian traffic. External advertising does not include any offensive material. 1 (one) metre x 3.5 (three point five) metre sign is proposed for the shop and is to be mounted flush against the building within the existing recessed sign panel area. The sign is not illuminated or attention drawing and reads "Nauti and Nice Adult Mega Stores Phone * WWW address*".

Overall, the proposed location of the store is considered suitable and through design and details the applicant has satisfactorily addressed concerns of adverse social impact.

Conclusion

The proposed development for the first use of a factory/showroom for the sale and warehousing of adult material. The proposed development is permissible in the zone. The applicant has adequately addressed concerns of potential social impact and it is considered that the proposed use will have no significant

impact on the locality in this regard. The proposed use generates the need for an additional 3 (three) car spaces. The potential exists for these spaces to be provided on the site, however, details of these spaces must be submitted. It is considered that a deferred commencement consent is appropriate to use in this instance in respect to the additional parking.

RECOMMENDATION:

That the development application for the first use for the sale and warehousing of adult material be approved as a deferred commencement subject to the following conditions.

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

Schedule One

Satisfactory plans which indicate the provision of 3 (three) additional car parking spaces on the same site and in close proximity to the unit are to be submitted to Council. If the proposed car parking spaces are on land subject to a current unutilised/completed development consent, appropriate documentation must also be submitted and approved by Council to satisfactory modify or surrender that development consent such that no inconsistency prevails.

Schedule Two**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 and plans submitted to addressed Schedule One excepting as modified by these further conditions.
- 2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
- 3. 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.
- 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. Any material or component used in the building shall comply with the early fire hazard indices stipulated in Specification C1.10 of the BCA. A separate schedule detailing such materials and their respective indexes and approved in writing prior to the acquisition, installation or fitting of such materials.
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.
8. Any signage displayed on the site should be in accordance with the Signs chapter of the Hawkesbury Development Control Plan. In this regard, the approved flush wall sign must not project from the wall of the building more than 300mm (three hundred) and must be of similar positioning to the signage on the adjoining units.
9. Adequate fire fighting facilities to be provided suitable to each fire risk.
10. Illuminated exit signs are to be provided to each opening.

The Use of the Site

11. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
12. The area to be used for the approved development being limited to the area shown on the submitted plans.
13. Any additional internal or external alterations being the subject of a separate development application.
14. To ensure vehicle movements associated with the land use do not adversely impact on the adjoining streetscape or traffic movement therein:
 - (a) all vehicles being loaded or unloaded shall stand entirely within the property;
 - (c) all vehicles associated with the use shall be accommodated within the approved car park on the subject land, to the satisfaction of Council.
15. All waste materials to be stored and disposed of at regular intervals.
16. 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.
17. No signs shall be displayed on the footpaths, pedestrian ways, roadways or in the vicinity.

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18. All goods and materials associated with the use of the site shall be contained wholly within the building at all times.
19. Within 3 (three) months of the construction and occupation of any development requiring the parking built in association with M0594/01 such that (3) three surplus spaces are not available, the parking approved in accordance with Schedule One must be constructed to Council's satisfaction.
20. A Fire Safety Certificate, in accordance with the Schedule of Fire Safety Measures issued for the development, is to be submitted to Hawkesbury City Council for separate registration. The registration fee is \$16.00 (sixteen).

ATTACHMENTS:

- AT-1 Locality Plan
- AT-2 Site Plan
- AT-3 Floor Plan

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AT 1 - Locality Plan

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AT 2 - Site Plan

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AT 3 - Floor Plan

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ITEM: 44 **Demolition of Existing Residence and Construction of Three (3) Townhouses, 13 Bradley Street, North Richmond**

FILE NUMBER: DA1617/02/EVD/ENG29NAX.V09

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

Key Issues: ? Privacy and Amenity
 ? Streetscape
 ? Traffic
 ? Noise

Action: Approval subject to conditions

REPORT:

Introduction

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

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

The Proposal

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

Description of the Site

The property is located on the eastern side of Bradley Road, approximately 40 (forty) metres from the head of the cul-de-sac in Bradley Road, and is irregular in shape with an area of 1113sqm (one thousand, one hundred and thirteen) and has an east-west orientation. The site is relatively flat and slopes gently towards the east.

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

Statutory SituationHawkesbury Local Environmental Plan 1989 (HLEP 1989)

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

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

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

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

Draft Amendment No. 130 to HLEP 1989

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

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

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

The subject site falls within the Middle Nepean Hawkesbury River Catchment area defined by SREP No. 20 (No. 2 - 1997).

The aim of SREP NO. 20 is to protect the environment of the Hawkesbury - Nepean River system by ensuring that the impacts of future landuses are considered in a regional context. It contains general and specific matters for considerations, specific planning policies, recommended strategies and development controls which are to be considered in the assessment of a development application.

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

Hawkesbury Development Control Plan

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

General Information and Notification Chapter

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

Landscaping Chapter and Soil Erosion and Sedimentation Control Chapter

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

Energy Efficiency Chapter

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

The landscaping plan demonstrates satisfactory compliance with Section 6.6.

Car Parking Chapter

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

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Residential Development Chapter

Relevant rules of this Chapter are as follows.

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

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

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Element	Rules	Provides	Complies
	On site manoeuvring areas shall be provided to allow entry and exit to and from all car spaces including garage, carports, uncovered spaces and visitor spaces by a single turning movement. Where more than 3 units are served by an access or the access is greater than 30m long, a turning area shall be provided at or near the end of the access. On site manoeuvring shall be based on the Ausroads Standard 5.0m design vehicle. Templates for this standard are provided in the appendices. When using the templates a minimum of 150mm shall be provided between any fixed object and the extremities of the swept paths.	This can be achieved A turning bay has been provided between Units 2 and 3. On-site manoeuvring is satisfactory.	Yes Yes Yes
	All on site car spaces shall comply with the minimum dimensions set out in Part C Chapter 2 (Car Parking and Access). Where a space adjoins a wall, fence or other fixed structures, the width shall be increased as follows to allow adequate door opening: • On one side only to 3.2m. • On both sides to 3.8m.	Minimum dimensions of 5.5m long by 6.4m wide per double have been provided.	Yes
Visual Amenity	Where there is potential for loss of privacy the proposal should incorporate some of the techniques illustrated in the DCP. Where there is no alternative to a window, it should be screened.	Adequate privacy maintained within the site and external to the site by way of location of landscaping, and placement and orientation of the building and first floor window. Due to above, screening of windows is not considered necessary.	Yes Yes
Acoustic Privacy	Acoustic privacy is to be considered at the design stage. Site layouts should ensure parking areas, streets and shared driveways have a line of sight separation of at least 3 metres from bedroom windows	Adequate acoustic privacy between dwellings and external to the site has been achieved Bedrooms are to be located on the first floor and are separated by more than 3m from parking areas streets and shared driveways	Yes Yes

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Element	Rules	Provides	Complies
	A distance of at least 3 metres should separate openings of adjacent dwellings.	3m separation achieved	Yes
External Noise and Vibration	Proposals must comply with the current Environment Protection Authority criteria and the current relevant Australian Standards for noise and vibration and quality assurance and incorporate appropriate mitigation measures.	Site is not considered to be adversely affected by noise or vibration	Yes
Safety and Security	Each dwelling is to be provided with direct and convenient pedestrian access to a private or public road.	Suitable access has been provided.	Yes
	Barriers to prevent movement between internal roof spaces of adjoining dwellings are required.	Barriers are to be provided in accordance with the provisions of the BCA.	Yes
	Elements to be incorporated in site and building design and include: • doorway/entry safety and surveillance to and from the footpath	Adequate surveillance of Bradley Road is provided by front of Unit 1 facing the road.	Yes
	• illumination of public spaces including all pedestrian paths, shared areas, parking areas and building entries to the relevant Australian Standard.	Proposal does not require additional illumination.	Yes
	• visibility to the street from the front of the development.	See above comments.	Yes
	• restricted access to the rear of the site.	Access to rear of lot is appropriately restricted by way of fencing of private open space area for Unit 3.	Yes
Cables	The design, location and construction of utility services must satisfactorily meet the requirements of both the relevant servicing authority and Council.	This can be achieved.	Yes
Recycling, Garbage and Mail	Collection areas must be integrated into the overall site and building design, such as the example shown.	Recycling, garbage and mail area can be readily integrated into the proposed development.	Yes

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

Development Control Plan - Contaminated Land Policy

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

Community Consultation

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

- compatibility of the proposed two storey development given surrounding development and streetscape;
- increase in noise;
- loss of privacy and amenity;
- increase in shadowing of neighbouring property;
- increase in the number of resident and visitor vehicles and loss of on street parking;

- increase in traffic congestion on surrounding road network/reduction in traffic and pedestrian safety;
- loss of mature trees from the site;
- medium density development is not suitable for the North Richmond area or a cul-de-sac; and
- development not in the public interest;

The matters raised are discussed in the following planning assessment:

Planning Assessment

Impact on the Environment

Context and Setting (issue raised by respondent)

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

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

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

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

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

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

The landscape plan seeks to maintain existing vegetation where reasonably possible as well as compensating for vegetation to be removed by the provision of additional landscaping on the site and within the nature strip. Given this supplementary landscaping, the setback of the development and its acceptable bulk, scale and mass, it is considered that the proposed development will not significantly impact on the streetscape of the area.

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

Access, Transport and Traffic (issue raised by respondent)

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

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

Public Domain

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

Utilities

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

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

Soils and Air and Microclimate

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

Energy, Noise and Vibration, Construction and Waste

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

Natural and Technological Hazards

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

Safety, Security and Crime prevention

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

Social and Economic Impact in the Locality

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

Site Design and Internal Design

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

Cumulative Impacts

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

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

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

There are no known hazardous landuses/activities nearby and ambient noise levels are suitable for the development. The site is not critical to the water cycle of the catchment and development will not impact upon critical habitats and threatened species, populations, ecological communities and habitats. It is therefore concluded that the site is suitable for the proposed development.

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

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

Conclusion

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

RECOMMENDATION:

That the application be approved subject to the following conditions:

General

1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans submitted with Development Application No.DA1617/02 and any supportive documentation, except as otherwise provided by the conditions of this consent.

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

2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
3. Prior to construction of the approved development it is necessary to obtain a Construction Certificate.

4. No excavation or site works shall be commenced prior to the issue of the construction certificate.
5. An occupation certificate is to be obtained on completion of all works. The occupation certificate will not be issued if any conditions of this consent are outstanding.
6. The applicant is advised to consult with:
 - (a) Sydney Water Corporation Limited;
 - (b) Integral Energy;
 - (c) Natural Gas Company; and
 - (d) A local telecommunications carrier,regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public road(s).
7. All design and construction works are to be carried out strictly in accordance with the requirements of Hawkesbury Development Control Plan - Appendix E.
8. Prior to demolition of the residence current photographs of all elevation of the dwelling are to be submitted to Council.
9. All demolition works are to be carried out in accordance with the provisions of WorkCover and AS2601.
10. All demolition, vegetation and excavated material removed from the site is to be removed by a contractor licensed by the Environmental Protection Authority to deal with such wastes. These wastes are to be disposed of at a depot authorised to receive such wastes and copies of delivery dockets are to be submitted to Council upon completion of works.
11. To ensure the external appearance of the development is not intrusive or offensive, and does not degrade the visual quality of the surrounding area, the driveway is to be finished in dark earth tone colours.
12. The applicants shall make themselves aware of any use restriction relevant to this property and shall comply with the requirements of the Section 88b instrument relevant to this subdivision and property.
13. All part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 are to be submitted to Council within seven (7) days of the date of issue. The registration fee is \$16.00 (sixteen) per certificate.

Prior to Issue of Construction Certificate

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

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

- (a) Open Space and Recreation (\$2613.00)
- (b) Community Facilities (\$3,695.00)

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

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

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

16. Details demonstrating compliance with the Building Code of Australia (Housing Provisions) shall be provided to the Principle Certifying Authority for separate approval.
17. Detailed engineering plans and specifications relating to the work shall be submitted.
18. Separate details of the proposed roofwater and surface water drainage system shall be lodged in duplicate for approval.
19. Submission of proof of the payment of the Building Industry Long Service Levy where the value of civil works exceeds \$25,000.
20. The submission to Council for approval of an amended landscaping plan making provision for the level spreader along the eastern boundary of the site
21. The submission to Council for approval of the final design of the proposed drainage and on-site stormwater detention system in accordance with the drainage concept plan number 02104D01 Revision B prepared by G J Ryan and Associates.

22. Construction of civil works including road and access works are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director Asset Services and Recreation or an accredited certifier.
23. Payment of a design checking \$178.80 and inspection fee of \$362.60 when submitting Engineering plans for approval. This amount is valid until 30 June 2004. Fees required if an accredited certifier is used will be provided upon request.

Prior to Commencement of Works

24. Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be commenced unless the principal certifying authority for the development to which the work relates:
- (a) in the case of work to be done by a licensee under that Act:
 - (i) has been informed in writing of the licensee's name and contractor licence number, and
 - (ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act, or
 - (b) in the case of work to be done by any other person:
 - (i) has been informed in writing of the person's name and owner-builder permit number, or
 - (ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of that Act and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

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

25. Sanitary accommodation shall be provided for workmen throughout the course of the building operations in accordance with the Local Government Act 1993 and the Environment Planning and Assessment Act.
26. A sign must be erected in a prominent position on any work site on which the erection or demolition of a building is being carried out:
- (a) stating that unauthorised entry to the work site is prohibited; and

- (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

This condition does not apply to:

- (a) building work carried out inside an existing building; or
- (b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

- 27. Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of litter, vegetation debris or other water borne pollutants in accordance with Council's Development Control Plan 1/94 - Soil Erosion and Sedimentation. The enclosed warning sign shall be affixed to the sediment fence/erosion control device at all times.
- 28. The applicant or person having the benefit of this development consent must give at least two days notice prior to commencement of works to Council of the intention to commence works. This notice is to be given in accordance with form 7 of the Environmental Planning and Assessment Regulation 1998.
- 29. The applicant shall advise Council of the name, address and contact number of the principal certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1997.
- 30. The name and licence number of the licensed contractor/builder who has been contracted to do or intends to do the work must be submitted to Council in writing by the owner prior to the commencement of any work relevant to this approval.
- 31. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the principal certifying authority prior to commencement of works.
- 32. The approved plans must be submitted to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the approved plans will be appropriately stamped.

Sydney Water has a number of business offices, including Blacktown, Katoomba, Parramatta and Penrith.
- 33. Separate application shall be made to Council's Asset Services & Recreation Department for the construction and location of the proposed crossover. (Refer to enclosed agreement form for driveways).

During Construction

34. All building work must be carried out in accordance with provisions of the Building Code of Australia.
35. All part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 are to be submitted to Council within seven (7) days of the date of issue. The registration fee is \$16.00 per certificate.
36. All demolition, construction and associated work necessary for the carrying out of the development is restricted to between the hours of 7.00am and 6.00pm on Mondays to Fridays and between 8.00am and 4.00pm on Saturdays.
37. To reduce nuisance to the surrounding properties, all demolished material and excess spoil from the site shall be disposed of to a location and in a manner to the approval of this office (Note: no material shall be burnt or buried on the site).
38. The site shall be kept clean and tidy during the construction period and all rubbish shall be removed from the site upon completion of the project to the satisfaction of this office.
39. A sign is to be erected adjacent to the access point to the site for the duration of the site works stating the following:
 - (a) owner of site and address;
 - (b) person/company carrying out site works and phone number;
 - (c) consent number and date of approval; and
 - (d) approval duration of site works.
40. The buildings shall be set out by a Registered Surveyor and the Survey Certificate of the building shall be lodged with the principal certifying authority upon completion of the footings and prior to the external wall construction proceeding above floor level.
41. Construction of Council's standard heavy duty footway and layback vehicular crossing to suit the access to the site with a minimum width of 6m.
42. Removal of the existing redundant layback crossing and replacement with concrete kerb and gutter and the restoration of the footway area.
43. The construction of standard width concrete footway paving over the frontage of the development site.

Prior to Issue of Occupation Certificate

44. In order to ensure that the development complies with this consent, the approved use shall not commence until all conditions of this Development Consent have been complied with.

45. Landscaping shall be completed in accordance with the approved landscaping plan and shall be maintained in perpetuity by the existing or future owners and occupiers of the property. In this respect a occupational certificate will not be granted on the application until the landscaping is complete.
46. The submission of a Certificate from Telstra Australia that satisfactory arrangements have been made for the provision of cables for telephones to the development.
47. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water web site www.sydneywater.com.au/customer/urban/index or telephone 13 20 92. Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water\sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the principal certifying authority prior to release of the occupation of development.

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

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

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

Use of the Site

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

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ATTACHMENTS:

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

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AT-1 - Locality Plan

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AT-2 Site Plan

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AT-5 Landscaping Plan

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Meeting Date: 29 July, 2003

Item: 45

ITEM: 45 **Animal Establishment - Lot 396 DP664634 - No 77 Godalla Road, Freemans Reach**

FILE NUMBER: DA1387/02/EVD/ENG29NAX.V04

Applicant: Mr R W Tubnor
Applicants Rep: N/A
Owner: Mr R W Tubnor
Stat. Provisions: Hawkesbury Local Environmental Plan 1989 (HLEP 1989)
Area: 11.9ha
Zone: Rural 1(b)
Advertising: 11 November 2002 - 25 November 2002

Key Issues: ? Odour/waste management
 ? Scale of Activity
 ? Noise
 ? Impact on Currency Creek
 ? Existing Structures

Action: Approval subject to Conditions

REPORT:

Introduction

This matter is being reported to Council at the request of Councillor Leigh Williams. The report will assess the key issues of the proposal and a complete assessment is contained on the file.

The application seeks approval to use the subject property for an animal establishment for the breeding of cattle, goats and pigs.

Background

The application is the result of a complaint received concerning the breeding of pigs on the property. The applicant has indicated that the breeding of animals from the site has been undertaken for a period of years.

The Proposal

The applicant seeks approval to establish a small scale animal establishment involving the breeding of cattle goats and pigs.

Cattle

- Maximum of 10 (ten) head at any one time for embryo transplant or artificial insemination programs.
- Up to 30 (thirty) cattle including cows, calves, and young bulls may be assembled on the site for up to 2 (two) weeks before a stud sale.
- Cattle are grazed on improved pastures.

Goats

- 20 (twenty) does and 1 (one) buck.
- Off-spring are sold between 12 (twelve) weeks and yearling.
- Goats only kid once per year (instead of usual practice of 2 (two)).
- Goats primarily fed on the crops grown in the sown paddocks and supplemented with some grain during lactation.

Pigs

- 20 (twenty) breeding sows and 2 (two) boars.
- Maximum of 70 (seventy) to 90 (ninety) pigs including piglets less than 6 (six) weeks kept on the property.
- Piglets are sold at 6 (six) to 8 (eight) weeks to the markets with some grown specifically for medical research at Westmead Hospital.

The development involves the grazing, rearing and holding of pigs, goats, cattle and horses in existing paddocks. The animals are rotated around the paddocks to maximise the conservation and productivity of the land and animals and fallow and feed crop paddocks are included in the rotation. Larger paddocks are located towards the northern end of the property in which cattle, goats and horses graze and are hand fed. Smaller paddocks are located towards the southern end of the property in which pigs are kept and are hand fed on fruit, vegetables and grains. The goats graze on pasture weeds and grains.

In the paddocks that are used for the pigs, straw bale pens are provided to house the pigs once they have a litter. When the paddocks are rotated, the straw bales are used as feed for the goats. No chemicals are used in the animal establishment with organic fertilisers, provided by the animals on the property, being used. Activities associated with the use of the property occur during day light hours (Winter and Summer time) i.e. 7.00am to 8.00pm. A site plan outlining the use of the existing paddocks and the Farm Management Plan accompanied the application.

Photos of the activity will be displayed at the meeting.

Statutory Situation

The site is zoned Rural 1(b) under Hawkesbury Local Environmental Plan 1989 and “Animal Establishments” are permissible with development consent.

Community Consultation

The application was notified to adjoining property owners and residents with 2 (two) submissions being received. The matters raised by the respondents are considered in the following planning assessment.

Planning Assessment**Odour/Waste Management (Issued raised by respondent)**

The respondents are concerned that the activity will generate odour especially from the keeping of pigs in the free range situation with no control on the waste generated by the pigs. They consider the pigs should be kept in a controlled situation with facilities to treat and capture the effluent generated by the pigs.

The applicant's mode of operation involves rotating the paddocks where the pigs are kept and planting them with suitable seasonal crops as soon as the sows are removed from the paddock. The effluent generated soaks into the ground and acts as a natural soil conditioner to improve and enhance the growing of the seasonal crops. Council officers have inspected the site on several occasions and noticed no presence of odour.

The paddocks used for the free range pigs are located in the front portion of the site (refer to attachment), and the management measure implemented by the applicant will help reduce the potential for odour generated.

The applicant has indicated that endeavours are made to complement the activities on site by eliminating the need for pesticides and chemical fertilizers, resulting in zero waste under near organic conditions.

If the effluent generated by the pigs was treated in the normal manner via an on-site effluent disposal system, it is considered that the additional environmental benefit, if any, when compared to the cost involved with the on-site system does not warrant a change from the current practice. The waste generated by the goats and cattle is also treated in a similar situation with the manure being collected then composted, and then added to the paddocks before seeding of the season crop.

Scale of Activity (Issue raised by respondents)

The respondents are concerned that the scale of the activity is intensive and that if the 20 (twenty) sows produce 10 (ten) - 15 (fifteen) piglets each 4 (four) months at any one time there would be about 250 (two hundred and fifty) pigs on the property. They claim the full quota of animals was not on the property when Council officers visited the site.

At the time of inspection by Council officers, there were approximately 20 (twenty) sows and 2 (two) bores with 2 (two) sows having piglets ranging in age from 1 (one) week to 4 (four) weeks. There were between 50 (fifty) - 60 (sixty) pigs on the site which included the piglets. The applicant has indicated that not all the sows are with piglets at once but are spread out over a period of time.

They have indicated that at the maximum 70 (seventy) - 90 (ninety) pigs would be kept on the site in which

70 (seventy) would be piglets which are sold at 6 (six) - 8 (eight) weeks through the markets. The applicant has suggested that they would never have 250 (two hundred and fifty) pigs as suggested by the respondents.

The applicant has agreed to a condition being imposed that limits the number of pigs on the site to a maximum of 20 (twenty) breeding sows, 2 (two) bores and a total maximum of 90 (ninety) pigs which includes the piglets. The number of cattle and goats on the site ranges up to 30 (thirty) head and 20 (twenty) does and a buck.

It is considered that based on the maximum number of animals on the site, which includes the piglets, the activity is small scale in nature.

The activity does not fall within the “Designated Development” definition.

- (3) *Piggeries:*
 - (a) *that accommodate more than 200 pigs or 20 breeding sows and are located:*
 - (i) *within 100 metres of a natural water body or wetland; or*
 - (ii) *in an area of high watertable, highly permeable soils or acid sulphate, sodic or saline soils; or*
 - (iii) *on land that slopes at more than 6 degrees to the horizontal; or*
 - (iv) *within a drinking water catchment; or*
 - (v) *on a floodplain; or*
 - (vi) *within 5 kilometres of a residential zone and, in the option of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, odour, dust, traffic or waste, or*
 - (b) *that accommodate more than 200 pigs or 200 breeding sows.*

The paddocks where the pigs are kept are well in excess of 100 metres (one hundred) from Currency Creek and are not in an area of high watertable, highly permeable soils or acid sulphate, sodic or saline soils.

The maximum number of breeding sows is 20 (twenty) and it can be seen from the numbers of animals kept on site that the proposed activity is compatible with the site.

Noise (Issue raised by respondent)

The respondent is concerned about the noise generated by the animals.

The paddocks where the pigs/goats are kept are not adjacent to adjoining residential dwellings and the number of animals kept on the site, being small scale, is not likely to generate significant noise impact on the surrounding area. The site is located in a rural zone where Council is encouraging the establishment of agricultural activities, and a suitable noise condition has been imposed in the recommendation.

Impact on Currency Creek (Issue raised by respondent)

The respondent is concerned that the runoff from the free range paddock where the pigs are kept will pollute the creek at the rear of the site.

The property's rear boundary forms part of Currency Creek and the paddocks where the pigs and goats are kept is a considerable distance from the creek (in excess of 200 (two hundred) metres. As a result, there is no potential for any runoff from the paddocks to enter the creek.

This was confirmed with the inspection of the site by Council officers and, if any runoff occurs from paddocks, it is directed to the dam on the property.

Existing Structures (Issue raised by respondent)

The respondent has raised the issue of the construction of a number of structures on the site within the last 2 (two) years without Council approval.

The site inspection revealed a large shed, adjacent to the existing residence, that has been built for a period of time. The applicant has indicated that the shed was present on the site when he purchased the property and that he obtained approval several years ago to extend the shed. There were also a number of animal shelters/storage sheds/chicken sheds established on the property in the paddocks and cattle/pig yards. (See attachment). The structures range in size from approximately 3 (three) metres x 5 (five) metres to 10 (ten) metres x 3 (three) metres with a height of 2 (two) metres to 2.7 (two point seven) metres.

The applicant advised that some of the structures replaced existing structures that were damaged in the storm or in need of repair by recladding. A search of Council records has not revealed any recent approvals granted for the building works on the site.

The provisions of exempt development within HLEP 1989 apply to:

- recladding of roof and walls.
- Awning, shade canopies (maximum area 9 (nine) sqm).

Aerial photographs of the area in 1997 show a number of small structures located on the site.

It appears from the site inspection that some additional structures have been erected on the property involving:

- Chicken Coup (8 (eight) metres x 2 (two) metres);
- Animal Shelters; and
- Container that was reclad 2 (two) metres x 5 (five) metres.

The nature of the structures is typical of those located in the rural area and does not have any visual impact. The matter of illegal structures can be resolved by requiring the applicant to apply for a building certificate for those structures that have no Council approval.

Other Matters Raised by the Respondent

- Pigs and goats escaping the property.
- Decrease property values.

The site inspection has revealed that the pigs are kept in a paddock that is fully fenced and also has electric wire within the fenced area, and that the sow with piglets is also housed in a fully fenced area. All the remaining animals are kept in the fully fenced areas to protect them against foxes. The respondent provided no evidence to support the claim of decreased property value.

Conclusion

The scale of the activity is considered to be small and the site inspection by Council officers has revealed that the activity and site are well managed using environmentally sustainable principles.

The investigation of the existing structures on site has revealed that some were present on the site in 1997, and the applicant has reclad these structures, and that other structures appear to have been erected without approval.

The nature and type of structures are consistent with the rural area, and it is considered that the matters raised by the respondents do not warrant refusal of the application.

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. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
3. The southern part of the site shall be planted with 5 (five) metre vegetation buffers along the eastern and western boundaries of the property to the extent of the goat and pig paddocks, as shown in red on the amended plans, to provide a transitional area to the existing native vegetation and to adjacent land uses. The buffers shall be planted with small, medium and tall species from the Shale Sandstone Transition Forest that is in the vicinity of the buffers. The buffers shall be planted within 3 (three) months from the date of this consent. In this regard the buffers shall be provided to Council satisfaction and a compliance inspection shall be undertaken.

Use of Site

4. In order to ensure that the development complies with this consent, the approved use shall not commence until all conditions of this Development Consent have been complied with.
5. A maximum of 20 (twenty) breeding sows, 2 (two) boar, 30 (thirty) does and 2 (two) bucks shall be kept on the property. A total of 90 (ninety) pigs shall be kept on the site at any one time, which includes piglets.
6. The operation of the development shall be conducted in such a manner so as to not interfere with the amenity of the neighbourhood with respect to noise, dust, waste water, odour, waste products or otherwise.
7. The development shall be conducted in such a manner that the LA(eq) noise levels, measured at any point in accordance with the NSW EPA's Industrial Noise Policy (2000), do not exceed 5dB(A) (LAeq) above background noise levels with respect to noise amenity of residential dwellings.
8. The activity shall be conducted in accordance with the farm management plan submitted with the application.
9. Native vegetation located in the paddocks used by the pigs, goats, cattle and horses are to be protected when in use by the animals.

ATTACHMENTS:

AT-1 Locality Plan

AT-2 Site Plan

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AT 1 - Locality Plan

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AT 2 - Site Plan

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Item: 46

ITEM: 46 **Rural Shed - Lot 3 DP228371, No. 77 Scheyville Road, Oakville**

FILE NUMBER: DA0553/03/EVD/ENG29NAX.V03

Applicant: Mr M Smigliani, Mrs M Smigliani
Applicants Rep: As above
Owner: Mr M Smigliani and Mrs M Smigliani
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 2.031 ha
Zone: Rural 1(c) under Hawkesbury Local Environmental Plan 1989
Date Received: 19 May 2003

Key Issues: ? Definition of truck depot
 ? Size of shed

Action: Approval subject to conditions

REPORT:

Introduction

Council has received a development application seeking approval for a rural shed.

This matter is being reported to Council due to the size of the shed and use as a truck depot.

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

The Proposal

The application seeks approval for the erection of a rural shed on the subject land. The shed will have a size of approximately 175sqm, having dimensions of approximately 14 metres (fourteen) by 12 metres (twelve), and will have an awning of approximately 6 metres (six) by 14 metres (fourteen) which will contain 3 (three) horse stables. The shed will have a maximum height of 5.93 metre (five point nine three).

The design of the shed is 'barn style'.

The shed is to be used for the storage of a truck, excavator and backhoe which are part of the owners excavation business, as well as cars, a boat, lawnmower and gardening tools, tractor, slasher, horse float and feed storage and tack.

The shed will be constructed of steel and concrete, and will be 'smooth cream' (walls) and 'mist green' (roof) in colour.

Statutory Situation

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

The proposed development is consistent with the relevant provisions contained in SREP 20.

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject land is zoned Rural 1(c) under Hawkesbury Local Environmental Plan 1989. Rural sheds are permitted with development consent within the Rural 1(c) zone.

The garaging of a truck and earthmoving machinery may fall under the HLEP 1989 definition of 'truck depot'.

Truck Depot

'Truck depot' means *"a building or place used for the servicing and parking of trucks, earthmoving machinery and the like"*.

The proposed changes to the permissible uses in the rural 1(c) and 1(c1) zone, with the introduction of the Rural Living zone, will prohibit truck depots being established within the rural residential areas.

As a result this may have an impact on a number of property owners who may own a truck and some associated equipment and park and store the truck and equipment on site.

For this reason, some direction is required from Council as to what constitutes a 'Truck Depot'.

Under the existing definition, the following circumstances may require approval as a 'truck depot':

- An owner/driver who brings their truck home each day;
- An owner/driver who brings their truck/earth moving machinery home each day;
- An owner that has a number of trucks and/or earthmoving machinery but does not employ drivers; and
- An owner that stores a number of trucks and/or earthmoving machinery and has employees/drivers visiting the site.

An alternative interpretation excludes the parking of a single truck as the definition refers to 'trucks'.

Another interpretation, in order to be defined as a truck depot, is that both servicing and parking is to be carried out. This could mean that trucks and the like could be parked at a site without approval as long as no servicing of the vehicles were carried out.

Servicing of vehicles could include the changing of tyres, batteries or the topping up of fluids to tune up and oil and grease changes.

For the above reason, it is considered that a Policy is required to clarify when an activity is to be considered a truck depot.

Many people consider buying rural zoned properties to enable them to garage their truck and the like without causing a nuisance to their neighbours.

It is considered that the impact of an owner/driver garaging one truck or one truck carrying earthmoving machinery at home is minimal.

In this case, the use of the shed to store one truck and two pieces of equipment does not involve more than one truck or the employment of drivers. It is equivalent to a tradesperson who garages their work vehicle at home.

It is therefore considered that activities which meet the following criteria should not be dealt with as truck depots:

- No more than 1 (one) truck plus 2 (two) trailers or 2 (two) small earthmoving machines;
- Driver or employee must be residents of the property; and
- No servicing or repairs.

It is quite appropriate for Council to prepare a policy to explain its interpretation of the definition contained in the LEP. If the above criteria are adopted then activities consistent with this would not be a 'truck depot'.

Amendment No. 108 to Hawkesbury Local Environmental Plan 1989

This draft Plan was exhibited from 10 July, 2002 to 4 October, 2002. The proposed zone under draft local environmental plan 8/98 (Amendment No. 108) is Rural Living.

'Truck depot' is prohibited within the proposed Rural Living zone. However, the proposed development is considered to be consistent with the objectives and will have no unreasonable impacts on the rural residential living style of this proposed zone.

Hawkesbury Development Control Plan - Rural Sheds Chapter

The aim of this Chapter is to enable the erection of sheds on rural properties in a manner which compliments the rural character of the landscape and has minimal impact on the scenic qualities of an area and to provide design principles for the construction of these buildings.

The following is an assessment of the proposal against these design principles:

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Design Principles	The Proposal	Compliance
Siting		
Cut and fill shall be limited to 2 metres (two) of cut to 900mm (nine hundred) of fill.	Can be achieved. Will be conditioned.	Yes
Sheds shall be located no closer to the road than the existing dwelling house.	The shed will be located further from the road than the existing dwelling house.	Yes
Sheds are not to be erected on land which has a slope in excess of 10%.	The slope of the site is approximately 6%.	Yes
The erection of rural sheds should involve minimal disturbance to native vegetation.	The proposal will not involve any disturbance to native vegetation.	Yes
Size		
The maximum size of sheds in the 1(c) and 1(c1) areas shall not exceed 150sqm. The cumulative total of all outbuildings shall not exceed 150sqm on any one property in these zones.	The proposed shed has an area of approximately 175sqm, and an awning area of approximately 84sqm.	No See discussion below
In zones 1(a), 1(b), 7(d), 7(d1), 7(e), the applicant will need to justify the size of any shed exceeding 150sqm in terms of the use of the shed and the land, as well as measures taken to minimise the impact on neighbours and the general area.		N/A

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Height		
The total height of a rural shed erected in Rural 1(c) and 1(c1) zones shall be no more than 5m or no higher than the height of the ridgeline of the dwelling house on the same property, whichever is less.		N/A
In other zones the total height of a rural shed exceeding 5m shall be justified in terms of the use of the shed and the visual impact of the development.		N/A
The total height of 'barn style' sheds may exceed 5m based on individual merit.	The total height of the shed is 5.93m. This height is considered satisfactory.	Yes
Form		
Rural sheds with standard roof form will be limited to rectangular shapes.	The shed and attached awning create a building of dimensions of 14m by 18m.	Yes
Sheds of other roof forms, for example barn style, will be encouraged.		Yes
Colour		
The colour of a rural shed will match or blend in with those of existing buildings.	The proposed shed will be 'smooth cream' and 'mist green'. This is considered satisfactory.	Yes
On vacant land the colour for rural sheds shall be taken from the natural environment.		N/A

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<i>Type of Building Materials</i>		
Building materials used in the construction of rural sheds are to be new, pre-painted and non-reflective.	The building materials are new and are pre-printed.	Yes
The use of corrugated iron will be considered subject to the size, height, design and location of the rural shed.		N/A
Any part of a building below the 1-in-100 year flood level is to be constructed of flood compatible materials.		N/A
<i>Landscaping</i>		
Plantings are to be a mix of trees, shrubs and ground cover.	Landscaping plants have maximum height of 3-4m. Total height of shed is 5.93m. Existing trees around shed site provide desired height.	Yes
Trees shall include species that at maturity have a height above the ridgeline of the shed.		Yes
Shrub mass shall provide adequate screening.		Yes
Plants endemic to the area are to be chosen.		Yes

Variation

The shed is approximately 175sqm (one hundred and seventy five), having dimensions of approximately 14 metres (fourteen) by 12 metres (twelve), and will have an awning of approximately 6 metres (six) by 14 metres (fourteen) which will contain 3 (three) horse stables.

The design of the shed is 'barn style'.

The shed is to be used for the storage of a truck, excavator and backhoe which a part of the owners excavation business, as well as cars, a boat, lawn mower and gardening tools, tractor, slasher, horse float and feed storage and tack.

At Councils meeting of 9 July 2002, it was resolved to amend the complying development provisions of HLEP 1989 by to allow rural sheds of 170sqm (one hundred and seventy) that comply with the Rural

Sheds Chapter of the DCP and do not require the removal of vegetation. The Rural Sheds Chapter will also be amended to change the maximum shed size in the rural residential zone to 170sqm (one hundred and seventy) to be consistent with the Complying Development provisions.

It is considered that the size of the proposed shed is acceptable in relation to its use. The variation sought is minor and the design of the shed contributes to reducing its visual impact. The location of the shed and the topography of the land further reduces its impact when viewed from surrounding areas. Landscaping is to be provided and considered satisfactory.

For the above reasons the variation is supported.

Community Consultation

Hawkesbury Development Control Plan does not require notification of rural sheds.

Planning Assessment

Full consideration has been given to s.79C (1)(b) of the EP & A Act as contained on file. Below are the relevant matters:

Context And Setting

The locality is rural residential in character. Adjoining land uses consist of predominantly dwelling houses. The proposed development is consistent with the adjoining land uses.

The proposed building will not impact on the existing views and vistas of the area.

It is considered that the proposal will not unreasonably impact on adjoining properties in terms of overshadowing, or loss of visual or acoustic privacy.

Conclusion

The proposed development is permissible in the locality. The proposal is consistent with the objectives of Hawkesbury Development Control Plan and only seek one variation from the rules of this Plan. The variation is minor and is supported. The proposal will have no significant impact on the amenity of the locality, or the natural or built environment.

The current definition of 'truck depot' can encompass a variety of situations. To clarify this situation it is proposed to implement a Policy which will define what a truck depot is.

RECOMMENDATION:

That:

- A. The following policy be adopted to define 'truck depot':

Activities on Rural zoned properties shall not be considered to be truck depots if they meet the following criteria:

- No more than 1 (one) truck plus 2 (two) trailers or 2 (two) small earthmoving machines;
- Driver or employee must be residents of the property; and
- No servicing or repairs.

- B. The application for a rural shed be approved subject to the following conditions:

General

1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans submitted with Development Application No. DA553/03 and any supportive documentation, except as otherwise provided by the conditions of this consent.

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

2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
3. The construction of the building, including the roof, shall be in materials of a low reflective quality or similarly treated materials.

Prior to Commencement of Works

4. Sanitary accommodation shall be provided for workmen throughout the course of the building operations in accordance with the Local Government Act 1993 and the Environment Planning and Assessment Act.
5. A sign must be erected in a prominent position on any work site on which the erection or demolition of a building is being carried out:
 - (a) stating that unauthorised entry to the work site is prohibited; and
 - (b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

This condition does not apply to:

- (a) building work carried out inside an existing building; or
 - (b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
6. 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.
7. 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.
8. The applicant shall advise Council of the name, address and contract number of the principal certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1997.

During Construction

9. All building work must be carried out in accordance with provisions of the Building Code of Australia.
10. Inspections shall be carried out and compliance certificates issued by Council or an appropriately accredited person for the following components of construction:
- (a) erosion controls, site works and site set out;
 - (b) steel reinforcement; and
 - (c) on completion of the structure.
11. 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.
12. To reduce nuisance to the surrounding properties, all demolished material and excess spoil from the site shall be disposed of to a location and in a manner to the approval of this office (Note: no material shall be burnt or buried on the site).
13. 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.

14. 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.
15. The roof water from the shed is to be connected into the existing stormwater system.
16. The building platform is to be created using a maximum of 2m cut and/or a maximum of 900mm fill.

Use of the Site

17. In order to ensure that the development complies with this consent, the approved use shall not commence until all conditions of this Development Consent have been complied with.
18. The shed shall not be used or adapted for use for human habitation, or for commercial or industrial purposes, without the approval of Council.

ATTACHMENTS:

- AT-1** Locality Plan
AT-2 Site Plan
AT-3 Elevation Plan

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AT1 - Locality Plan

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AT2 - Site Plan

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AT3 - Elevation Plan

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Meeting Date: 29 July, 2003

Item: 47

ITEM: 47 **Two Rodeo Events Per Year, Lot 1 DP879466, 698 George Street, Windsor**

FILE NUMBER: DA0443/03/EVD/ENG29NAX.V05

Applicant: Windsor Leagues Club Limited
Applicants Rep: As Above
Owner: Windsor Leagues Club Limited
Stat. Provisions: Hawkesbury Local Environmental Plan
 State Environmental Planning Policy No.11
Area: 4.570ha
Zone: Open Space Existing Recreation 6 (a) under Hawkesbury Local Environmental Plan 1989
Advertising: 6 May 2003 to 20 May 2003
Date Received: 17 April 2003

Key Issues: ? Traffic - impact on residential amenities.

Action: Approval subject to conditions

REPORT:

Introduction

Council has received a development application seeking approval to hold 2 (two) rodeo events per year.

This report provides an assessment of the key issues. A complete assessment is contained on file. This application is reported to Council in view of the previous history of this matter.

Background

Windsor Leagues Club has held an annual rodeo on their property over a period of 9 (nine) years up to 1999. These events were carried out without Council approval.

In 2000, Windsor Leagues club lodged a development application to hold a rodeo on the 9 December. The development application was refused. An Order was issued by Council to prevent the rodeo from being conducted. The event was conducted.

Council implemented legal action in the Local Court against the Leagues Club and was successful in the prosecution

In 2001 Council approved a 'rodeo test event' to enable information to be collected in respect to the

impacts of the activity in terms of noise and traffic. This information was to be used in the assessment of subsequent development applications for rodeos on the site.

This event took place in contravention of a number of conditions of the Development Consent. Council resolved to prosecute the Windsor Leagues Club for non-compliance. The matter is still before the Court.

The Proposal

The application is seeking consent to hold two rodeo events per year on the subject land.

These events will be held in the second week of April and the last week of November of each year.

The rodeo will be held between 5.00pm and 10.30pm, with preparation commencing at 9.00am. Clean up of the event will occur between 10.30pm and 11.30pm.

It is estimated that the events will be attended by 2500 (two thousand and five hundred) people.

Parking will be available for 550 (five hundred and fifty) cars on the oval and for 450 (four hundred and fifty) cars within the Leagues Club parking area.

Statutory Situation

Sydney Regional Environmental Plan No. 20 (Hawkesbury Nepean River) (SREP 20)

The proposed development is consistent with the relevant provision contained in SREP 20.

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject land is zoned Open Space Existing Recreation 6(a) under Hawkesbury Local Environmental Plan 1989. The proposed development is permissible within the zone.

State Environmental Planning Policy No. 11 (Traffic Generating Development) (SEPP 11)

The proposal was referred to the Local Traffic Committee for their comments. The Committee resolved that the Applicant shall prepare a Traffic Management Plan, incorporating a Traffic Control Plan, and submit the Plan to the Traffic Management Committee, Roads and Traffic Authority for approval. The Plan is to be prepared in compliance with the requirements of the RTA document "Guide to Traffic and Transport Management for Special Events.

As a Traffic Management Report has not been submitted with the application, it is considered that assessment and approval of a Traffic Management Plan should be required prior to any consent being operational. This will be ensured through conditions of 'deferred commencement' consent.

Hawkesbury Development Control Plan

The proposed development is consistent with the objectives and rules of the Hawkesbury Development Control Plan.

Community Consultation

Following notification of the proposal, one submission was received. This letter was signed by 4 (four) residents from 3 (three) properties within the locality. The matters raised in this submission is addressed below:

- The proposed parking for 480 (four hundred and eighty) cars is currently unsealed and is accessed, predominantly, through the driveway for ambulance and emergency vehicles. Use of this area by vehicles create a dust nuisance.

Applicants Response

1. The issue of dust storms is a separate issue and Windsor Leagues Club is currently addressing the situation with regards to Council letter of 30.04.2003 Ref no P731.2165.
2. With the proposed driveway for the ambulance entrance will be kept clear at all times, with the addition of parking marshals controlling the car park areas at all times.
3. With regards to potential risk to pedestrians because of no footpath. This area is outside our boundary fence and is not under our control, and has never been a problem any previous rodeos.

Comment

It is considered that the issue of dust is a relevant matter for this development. The consent has been conditioned so that appropriate materials and measures are used and implemented in the parking areas to suppress dust.

A condition has been imposed that the entrance used for emergency services be kept clear at all times.

Planning Assessment

Full consideration has been given to s.79C(1)(b) of the EP & A Act as contained on file. Below are the relevant matters:

Context and Setting

The subject site is occupied by Windsor Leagues Club and supporting fields. Adjoining the site is residential development and rural residential development. The proposed development is not inconsistent or incompatible with the existing use.

The proposed development will not significantly adversely impact upon the scenic quality of the landscape. There will be no unreasonable impacts on the character or amenity of the area.

The proposed development is not inconsistent with the previous and existing land uses and activities in the locality. Surrounding properties will not be significantly or unreasonably impacted upon in terms of sunlight access, overshadowing, loss of visual and acoustic privacy, or loss of views and vistas.

Access, Transport and Traffic

The proposed rodeo will rely on the existing access points to Windsor Leagues Club from Rifle Range Road.

Parking is to be made available on site for 1000 (one thousand) cars. It is considered that there is sufficient parking available on site for the vehicles generated by the rodeo. The rodeo has been conducted for several years and the parking provided on site has always been adequate.

Noise and Vibration

The rodeo events have the potential to generate noise due to the use of PA systems and music. The proposed layout has directed the PA system away from the adjoining residences.

The event has been conducted over several years and Council has not received a large number of complaints with respect to noise.

Conclusion

The rodeo has been conducted annually on the site for a period of time. During the running of the event Council has not been inundated with complaints from local residents. The main issues of the rodeo relate to noise generation and traffic management.

The Local Traffic Committee has required the preparation and approval of a Traffic Management Plan. It is considered that this plan is critical to the proposal and should be prepared and approved prior to the event being conducted.

As a result it is considered appropriate for Council to approve the rodeo as a 'deferred commencement' to ensure that consent does not become operational until the Traffic Management Plan is approved and also gives certainty to the applicant of the approval once the Plan is prepared and approved.

RECOMMENDATION:

That the application for two rodeo events per year be approved as a Deferred Commencement Consent subject to the following conditions:

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

Schedule 1

A Traffic Management Plan, incorporating a Traffic Control Plan, is to be prepared in compliance with the requirements of "Guide to Traffic and Transport Management for Special Events and submitted to the Traffic Management Committee, Roads and Traffic Authority.

Schedule 2**General**

1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans submitted with the Development Application and any supportive documentation, except as otherwise provided by the conditions of this consent.

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

2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979.
3. 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.

Use of the Site

4. The rodeo is to commence at 5.00pm and to finish 10.30pm with packing up of the event to conclude by 11.30pm.
5. Each event is to be conducted in compliance with the approved Traffic Management Plan and any requirements specified by the Roads and Traffic Authority.
6. 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.
7. The area to be used for the approved development being limited to the area shown on the submitted plans.
8. The entrance used for emergency vehicles is to be kept clear at all times.
9. Portable toilets at the rate of 1 (one) per 100 (one hundred) spectators attending the event with hand washing facilities in each unit. A constant supply of toilet paper, soap and hand drying facilities is to be maintained for all toilets.

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10. Litter is to be collected, stored and disposed of at the conclusion of the event.
11. A waste bin with the capacity to hold 240 (two hundred and forty) litres is to be provided every 50 (fifty) metres around the main arena.
12. Noise levels are not to exceed 70dBL_{A10(A)} at the nearest residence as a result of the event.
13. Public Address speakers shall be directed away from surrounding residential properties. Where speakers are to be mounted on poles, they are to be inclined downwards at an angle of approximately 45 (forty five) degrees from the horizontal.
14. A sound limiting circuit shall be installed in the public address system to control the signal amplitude to a fixed level regardless of the loudness of the operator's voice, or the volume control on the amplifier.
15. Fireworks displays are not permitted.
16. All surfaces of the unsealed car park on the premises are to be treated with appropriate and non-polluting, non-hazardous, environmentally safe dust suppressant material or substance to control the emission of dust from that area before, during and after the event. Details of the materials or substances to be used for this purpose are to be submitted to the Council at least 14 (fourteen) days prior to the event.
17. The standards, practices and procedures contained within the Safe and Healthy Mass Gatherings Manual issued by Emergency Management Australia (ISBN 0 642 70440 6) be followed and complied with before, during and after each rodeo event.
18. 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.

ATTACHMENTS:

AT-1 Locality Plan

AT-2 Site Plan

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AT1 - Locality Plan

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AT2 - Site Plan

oooO END OF ITEM 47 Oooo

ITEM: 48 **Unauthorised Clearing of Vegetation - 104 Kurts Road, Bilpin**

FILE NUMBER: P1107/40/EVD/ENG29NBX.V01

Introduction

This report is to provide information on the unauthorised clearing of trees and vegetation from the land at 104 Kurts Road, Bilpin.

Details of the species of trees and their significance are discussed and the report recommends court action.

The Property

The property consists of 33.5 hectares of land located on the western side of Kurts Road, Bilpin. The land falls from Kurts Road at the highest point to the rear of the property with approximately 100m variation due to a deep gorge in the southwestern corner. The property contains native vegetation that is considered significant. The land also contains a dwelling that is occupied by the owners.

Photographs will be displayed at the meeting.

Development Consents

There are no recent development consents issued to the land. There are no consents issued for the removal of trees or vegetation.

Tree removal - Details

An inspection was undertaken of the property on Wednesday, 18 June 2003. The inspection resulted in identifying numerous mounds of tree and vegetation residue in two separate locations. The two locations will be identified as Group A and Group B.

Group A

Group A is located just within the front of the property off Kurts Road. The area of land subjected to tree removal is approximately 13,000sqm. There were ten mounds of tree and vegetation residue located in this area.

Group B

Group B is located further within the property. The area of land subjected to tree removal is approximately 6850sqm. There were seven mounds of tree and vegetation residue located in this area.

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Species	Height Range	Trunk Diameter	Number
Group A			
Sydney Red Gum Angophora Costata	To 25 metres	Between 400mm and 700mm	7
Grey Gum Eucalyptus Punctata	20 metres	300mm	6
Stringy Bark Eucalyptus sp	25 metres	Between 150mm and 500mm	106
Turpentine Syncarpia Glomulifera	20 metres	100mm and 1 metre	173
Radiata Pine Pinus Radiata	25 metres	400mm and 600mm	13
Blueberry Ash Elaeocarpus Reticularis	Understorey		To 30
Acacia Acacia Parramatisensis	Understorey		To 30
Pittosporum Pittosporum Undulatum	Understorey		To 20
Subtotal			385
Group B			
Stringy Bark Eucalyptus sp			70
Grey Gum Eucalyptus Punctata			9
Sydney Red Gum Angophora Costata			43
Turpentine Syncarpia Glomulifera			23
Blue Gum Eucalyptus sp			4
Radiata Pine Pinus Radiata			28
Grey Box Eucalyptus Moluccana			2
Sub Total			179
			C/F 385
Total			564

A gully separates the two groups. From Group B there is a large cleared area used as grazing paddocks. The residence is located approximately 400m further towards the centre of the property. The area around the residence has been previously cleared of trees.

Significance of the Trees

The vegetation which was removed consisted of native vegetation and some radiata pine. The pines formed a windbreak on the southern boundary of the property. In the Wildlife Corridor Plan 1997, the vegetation communities were mapped as Sandstone Forest and Shale Forest. The forest provided a valuable buffer to the adjoining national park. Many of the species removed are suitable habitat for the Koala and a number of Koala sightings have been recorded for the district and less than 1 km away. *Acacia gordonii* has been recorded on a property two properties away from 104 Kurts Road and at a number of other properties in the locality. This *Acacia* is listed as endangered under the Threatened Species Conservation Act 1997. The trees were live and healthy before being felled.

All strata were removed - shrubs, ground layer and trees. No weeds were evident. The trees removed were within an age range from juvenile to mature. Some large dead trees that would have provided valuable habitat were also removed. The overall area of tree removal is approximately two hectares with 564 (five hundred and four) felled.

Interviews

The owners of the land have been interviewed regarding the clearing of trees and vegetation. They advise that contractors were used to perform the work and they did not realise that approval was required to clear the land.

Submission by Solicitor on behalf of landowner

"Our client concedes that she and her husband arranged for the removal of certain trees from the abovementioned property without first having obtained Council's consent. Since the main reason for the removal of the trees was to enable the erection of a boundary fence, our client was of the mistaken belief that she was not obliged to obtain Council's consent.

She is now aware of her error and appreciates the gravity of the situation. She very much regrets having taken that course of action.

We are however instructed to make the following submissions in mitigation of her actions:

4. *A number of trees, including pine trees, were removed from the boundary line of the property to enable a new boundary fence to be erected. The new fence was required to contain our client's small herd of stud cattle, as she did not wish to utilise any further virgin bush for this purpose.*
5. *Trees were also removed from another area on the property to enlarge the grazing area for our client's cattle. Many of these trees were large, dead trunks which our client had identified as being dangerous. Others were regrowth of wattle and pittosporum which had established themselves since the area was last cleared by the previous owners in the mid 1980s.*

6. *Among the trees inspected by Council's officers, there was a significant number of trees which had been felled following the 1994 bushfires.*
7. *Our client wishes to make it clear that the area described by Mr Pye in the record of his interview with Mr Borg, as "the top section" had in fact been cleared by the previous owner. Our client cleared regrowth only around the perimeter of that area.*
8. *Much of the material cleared was underbrush, which presented a fire hazard, since our client and her husband store fuel and winter feed in a nearby shed. Prior to the clearing being carried out our client had consulted Mr Shields of the Rural Fire Service, who recommended that the underbrush be cleared.*
9. *Our client has retained 55% (fifty five) of the property as virgin bush.*
10. *Since acquiring the property in 1999, our client has planted 165 (one hundred and sixty five) new trees, many of them natives, including Eucalyptus microcorys, Lilli pillies etc. Such plantings have been done in consultation with Mr Mark Wells, a local horticulturist of Ferngrove Trees. One year ago, our client placed an order with Mr Wells for a further 100 (one hundred) trees to replant along the boundary line after erection of the new fence. It was never her intention to denude the area of vegetation.*
11. *Our client respects the environment and has spent considerable time and funds eradicating noxious weeds eg. Blackberry, kikuyu and inkweed from the property. She also maintains a large fire trail at the rear of the property at her expense.*

As an expression of her contrition and in an endeavour to make amends for having removed the trees without Council's consent, Mrs Borg is prepared to restore the cleared area by purchasing and planting, in addition to the 100 (one hundred) plants currently on order, such further trees as Council may reasonably require, having regard to her need to also provide grazing for her cattle.

Our client invites Councillors to conduct a site inspection of the property and discuss what further restoration ought to be undertaken.

In the circumstances, and considering our client's willingness to co-operate with Council, we respectfully request that Council forebear from prosecuting her in relation to this matter"

Conclusion

Unauthorised tree removal has occurred on the land at 104 Kurts Road, Bilpin. The loss of the number of trees felled in an area renowned for native bushland that forms part of the 'Blue Mountains' could only be described as significant. Notwithstanding the representation made on behalf of the owner, it is considered appropriate for court orders to be formed.

RECOMMENDATION:

That:

1. The report be received
2. The matter be referred to Council's solicitors with a view to commencing proceedings in the Land and Environment Court for carrying out unauthorised works.
3. That the solicitor be instructed to seek Orders from the Court for the owners to:
 - i. plant new trees and vegetation and maintain those trees and vegetation to a mature growth, and
 - ii. to provide a security for the performance of any obligation imposed under paragraph (i).

ATTACHMENTS:

AT-1 Locality Plan

AT-2 Site Plan

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AT-1 Locality Plan

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AT-2 Site Plan

oooO END OF ITEM 48 Oooo

ITEM: 49 **Pitt Town - Signage**

FILE NUMBER: 79347/EVD/ENG29NBX.V02

REPORT:

A question was raised by Councillor Williams at the Ordinary Meeting on 9 July 2003 concerning “the Pitt Town signs”. The purpose of this report is to provide information on the use of signage on private land at Pitt Town either in support or objecting to the proposed rezoning.

Local Environmental Plan

The Hawkesbury Local Environmental Plan 1989 (HLEP) controls advertising signs in all zones. Advertisements are prohibited in only the 5(a), 6(a), 6(b), 6(c), and 7(e) zones. In all other zones advertisements are permitted subject to obtaining development consent or a complying development certificate. Advertising structures are prohibited in all zones except Business and Industrial zones.

Clause 23 of the HLEP provides as follows: -

- 23 (1) *This clause applies to land within Zone No. 1(a), 1(b), 1(c), 1(c1), 2(a), 2(a1), 2(c), 7(d) or 7 (d1).*
- (2) *Notwithstanding any other provision of this plan, the Council may consent to the erection on land to which this clause applies of an advertising structure displaying only notices relating to the purpose for which the land is used.*
- (3) *The Council may consent to the erection of an advertising structure on land to which this clause applies for the purpose of*
- (a) *directing the travelling public to tourist areas; or*
- (b) *displaying private advertisements for tourist accommodation of other tourist facilities*

The terms advertisement and advertising structures are not defined within HLEP 1989, however they can be found at Section 4 of the Environmental Planning and Assessment Act 1979. The terms are defined as:

“Advertisement means a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water”

“Advertising structure means a structure used or to be used principally for the display of an advertisement”

The definitions show that the use of a notice to state “Pitt Town Not Pitt Street” and the like are

advertisements. Under the provisions of the HLEP the advertisements require development consent.

Development Control Plan

Rules applied within the Development Control Plan for signage show that within Residential, Rural and Scenic Protected zones Council may permit signs in the following instances: -

- real estate signs that comply with Section 3.5 of this chapter;
- a sign directing the travelling public to tourist areas or displaying private advertisements for tourists accommodation or other tourist facilities; and
- a sign indicating the purpose for which the land is used. These signs shall be restricted to;
- one sign per property,
- a height of 2.5 (two point five) metres above ground level, and
- a maximum area measuring 0.75sqm (point seven five). Double sided or "V" signs may be permitted where considered appropriate, with each face being restricted to 0.75sqm (point seven five).

Complaint

A complaint was received from a North Richmond resident regarding the advertisements and this led to letters being issued to the respective landowners to remove them. Following this, one of the landowners sought advice and, in a letter, challenged Council's ability to enforce the removal of the signs.

Conclusion

The signs used to promote or object to the proposed development are advertisements as defined by the Environmental Planning and Assessment Act 1979.

The signs in question are prohibited and should be removed.

RECOMMENDATION:

That:

1. The information be received; and
2. The provisions of the Hawkesbury Local Environmental Plan 1989 be enforced and the landowners be required to remove the unauthorised signs.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 49 Oooo

ITEM: 50 Restricted Premises**FILE NUMBER:** 79347/EVD/ENG29NBX.V12**PREVIOUS ITEM:** 66, Ordinary (06.05.2003)

REPORT:

The development application for the establishment of the adult book shop at McGraths Hill, to be dealt with elsewhere in this business paper, and the occupation of the shop in Windsor by an adult bookshop have caused some concern regarding the controls over such premises contained within Hawkesbury's Local Environmental Plan (LEP) and Development Control Plans.

Currently in the Hawkesbury Local Environmental Plan, shops changing use from one shop to another do not require consent. This arose following the gazettal of the amendments to the LEP concerning exempt and complying development. That is to say that where a building is approved as a shop, it can be used for a variety of uses without further approvals from Council. Therefore, if the building was used as a clothes shop it can change to a book shop or newsagent without consent from Council being required. The property in George Street Windsor is one such example, being previously used as a beauty salon and now being occupied by a shop selling restricted articles.

The application at McGraths Hill elsewhere in the business paper only comes to Council because the building has no approval for occupation and this is the first use of that structure. If this building had been approved for some other shop, the alterations to accommodate the adult book shop would not have required consent of Council. Prior to the gazettal of Amendment 110 to Hawkesbury Local Environmental Plan, the provisions of State Environmental Planning Policy No.4 applied, which essentially had the same provisions. That is, shop to shop applications did not require referral to Council for their approval. However, there was a subclause which stated that this provision did not apply to premises in which classified material was being shown, exhibited or sold and therefore development applications were required for the establishment of shops selling restricted articles. It would appear that an unintended by-product of the amendment was that these provisions were excluded from Hawkesbury's LEP when the exempt and complying LEP was gazetted. This change has only come to light with the proposals for these two adult book shops.

If Council wishes to introduce the provisions to require development consent for the establishment of premises selling restricted articles under the Indecent Articles and Classified Publications Act of 1975, then the LEP would need to be amended to include such provisions. It should be noted however that such applications for development cannot be refused on moral grounds and can only be dealt with under planning grounds. It may be therefore that the provisions of Council's Brothel DCP which seeks to distribute these developments away from certain activities, such as schools and child care centres, may also need to be modified to include applications for the establishment of these shops. It should also be noted they are legitimate shops selling products that are lawful in this State and it may be well difficult to sustain an argument under the Land and Environment Court on the refusal of such application, unless there

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are some other land uses in the area which would make them incompatible.

Should Council wish to carry out this amendment, then a further report would be required detailing the precise changes to Hawkesbury's Local Environmental Plan and Development Control Plan.

RECOMMENDATION:

The information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 50 Oooo

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ITEM: 51 **Review of State Emergency Services Report - Pitt Town Local Environmental Study**

FILE NUMBER: 79347, 81508/LEP3/00/EVD/ENG29NBX.V11

PREVIOUS ITEM: 66, Special (06.05.2003)

REPORT:

Following Council's resolution at its Special Meeting on 6 May 2003, enquiries have been made with organisations who are capable of carrying out the review of the flood evacuation component of the Local Environmental Study prepared by the State Emergency Services (SES) of New South Wales.

Contact has been made with the firm of Consultants named Molino Stewart Pty Ltd, Cowper Street, Parramatta, who have been engaged by planningNSW to review the evacuation provisions for the development of the Penrith Lakes Housing Scheme, and the SES Victoria's business arm, who are available to carry out this work.

It is proposed that quotations be obtained from both these organisations following their review of the documentation. The results of their review will then be reported to Council

RECOMMENDATION:

The information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 51 Oooo

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ITEM: 52 **BP Convenience Store and Fuel Dispensing Facility, Lot 2 DP630616,
362 Macquarie Street, Windsor**

FILE NUMBER: DA0382/02/EVD/ENG29NCX.V10

PREVIOUS ITEM: 34, GPC Section 1 - Environment (24.06.2003)

REPORT:

This development application was reported to the General Purpose Committee Meeting on 24 June 2003. The Committee recommended that the matter be deferred for a period of 1 (one) month and that staff undertake discussions with the applicant in relation to modifications to the height of the sign and location of the carwash.

The applicant has since requested that consideration of the application be deferred. In a letter dated 8 July 2003 the applicant advises:

"We wish to further liaise with both the RTA and the Local Traffic Committee regarding obtaining approval for a 'Right turn' from Macquarie Street into the site before a formal decision by Council is made on this application."

Accordingly, the application will be reported to General Purpose Committee when the applicant has completed discussions with the RTA.

RECOMMENDATION:

The information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 52 Oooo