



Hawkesbury City Council

ordinary meeting business paper supplementary

date of meeting: 11 March 2003

location: Council Chambers

time: 7.00pm

ORDINARY MEETING

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AGRICULTURE AND RURAL LANDS

Agriculture is of vital importance to the economic and social future of the Hawkesbury region. With our employment levels under threat from possible relocation of Air Lift Group from RAAF Base Richmond, agriculture and tourism have great potential as key growth areas in the regional economy.

Best practice, value-added agriculture is also the best protection of our rural lifestyle and character as a hedge against residential sprawl. It is only a matter of time before northwestern Sydney faces further large scale urban rezoning. The only way this can be avoided is to have in place land uses that are of greater importance than housing to Sydney as a sustainable city. The success of this policy was evident in the 1980's when the Dural area was excluded from the Rouse Hill development because of agriculture.

Since the first European settlement of the Hawkesbury, agricultural development has occurred as a series of waves, usually associated with value-adding. Grain production was associated with milling, cattle with tanneries, dairies with milk or butter factories, sweet corn with canneries, etc. As new crops were developed, others imitated and competition reduced the profitability.

Agriculture has a tremendous future as long as we continue to improvise as turf farmers, mushroom growers and the horse industry have shown.

The greatest threats to agriculture are security against residential encroachment, security of water supply and security of markets. The first two require strong planning policies by Government. Hawkesbury farmers, assisted by the Department of Agriculture and by local government, are overcoming the domination of the food markets by large supermarket chains by marketing directly to the public through Hawkesbury Harvest, farm-gate sales and farmers' markets. Advances such as Topoclimate will also increase productivity and the range of crops within Hawkesbury. Development of a Hawkesbury Cuisine will further encourage sales by local farmers.

Tourism based on agriculture, our National Parks and the river, our history and heritage (both indigenous and European), cultural activities (including the new library, regional art gallery and regional museum being created by Hawkesbury Council) give tourists a great range of activities which should encourage them to stay not just for a day but for a week or so. North-western Sydney is ideally located to capture maximum benefits from tourism if promoted and developed on a regional basis.

Fine fresh food can become for the Hawkesbury what wine is to the Hunter. Our potential is limited only by our imagination.

Agriculture on the Richmond Lowlands will soon come under threat from extractive industries. Extraction will provide a one-off economic benefit at a great environmental cost and must be strongly opposed.

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The area represents 45 per cent of the remaining class one agricultural land in the Sydney region. The farm gate value of agriculture on the Richmond Lowlands in 1996 was calculated at just over \$38 million annually, involving turf, dairy, beef cattle, lucerne, hay making, vegetables, citrus, pecans and horses.

A Regional Environmental Plan for Northwestern Sydney to protect agriculture and tourism is urgently required and must be a priority for the incoming Government.

Recommendation

That:

1. Council contact both the Minister for Planning and the Shadow Minister for Planning requesting a REP for Northwestern Sydney which will protect the agricultural land.
2. Council advise WSROC that it considers that the preservation of land for agriculture in Northwestern Sydney is of paramount importance and this should be included in the forthcoming regional vision for Western Sydney

oooO END OF MAYORAL MINUTES Oooo



ordinary

4
section

reports
for determination

ITEM: 37 **“Loop” Section, Cabbage Tree Road, Grose Vale - Proposed Renaming: Ezzy Crescent**

FILE NUMBER: 79338/ENG/ORC11LBX.E24

PREVIOUS ITEM: Item 10, GPC Section 2 - Infrastructure (25.02.2003)

REPORT:

A meeting was held with the residents of the “loop” section of Cabbage Tree Road on Sunday 9 March 2003 at 9.30am. All property owners whose properties abut that section of road were invited to attend the meeting. There are 12 properties which abut the road, eight of these owned individually and four owned by the Ezzy family. All but one of the nine landowners invited to the meeting attended.

All those who attended the meeting had an opportunity to speak about the matter which resulted in five property owners being against renaming of the road, three being in favour of a renaming proposal and one who didn’t really care, however, requested adequate sign posting. It was suggested, by those opposed to renaming, that a finger board indicating the individual house numbers around the “loop” would be adequate to identify properties in that area. Whilst this would help to a degree it is considered inadequate from an emergency management point of view whereby a numbering sequence would exist on the main section of Cabbage Tree Road with a similar sequence existing on the “loop”. It is considered that the only reasonable way to resolve the situation is to rename the road with the rural numbering system commencing sequentially from the northern intersection of Cabbage Tree Road. In view of the angst that is being generated it is suggested that renaming the section of road not proceed at this stage.

There was general consensus that the history of the Ezzy family is important to the area and should be recognised in some form. It will be noted that as part of the Cabbage Tree Road, Grose Vale - road condition report there is a recommendation that a pedestrian access be constructed from the Bushfire shed to Grose Vale Road and if this is supported it may be appropriated to name that pedestrian access after the Ezzy family.

RECOMMENDATION:

That:

1. No action be taken, at this stage, to rename the “loop” section of Cabbage Tree Road, Grose Vale.
2. Signposting be erected at each end of the “loop” at its intersection with Cabbage Tree Road indicating that certain house numbers exist on that section of road.
3. The pedestrian access from the Bushfire shed to Grose Vale Road be name Ezzy Way.

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ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 37 Oooo

ITEM: 38 Advertising Signs**FILE NUMBER:** 107, 74344/EVD/ORC11LBX.V23

REPORT:

Councillor Gilling has requested a report on the implications of the sign policy, for political purposes, particularly for:

1. State elections;
2. Local Government elections; and
3. Community protest signs.

Hawkesbury Local Environmental Plan 1989 contains provisions relating to advertising signs. The Local Environmental Plan prohibits any form of advertising sign attached to a telegraph pole, tree, street post or the like. Any sign used for an election purpose or a community protest is, in fact, an advertising sign and therefore prohibited in these circumstances.

The Development Control Plan goes on to give circumstances when consent can be given for temporary signs, which are signs for community events. These temporary signs could be located on private property and indeed could cover signs for elections and protest actions. Approval for temporary signs should be obtained from Council 28 days prior to an event. They can be displayed for a period of 14 (fourteen) days prior to the event and removed 2 (two) days after the event. Action against political parties for display of election material has not been taken in the past, on the understanding that they would all be removed as soon as possible after the election has been held. If the signs are not removed after the election has been held they are removed by Council staff, unless the individual candidate indicates otherwise.

Signs promoting a public meeting or a public rally could be treated in the same manner. Signs portraying protest issues, not related to an event, are not contemplated by the Development Control Plan and therefore are prohibited under the Local Environmental Plan.

It has been Council's practice in the past not to ask for removal of protest signs if they are not causing a nuisance or blocking public space.

In summary therefore, people wishing to put up signs for the purposes of political campaigning for a State or Local election should use the temporary signs provisions of the Development Control Plan to obtain consent and then remove the signs 2 (two) days after the election takes place. In respect of community protest signs where they are not event specific, they are not contemplated to be able to give consent in the Local Environmental Plan or Development Control Plan.

RECOMMENDATION:

That the provisions of HLEP 1989, in respect of advertising signs, be enforced.

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ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 38 Oooo

ITEM: 39**Section 96 Modification to relocate dam associated with the growing of cut flowers, Lot 7 DP 7571, No.89 Boundary Road, Glossodia.****FILE NUMBER:** DA005/02/EVD/ORC11LBX.V25

REPORT:**Additional Information**

This report refers to Item 16 in the Environment Section of this business paper.

Arising from determination by the General Purpose Committee, a meeting was held with the applicants and with Mrs Lanham to discuss the application. As a result of this meeting it was quite clear that Mrs Lanham considers that the “grey gums” and the large Ironbark trees to the western side of the dam are significant landscape elements. The applicants, on the other hand, are quite as adamant that the trees cannot stay as they will affect water quality of the dam and, in respect to the Ironbark trees, will be affected by the requirements of the Department of Land and Water Conservation to construct catch drains and sedimentation control ponds.

What was established as a result of the site inspection, however, was the dam wall is now in a different location to that originally proposed and, in fact, is midway between the original proposed new dam and the current dam wall. This dam will have a capacity in excess of five megalitres and with therefore require the submission of appropriate design drawings, obtained under the construction certificate, and certification by a practising Construction Engineer.

The landowner has offered to supply up to 100 trees to the neighbour to augment her landscape along her northern boundary. He has also agreed to allow the Cabbage Tree Gums that he proposes to be planted in the south west corner to be kept at a height of four to five metres for the first two rows adjacent to his southern boundary. This will have the affect of creating a visual barrier to the view from Mrs Lanham’s property.

Notwithstanding the opinion of the earthmoving contractors associated with proposal, it could be that the new design drawings reveal that the “grey gums” are not affected by the dam or will have the potential to affect the dam.

There are conditions of consent requiring a new vegetation management plan to be submitted and it will be up to the ecologist, supported by the Construction Engineer, to argue for the removal of these trees. If they conclude the trees need to be removed, they should be kept on site until the new landscaping is well established, unless they are required to be removed for the structural integrity of the new structures.

It should also be noted that with the dam wall now located upstream of the original location, a larger number of trees will be kept on site in the north-eastern side of the property. Current conditions of consent require these to be identified before they are cleared.

In conclusion, the following points can be made:

1. There are firm opinions on both sides concerning keeping the trees and having them removed.
2. The dam is in a different location to originally contemplated and will require detailed construction drawings to be submitted.
3. A revised vegetation management plan must be submitted.
4. The owner has made some offers to provide compensatory landscaping to offset the removal of the large number of trees.

This combination of events has led to the necessity to rewrite the conditions of consent and the new terms are attached below.

RECOMMENDATION:

That the development consent for DA005/02 be rewritten as set out below:

General

1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans (prepared by McKinlay Morgan and Associates Pty Ltd, numbered 90788:BP:1 dated 21 March 2002 and 90788:E:1 dated 16 January 2002) submitted with Development Application No. DA54/02 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.
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 pump used on the eastern dam is to be enclosed in a suitably sound proofed structure.
6. The Vegetation Management Plan shall be implemented within 6 months of removal of the trees and commencement of the activity on the site.

Department of Land and Water Conservation Conditions**DLWC - General and Administrative Issues**

7. The licensee shall allow the Department of Land and Water Conservation, or a person

authorised by it, full and free access to the works, either during or after construction, for the purpose of carrying out inspection or test of the works and its fittings and shall carry out any work or alterations deemed necessary by the Department for the protection and proper maintenance of the works, or the control of the water to prevent wastage and for the protection of the quality and prevention from pollution or contamination of other waters.

8. The applicant shall not allow any tailwater drainage to discharge into or onto
 - any adjoining public or crown road;
 - any other persons land;
 - any Crown land;
 - any river, creek or watercourse;
 - any groundwater aquifer;
 - any area of native vegetation as described in Native Vegetation Conservation Act 1997;
 - any wetlands of environmental significance.
9. Works used for the purpose of conveying, distributing or storing water taken by means of the authorised work shall not be constructed or installed so as to obstruct the reasonable passage of floodwaters flowing into or from a river.
10. The pumping and ancillary equipment and pump site shall be, at all times, properly secured and/or sealed so as to prevent any leakage of petroleum based products, and/or noxious material from entering any river or lake. Typically, a bunding wall of hay bales or other approved material shall be installed around the pumping plant to avoid contamination of any river or lake through spills or leaks of oils, fuels, or greases.
11. The existing profile of the channel and bank of any watercourse or drainage depression must not be disturbed any more than is necessary in order to site and maintain the authorised work. Any area that is disturbed when carrying out such work shall be stabilised and maintained by vegetation cover, stone pitching or any other approved material as directed and to this Department's satisfaction so as to prevent the occurrence of erosion.
12. The size and location of the storage as shown on a plan at the time of licensing shall be retained in the Office of the Department of Land and Water Conservation shall not be altered, without prior written approval from the Department.
13. The work shall be constructed and maintained in such a manner as will ensure its safety and as will preclude the possibility of damage being occasioned by it, or resulting from it, to any public or private interest.
14. The level of the bywash crest shall be fixed so as to achieve the design storage capacity and safely pass excess flows. Levels shall be relative to a temporary bench mark established near the work. These particulars shall be provided to, and retained by, the Department of Land and Water Conservation.

15. The land immediately surrounding each storage shall be revegetated with a range of suitable local native species to ensure that surface runoff entering the storage does so in a controlled manner. Planting of species shall include a range of grass, shrub and tree species.
16. Any planting shall be maintained and fenced off from grazing animals for a minimum of twelve months to facilitate establishment of all plants.

DLWC - Conditions Specific to DA0054/02

17. All inflow and outflow drainage lines shall be maintained with sufficient vegetation coverage to facilitate optimum water quality entering the dam.
18. An amended plan is to be submitted demonstrating the location of the dam in relation to the 6 (six) Grey Gums and 8 (eight) Ironbarks on the property located south of the dam which trees are to be retained. The tree removal on the property is to be carried out in accordance with the Flora and Fauna report submitted with the application. Selective tree removal is appropriate where required for machinery access after an inventory of existing trees to be removed has been undertaken. Prior to trees being removed, they are to be marked and inspected by Council staff."
19. The By-Pass Channel is to be designed and implemented in a manner which allows for the continuity of natural stream processes. The Department requires the By-Pass Channel be stabilised and vegetated with a diverse range of native plant species local to the area.
20. The construction technique adopted to repair and enlarge the dam is to ensure that disturbance to the existing watercourse and native vegetation is kept to an absolute minimum.
21. All disturbed soil surfaces are to be stabilised and rehabilitated immediately it is possible to do so with sterile exotic cover crops or couch turf. Kikuyu is not permitted.
22. If disturbance is deemed to be excessive, the Department may require the preparation and implementation of a Vegetation Management Plan and remedial works.
23. A Soil and Water Management Plan (S&WMP) for all site works is to be prepared by a suitably qualified person(s) with knowledge and experience in the preparation of such plans, in consultation with, and with the approval of DLWC. The S&WMP is to cover all aspects of soil and water management requirements for the site that could impact on the stream and must include details of staging, monitoring, management responsibilities, maintenance and decommissioning requirements. The S&WMP must meet the requirements outlined in the NSW Department of Housing's "Managing Urban Stormwater: Soils and Construction" (1998) manual (the "Blue Book").

DLWC - Formal Application Issues

24. It is anticipated that a fee would apply to any licence issued.

25. Licences under Part 2 of the Water Act generally fall due for renewal every five years.
26. Design plans/survey of the licensable works will be required.

Prior to issue of Construction Certificate

27. Submission of plans that comply with all the requirements contained in Hawkesbury Development Control Plan (Chapter 2 - general information for dams more than one megalitre capacity and Chapter 6 - dam construction). In this regard, your attention is drawn to the level of detail required to be submitted and the certification required by a practising Civil Engineer for dams larger than five megalitres or a wall height of more than four metres.
28. The applicant to make arrangements for the supply of at least 100 tube stock Cabbage Gum trees to the southern adjoining landowner.

Prior to Commencing Works

29. Submission of a revised Vegetation Management Plan incorporating the requirements of this consent and the conditions imposed by the Department of Land and Water Conservation. The area nominated for the cut flower farm on the southeast boundary is to be deleted incorporated into the replacement planting. The Management Plan is to provide justification for the removal of the eight Ironbarks and six Grey Gums located south of the dam.
30. To prevent stormwater from the development causing a nuisance to downstream properties, sediment control measures shall be installed in accordance with Council's development control plan titled "Soil Erosion Sediment Control" prior to the commencement of site works.

Note: Measures may include the installation of geofabric fencing, staked straw bale walls located on the contour down-slope of the construction, sediment detention basins, earthen contour banks and the like.

31. In order to avoid pollution and sedimentation of the Hawkesbury-Nepean River Catchment, the following erosion and sedimentation controls will apply:
 - (a) runoff and erosion controls shall be installed prior to clearing of site vegetation in accordance with Council's development control plan titled "Soil Erosion Sediment Control";
 - (b) topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping;
 - (c) the capacity and effectiveness of runoff and erosion control measures shall be maintained at all times;
 - (d) pollution control devices shall be installed and maintained to ensure there is no increase in the downstream levels of nutrients, litter, vegetative debris, and other water borne pollutants;

- (e) measures shall be applied to prevent site vehicles tracking sediment and other pollutants onto any sealed roads serving the development; and
- (f) an erosion control plan showing detailed runoff and erosion control measures shall be prepared by a qualified engineer prior to any works commencing on-site. This plan shall incorporate (without being limited to):
 - (i) upsite interception of uncontaminated runoff and diversion of it around disturbed areas;
 - (ii) sediment interception measures (catch drains, contour banks, detention basins, settling ponds, haybale or gabion barriers, sediment traps, silt fences, etc) sufficient to prevent sediment and other debris leaving the site or entering downstream drainage lines;
 - (iii) regular maintenance of erosion control works; and satisfactory disposal of intercepted sediment.

- 32. 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.
- 33. The operator of the farm or contractor constructing the dam is to provide twenty-four hours notice to the neighbouring residences prior to the construction works relating to the dam.

During Construction

- 34. The Grey Gums are not to be removed until the approved replacement vegetation has been established or evidence provided by a qualified engineer that the trees are unstable and pose a safety issue.
- 35. The cattle grid is to either be removed or satisfactorily dampened so it does not cause vibration travelling from the grid, following completion of the dam rebuilding works.
- 36. To ensure that site works do not cause soil erosion, site works involving construction of batters, embankments, cuts, mounds, and the like, shall incorporate measures for their restraint and stabilisation, with the use of physical barriers and planting of suitable vegetative cover.
- 37. All trucks entering or leaving the site shall have their trays suitably covered to prevent spillage from the truck onto the road.
- 38. All fill to be adequately compacted by track rolling or similar.
- 39. Dust control measures, eg vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
- 40. 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.

41. No burning of demolition or construction material being carried out on the site.
42. 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).
43. 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.
44. Any overflow from the proposed dam must not concentrate water on any adjoining property.
45. All necessary works being carried out to ensure that "any water" flow from adjoining properties is not impeded.
46. The dam shall be constructed such that the grades of the batters are consistent with Council's Dam DCP, being 1:3 (one in three) (v:h) on the downstream side. The upstream side shall be no steeper than 1:2.5 (v:h). All batters shall be revegetated using seeding or turf. No trees are to be placed on the structure.
47. The width of the dam crest is to be a minimum of 3m (three) for the first 3m (three) of a dam wall and is to increase in width by 0.5m for every metre above 3m (three).
48. A minimum of 1.0m is to be established for a freeboard and this is to increase by 10% (ten) for every metre over a 3m (three) high wall.
49. The material used to construct the embankment is to be sufficiently impervious to keep seepage low and to be stable. A soil with 25% (twenty five) clay content is ideal in this respect to form an impervious barrier.
50. The width of the spillway outlet is to be not less than the inlet width. The spillway is not to direct flows onto the downstream toe. The spillway area is to be grassed, stable and able to accept runoff flow. It will be necessary to turf the spillway area. The spillway cut batter should have a maximum steepness of 1.5:1.
51. The dam is to be constructed with a waterproof clay lining and the depth is to be kept above the water table in order to minimise the threat of groundwater contamination.
52. The following soil types are not to be used in the construction of the dam:
 - (a) sand;
 - (b) gravels;
 - (c) organic soils; and
 - (d) peat.

Use of the Site

53. The activity is to operate in accordance with the details contained within the approved Farm Management Plan.
54. 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.
55. Outdoor activity associated with the cut flower farm is to be carried out only during daylight hours.
56. Any cutting of cabbage gum tree species is to be done by hand only. The two southern most rows in the south east corner are to be maintained at a height of no less than four metres.
57. Submission of a works as executed plan for the dam to Council as well as certification details from the practising Civil Engineer in respect to the completed works as outlined in Hawkesbury Development Control Plan (Dam Construction).

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 39 Oooo

ITEM: 40 **Erection of two buildings, one building to be used as a supermarket and 17 speciality shops, one building to be used for 9 bulky goods retailing units, associated vehicle parking and loading facilities. 264-272 Windsor Road, Vineyard**

FILE NUMBER: DA1389/02/EVD/ORC11LBX.V19

REPORT:

ADDITIONAL INFORMATION

This report refers to Item 13 in the Environment Section of this business paper.

This property, the subject of development application for the construction of supermarket speciality shops and bulky good retailing, is also affected by Draft Amendment No.140 to Hawkesbury Local Environmental Plan 1989. Council at last meeting resolved to re-exhibit Amendment No.140 arising from the submissions made essentially to retain the 3(b) zone land to the north of Groves Avenue. This amendment to the exhibited version does not affect this property.

Council would clearly be in a stronger position in the Land and Environment Court if the amendment to the local environmental plan had, in fact, it been adopted by Council and forwarded for gazettal. This would mean that in the eyes of the Court the plan was actually imminent and could be given determining weight in the refusal application in that the draft plan would prohibit the development.

If the plan is still subject to further exhibition, the Court would not give the same weight to it as it is clearly not as apparent that Council has finalised the draft amendment. Advice has now been received that the appeal has been discontinued. The Applicants are now looking at a modification to the application.

It was recommended previously that the draft plan be adopted and sent for gazettal, subject to the changes arising from the exhibition. It is considered these recommendations should now be adopted.

RECOMMENDATION:

That:

1. Council determine the submissions to Draft Hawkesbury Local Environmental Plan No.3/02 (Amendment No.140) to rezone all land in Zone 3(b) (Business Special) and to allow recreation areas on land classified as community land by proceeding with the plan with the following changes to the exhibited plan being made:

- (a) the land between Curtis Road and Groves Avenue, Mulgrave remain as the 3(b) (Business Special) zone with a limited floor space area of 100 square metres for commercial premises and 200 square metres for shops; and
 - (b) the land in the 3(b) (Business Special) zone at South Windsor be zoned 3(a) (Business General).
2. Subject to (3) above that Draft Hawkesbury Local Environmental Plan No.3/02 (Amendment No.140) to rezone land in Zone 3(b) (Business Special) and to allow recreation areas on land classified as community land be forwarded to the Minister for Planning for making.
3. The submission authors be advised of (3) above.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 40 Oooo

ITEM: 41 **Four Lot Subdivision of Lot 23 DP 250464, 330 Grono Farm Road, Wilberforce.**

FILE NUMBER: DA1625/01/EVD/ORC11LBX.V21

REPORT:

ADDITIONAL INFORMATION

This report refers to Item 15 of the Environment Section in this business paper. As requested by Council the following additional information is supplied.

The burying of material is defined as 'landfill' under the provisions of Hawkesbury Local Environmental Plan 1989. "Landfill" requires development consent.

'Landfill' means "the filling of land with clean fill or demolition fill, or both, which alters the natural ground surface level or affects pre-existing drainage. This fill material may be imported to or obtained from the site, but does not include top dressing."

Hawkesbury Development Control Plan defines 'demolition fill' as *"fill material containing demolition material, building material or non-putrescent garbage matter other than trade waste, and effluent, but excluding asbestos and other toxic materials."*

The applicant states that concrete, from the feed bins, was placed in the dam. Concrete is considered to be 'demolition fill'. As a result, the filling in of the dam requires development consent to be issued.

In situations where the landfilling has occurred without obtaining development consent, Council officers have required a development application to be lodged for the restoration of the landfill, as well as providing details in respect to the source of the fill material and the compaction standard for the fill.

In this case, Condition No. 8 was included in the recommendation requiring the submission of information to resolve this matter.

Under the provisions of the Protection of the Environment Operations Act the filling of the dam does not require approval/licencing from the Environment Protection Authority given the scale of the filling activity.

The relining of a dam is considered to be maintenance and does not require development consent.

Letter Submitted by Applicants Representative

A meeting was held at Council officers on Thursday 27 February 2003 between the Director of Environment and Development, Mr McKinlay, Mr White and Mr Rose. The applicant submitted a letter on 3 March 2003 addressing the main points of concern raised at the meeting.

Building Envelope

"It is proposed to now include within the subdivision plan building envelopes on lots 3, 4 & 5 (lot 2 is already developed) so as to minimise visual quality impact on adjoining properties and from the road. The building envelopes are to be located as shown on the attached sketch plan and on behalf of the applicant I seek that this plan be added to the plans submitted originally. The attached sketch plan is only of A4 size and the formal full-scale drawings will be forwarded in the next few days.

In providing these building envelopes the views to the houses will be minimised. They will be only partially (or not at all) visible from the road frontage of Grono Farm Road and are set lower than the high points of the land so that any distant views of them will be diminished by the landform behind. Additionally Council can impose colour/texture restrictions on subsequent building approvals.

If the above is implemented it is believed that Dr W Mackay's views of future dwellings on the property will be minimal if at all visible given the distance of over 1km his property is from the subject property. I note that his house is built on top of the highest hill on his land so as to avail himself of views and that consequently his house is also visible by others."

Comment:

The location of the proposed building envelopes are considered satisfactory in minimising the visual impact of future development, as well as providing for onsite effluent disposal, asset protection zones, access and a building area on land above the 1-in-100 year flood level.

1:5 ratio of frontage to depth

"The ratio of frontage to depth exceeds the 1:5 required maximum within Council's DCP. Whilst the LEP does not contain a development standard relative to a particular ratio it is not unreasonable for Council to normally rely on its DCP. However in this instance we request that Council give consideration to relaxing this DCP requirement in the circumstances of this case that include:

- The constraint of flooding that does not allow variety in design given that each lot is required to have a dwelling site and access above the 1:100 level.*
- The fact that the design maximises the road frontage and does not require extra earthworks and expenditure associated with providing either internal roads or rights-of-carriageway.*
- The fact that there is no additional dwellings along the ridge (or below the ridge as now proposed) given that the land could be developed in the McKinlay scenario discussed below but not favoured by us and therefore there is no additional visual impact in terms of future dwelling construction.*

- *The fact that there will be less vehicular access points on Grono Farm Road as the plan of subdivision is now amended to provide for two shared access points rather than for each lot to have an individual access point. The subdivision will, therefore, be of less impact on Grono Farm Road than a "normal" 3-lot subdivision with 1:5 ratios.*
- *Each lot will be able to have access to the river for obvious advantage including pasture irrigation and fire fighting (subject to DLWC approval). Additionally each lot will have the recreational opportunities that go with river frontage.*
- *The fact that the dwelling sites cannot be seen from the river adjacent to the river frontage of the property due to the high embankment along this reach of river.*
- *The existence of numerous other long narrow lots in the general locality and that the proposed lots will not be inconsistent with these nor out of character generally."*

Comment:

It is agreed that, whilst the proposal does not comply with the 1:5 frontage to depth ratio, the proposed subdivision is appropriate for the locality and will have minimal environmental impacts.

Alternative subdivision layout by Mr McKinlay

"The alternative subdivision layout suggested by Mr McKinlay might achieve the 1:5 ratio but does not necessarily provide a better environmental outcome given the length of internal road construction required and that similar house sites would result. Additionally it requires the use of State Environmental Planning Policy No 1 to overcome the fact that one of the proposed lots would be less than the 10ha required minimum. In the circumstances of this case and the benefits of the subdivision as proposed by the applicant it would be difficult to maintain that the 10ha standard is both unreasonable and unnecessary as clearly satisfactory lots can be developed whilst adhering to the 10ha standard."

Comment:

Agreed.

River access

"The proposed development will have 4 river accesses as opposed to 3 if fewer lots were created either in the McKinlay format or with a 3-lot subdivision adhering to the 1:5 rule. In the overall scheme of things this is neither here nor there. The majority of the land cannot be seen from the river. Whether there is 3 or 4 lots having river frontage will not be distinguishable from people on the river. The benefits of river access (water supply, irrigation, fire fighting and recreation) outweigh any perceived disadvantages."

Comment:

Agreed.

Minimisation of vehicular access on Grono Farm Road

"The amended plan of subdivision proposed is for shared vehicular access points so that lots 2&3 and 4&5 will share an access point each. This will minimise conflict on the road, reduce visual impact and make best use of sight lines along the road. By doing this there will be no more access points than is required for the "McKinlay plan"."

Comment:

The proposed new accesses are considered satisfactory.

Effluent system

"The effluent disposal system required for subsequent dwellings has been determined by Toby Fiander & Associates to be a normal aerated wastewater treatment plant for each dwelling. No special systems are required to be constructed at the time of the subdivision. It is understood that the Fiander report is already with Council."

Comment:

The Feasibility of Onsite Disposal of Wastewater Report prepared by Toby Fiander concluded that the "site is capable of being developed for the proposed residences which can dispose of wastewater efficiently and without damage to the adjoining land or the Hawkesbury River." It is proposed to condition the consent to create an 88b restriction to ensure that any onsite effluent disposal system for the proposed lots are selected, installed, maintained and operated in accordance with the Report. (See Condition 5 of the Recommendation).

Building restriction

"It is proposed to place on the titles to lots 2 & 3 a restriction-as-to-user so that no building can take place on the area generally shown on the plan where the dams are located (now filled in). This actual area will be defined by survey."

Comment:

It is agreed that a restriction as to user be imposed to prevent building on the filled in dams. However, it is considered that Proposed Condition 8 of the Recommendation is still required.

Conclusion

The proposed amended subdivision is consistent with the provisions of Hawkesbury Local Environmental Plan 1989 and the objectives of Hawkesbury Development Control Plan. A variation to the Development Control Plan is being sought, and in view of the discussion above, be supported.

RECOMMENDATION:

That the proposed conditions of consent be amended in the following manner:

Amend Condition 5 to read:

5. The creation of a restriction on the use of the land in respect to the following:
 - The establishment of Building Envelopes (in compliance with Hawkesbury Development Control Plan) showing suitable envelopes for dwelling houses, rural sheds, asset protection zones and effluent disposal areas and sited as per the plans prepared by Falson & Associates and dated 3 March 2003;
 - Development within the area of the filled dams (Proposed Lots 2 & 3) is prohibited.
 - All future dwellings shall comply with the requirements of Planning for Bush Fire Protection prepared by Planning NSW and AS 3959 - 1999 Construction of Buildings in Bush Fire Prone Areas.
 - All sewerage Management Facilities are to be installed, maintained and operated in accordance with the Feasibility of On Site Disposal of Wastewater report prepared by Toby Fiander and Associates Report TFA 2497/02 dated 13/3/02.
 - Prior to occupation of Proposed Lot 2, a Development Application for the remediation of the land is to be submitted to and approved by Council, and the works required for the remediation be completed.
 - A heritage conservation plan is to be prepared in relation to the heritage dwelling on the proposed Lot 2 and submitted within 12 (twelve) months from the date of registration of the plan.
 - The heritage dwelling is not to be occupied until all works indicated in the conservation plan are carried out to the satisfaction of Hawkesbury City Council.

ATTACHMENTS:

AT-1 Amended Plans

ORDINARY

Meeting Date: 11 March, 2003

Item: **41**

Amended Plans

oooO END OF ITEM 41 Oooo

ITEM: 42 **Section 96 modification to development consent DA95/02 - No.66
Canoona Avenue, Windsor Downs**

FILE NUMBER: DA95/02/EVD/ORC11LBX.V20

REPORT:

ADDITIONAL INFORMATION

Introduction

At its General Purpose Committee Meeting of 25 February 2003, Council resolved "that Council staff undertake a mediation session between the applicant and residents before the Ordinary Meeting (11 March 2003) with the outcomes to be reported to this meeting."

A facilitation meeting was held at Council offices on 5 March 2003 in accordance with Councils adopted Conflict Management Policy. The meeting was attended by:

- Mr D. and Mrs R Smith (applicant)
- Mr P. Duffy (applicant's representative)
- Mr A. Currell (Windsor Downs Home Owners Association)
- Mrs K. Vella (representing Mr and Mrs Walker)
- Mr M. Brawn (Windsor Downs Home Owners Association)
- Mr R. Handley (representing Canoona Avenue residents - Mr and Mrs Simmons, Mr and Mrs Grima, John and Kim)
- Councillor L. Sheather
- Councillor C. Paine

Robert Montgomery, Manager Building and Development facilitated the meeting.

The issues discussed at the meeting included:

1. Number of truck movements
2. The hours of operation
3. Non compliance with conditions of consent
4. Councils lack of action against breaches of the consent
5. Noise
6. Appropriateness to use s.96 for the modification

Amendments to Current Applications

The applicant has, as a result of the facilitation meeting, amended the s.96 applications in the following manner:

Application 1

The applicant now proposes the following hours of operation:

6.30am to 7.00pm	Monday to Thursday, and Saturday
6.30am to 9.00pm	Friday (maximum 3 truck movements between 7.00pm and 9.00pm)
6.30am to 10.00pm	Sunday (1 truck movement between 7.00pm and 10.00pm)

Application 2

The applicant now proposes a maximum weekly number of truck movements of 20.

Application 3

The applicant has withdrawn this application.

Application 4

The application has withdrawn this application.

Application 5

The application has withdrawn this application.

Discussion**1. Number of Truck Movements**

At the meeting the home owners and residents were prepared to allow a maximum of twenty (20) truck movements per week providing the current hours of operation, being 6.30am to 7.00pm, were not altered.

They also agreed that the movement of the ute not to be included in the truck movements providing the exhaust system is modified to reduce the noise impact.

The applicant has agreed to the twenty movements per week and this will include any truck movements associated with charity events etc. This was agreed on the proviso of the current operating hours being amended.

The applicant also agreed to modify the ute exhaust system to reduce noise.

2. Hours of Operation

This matter was discussed and no consensus was reached by all parties. The home owners and residents consider the applicant should comply with the current operating hours and any extensions would cause an impact on the amenity of the area in terms of noise.

The applicant indicated that they would be prepared to amend the hours of operation to the following:

6.30am to 7.00pm	Monday to Thursday, and Saturday
6.30am to 9.00pm	Friday (maximum 3 movement between 7.00pm and 9.00pm)
6.30am to 10.00pm	Sunday (1 movement between 7.00pm and 10.00pm)

The applicant's amended hours will comply with the current approved hours of operation, with the exception of four (4) movements per week, which will occur after 7.00pm and before 9.00pm on Friday and 10.00pm on Sunday.

The amended hours of operation with only three truck movements on Friday night and 1 movement on Sunday night is not considered to have a significant impact on the amenity of the area, even more so with the limit on the number of truck movements per week.

3. Non Compliance with Conditions of Consent

The home owners and residents expressed concern about the non compliance with the conditions of consent. Specifically the truck movements, hours of operation, occupation certificate and fire safety certificate.

The applicant agreed to provide a fire safety and occupation certificate to Council. This has subsequently been received.

4. Council's lack of action against breaches of the consent

The home owners and residents were concerned with the lack of action and fines against the breaches of the consent.

Council officers have discussed the non compliance of conditions with the applicant on several occasions, as well as sending correspondence in respect to the matter. The lodgement of the s.96 applications was in response to the action of Council officers.

5. Noise

The home owners and residents raised concern that Condition 14 of the Development Consent, in relation to noise levels, could not be achieved and as a result the activity would not always comply with this condition.

6. Appropriateness to use s.96 for the Modification

The home owners considered that the proposed amendments could not be considered as substantially the same development approved, as it would have a greater impact on the area. As a result they consider that s.96 cannot be used, and the matter should be consider as a new development application.

Council officers have assessed the application and concluded that it can be considered under s96(2) of the Environmental Planning and Assessment Act, 1979.

Conclusion

It is considered that restricting the number of truck movements to 20 movements per week and amending the hours of operation on Friday to 9.00pm and on Sunday to 10.00pm, will have no significant adverse impact on the amenity or character of the locality.

RECOMMENDATION:

That:

- A. 1. Condition 9 of Development Consent 95/02 be amended to read:

Trucks movements are limited to a maximum of 20 movements per week. Truck movements are restricted to the following times:

6.30am to 7.00pm	Monday to Thursday, and Saturday
6.30am to 9.00pm	Friday (maximum of 3 movement between 7.00pm and 9.00pm)
6.30am to 10.00pm	Sunday (1 movement between 7.00pm and 10.00pm)

2. Council acknowledge the withdrawal of s.96 application No. 3;
3. Council acknowledge the withdrawal of s.96 application No. 4;
4. Council acknowledge the withdrawal of s.96 application No. 5;

- B. Council write to the applicant/owners reminding them of their obligation to comply with the conditions of Development Consent 95/02 and that any breaches of these conditions will result in penalty notices being issued immediately.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 42 Oooo

ITEM: 43 **Draft Local Environmental Plan 6/00 - Draft Amendment 126 - Protection of Threatened Species and Regionally Significant Wetlands**

FILE NUMBER: LEP6/00/EVD/ORC11LBX.V18

REPORT:

ADDITIONAL INFORMATION

This report refers to Item 17 in the Environment Section of this business paper. The General Purpose Committee recommended that this matter be workshopped by Council at the Briefing Session of 4 March 2003 which subsequently took place.

The issues raised by the submissions to the exhibition are as follows:

1. To allow a regionally significant wetland or wetlands to be attached to a lot to use for agriculture with the wetlands being managed in accordance with an agreed Management Plan.
2. To allow the residential blocks or small blocks to be reduced to one hectare if the situation outlined in (1) above was accepted.
3. There be no increase in the number of houses available.
4. To continue to use the Community Tiles Act to affect the subdivision

It is considered that these issues could be acceptable and appropriate amendments made to the draft plan to affect them, provided that it is clearly on the understanding that the purpose of this Amendment is to allow the large block to be used as a commercial agricultural activity and to lead to the preservation enhancement of the regionally significant wetland. If this cannot be achieved then the provisions of the Amendment will still apply.

A further minor issue has arisen, given the sequencing of various amendments to the Draft Local Environmental Plan. Amendment 136 which is now ready for gazettal, alters the provisions of the subdivision clause, for agricultural lots and flooding standards. Given the fact that this Amendment is now going to be gazetted before Amendment No.126, amendments need to be made to this Amendment, i.e. No.126, to ensure that the changes to the plan are consistent with Amendment No.136. This will necessitate minor additional changes. These include to insert the same clauses Amendment No.136 are inserting in respect of floor height standard, flood levels and lots for a public purpose.

These amendments to this draft plan will need to be acceptable to the Department of Agriculture in respect of the reduction size of the small lots and discussions with the Department will take place prior to the matter being referred to the Department of Planning for gazettal.

In summary, the alterations to the draft plan, following submissions received at exhibition would cover:

1. allowing for a large lot to be used for purposes for commercial farming to be combined with regionally significant wetlands
2. Use a Management Plan to ensure that the management of the wetland meets environmental standards.
3. Smaller lots could be reduced to an area of one hectare if the farm option is to be adopted.
4. Changes to ensure continuity with Amendment No.136 in regard to flooding standards and lots for public purpose.

Aspects of Draft Amendment No.126 which do not change are:

- the use of the Community Titles Act; and
- the availability of voluntary conservation agreements for the owner to enter into in regard to the management of the wetland or ecological communities and the number of potential lots does not alter

RECOMMENDATION:

1. That the Draft Local Environmental Plan (Amendment No.126) be amended to:
 - (a) To allow a regionally significant wetland or wetlands to be attached to a lot to use for the purpose of agriculture with the wetlands being managed in accordance with an agreed Management Plan.
 - (b) To allow the residential blocks or small blocks to be reduced to one hectare if the situation outlined in (1) above was accepted.
 - (c) There be no increase in the number of houses available.
 - (d) To continue to use the Community Titles Act to affect the subdivision
 - (e) To conform with the provisions of Amendment No.136 in respect of flood level agricultural lots and lots for public purposes.
2. The draft local environmental plan (Amendment No.126) be forwarded to the Department of Planning for finalisation and gazettal.
3. New provisions be prepared and inserted into the Hawkesbury Development Control Plan to reflect the requirements of Draft Amendment No.126.
4. The Department of Agriculture be contacted to gain their support in terms of the change in the management of farm lots under the proposed amendment.

ORDINARY

Meeting Date: 11 March, 2003

Item: **43**

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 43 Oooo



ordinary
meeting

end of paper