



general
purpose
committee

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section

environment

GENERAL PURPOSE COMMITTEE - ENVIRONMENT

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ITEM: 11 **Duplex - Lot 191 DP864010, 10 Claremont Street, Richmond NSW 2753**

FILE NUMBER: DA1018/03/EVD/ENB24NAX.V09

Applicant: Bruce Lord
 Dennis John Lord
Applicants Rep: N/A
Owner: Mr B Lord & Mr DJ Lord
Stat. Provisions: Hawkesbury Local Environmental Plan 1979
 Hawkesbury Development Control Plan
Area: 595.1sqm
Zone: Residential 2(a) under Hawkesbury Local Environmental Plan 1989
Advertising: 6 October 2003 to 20 October 2003
Date Received: 25 August 2003

Key Issues: - Non-compliance with Draft Amendment 130 to HLEP 1989

Action: Approval subject to conditions

REPORT:

Introduction

Council has received a development application for the erection of a dual occupancy.

The application was received prior to the exhibition of draft LEP Amendment No. 130 and the land is outside the proposed multi unit housing zone. The application is therefore reported to Council for determination.

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

The Proposal

The application seeks consent for the erection of a 2 (two) storey attached dual occupancy on Lot 191 DP 864010.

The land is 595.1sqm (five hundred and ninety five point one square metres) and is vacant.

The units will be constructed of masonry and tile and will have 3 (three) bedrooms each.

Statutory Situation

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

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

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Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject land is zoned Residential 2(a) under Hawkesbury Local Environmental Plan 1989. The proposed development is permitted within the Residential 2(a) zone with development consent.

Draft Amendment No. 130 to Hawkesbury Local Environmental Plan 1989

Draft Amendment 130 proposes to rezone the subject lot to 'housing'. The proposed development is prohibited within this zone.

Hawkesbury Development Control Plan - Residential Chapter

The following table provides an assessment of the proposed development against the requirements for residential development:

Element	Rules	Provides	Complies
Height	(a) New buildings are to be constructed within the Building Height Plane for the relevant residential use. (Refer to Table 1). The Building Height Plane is to be adjusted for sloping sites to follow the natural ground level. (b) Building to the side and back boundary within the Building Height Plane is permitted where: • It can be shown that the building to the boundary doesn't reduce the privacy of neighbouring dwellings and their private open space and does not reduce their existing solar access; and • The continuous length of the boundary walls is not more than 10m or is a maximum of 50% of the boundary length; whichever is the shorter.		Yes N/A

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Element	Rules	Provides	Complies
	(c) Exemptions to the Building Height Plane may be granted in the following circumstances: • Single dwellings proposed on flood prone land; • Single dwellings proposed on lots with a frontage of less than 14m at the building line; and • Chimneys, satellite dishes and aerials. Applicants seeking an exemption to the Building Height Plane must demonstrate clearly why the compliance is unreasonable.		N/A
Setbacks	(a) For sites fronting main or arterial roads, buildings are to be set 10 metres back from the front boundary unless there are exceptional physical circumstances. The 10m setback commences after any road widening which may affect the subject land. (b) 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. (c) For battleaxe blocks the general setback from the rear boundary of the property in front is to be 6 metres. (d) For the minor frontage on corner blocks, the minimum building setback is to be 2 metres.	Setback of 5.5m, which is considered consistent with established setback pattern.	N/A Yes N/A N/A
Development Fronting Rear Lanes	(a) The front of the dwellings are to face the rear lane. (b) The laneway is to be constructed to a width of 4.5m wide sealed pavement from a sealed road to and over the frontage of the site. Kerb and guttering is also to be provided along one side of the rear lane.		N/A N/A

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Element	Rules	Provides	Complies
	(c) Buildings are to front the rear lane and setback a minimum of 5.5m from the boundary to the rear lane. (d) Access to the site is to be widened to allow for satisfactory manoeuvring for vehicles entering or leaving the site. (e) Front fences are to be a maximum height of 1.2m to maximise site distances for vehicles leaving the site. (f) Visitor parking shall be provided at a rate of one per single dwelling and two per each five units or part thereof. Parking spaces shall be located clear of the access to the garage/carports. (g) A 1.2m wide legal pedestrian and service access is to be provided to the front street.		N/A N/A
Landscaped Areas	(a) All forms of residential development are to contain pervious soft landscaped areas to a total of 30% of the total site area. This may be calculated by adding together soft landscaped areas of private and common open space. Development proposals, where required, are to indicate the proportion of the total site area that is: • total "soft" landscaped area; • total ground level private open space; and • total common open space.	178.5m ² required. 303.1m ² has been provided.	Yes
Private Open Space	(a) Single dwelling houses and multi unit housing are to provide at least one area of private open space for each dwelling. (b) The total of private open space at ground level must be a minimum of 20% of the site area, regardless of permeability of the surface. This space must:	Provided. 119m² required. 170m² provided.	Yes Yes

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	- be capable of containing a rectangle 5 metres x 6 metres that has a slope less than 1:10; - not be comprised of any area with a dimension less than 4 metres; and - be exclusive of clothes drying areas, driveways, car parking and other utility areas.		Yes Yes Yes
	(c) Private open space shall not be located in the front boundary setback.		Yes
	(d) Any above ground level balcony or rooftop area designed for private open space must have minimum area of 10 square metres with a minimum dimension of 2 metres. This area is not included in the calculation for the provision of total private open space.		N/A
Common Use Open Space	(a) For development proposals that contain 5 or more units common use open space is encouraged. Concessions may be given where it is demonstrated that sufficient useable private open space has been provided. (b) The communal open space should generally have access only from within the site. (c) Common open space for multi-unit housing developments should be accessible from all dwellings within the development. Surveillance of this space should be possible from at least 2 dwellings. (d) Any proposed communal recreational facilities must be designed and located to avoid nuisance or danger to neighbours, residents and visitors.		N/A N/A N/A N/A

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Element	Rules	Provides	Complies
Access and Parking	(a) Driveways next to any side or rear boundary must have a landscape strip of at least 1 metre to separate them.		Yes
	(b) 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 metres above the driveway.	N/A	Yes
	(c) All driveways must have a minimum width of 3 metres and must be sealed to prevent surface erosion.		Yes
	(d) For development that contains more than 2 units driveways are to have a minimum driveway width of 6m from the layback/kerb line to 6m inside the property.	N/A	Yes
	(e) Garages and carports must not visually dominate the street façade, should occupy less than 50% of the building faced and must be compatible with the building design.		Yes
	(f) 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.	N/A	Yes
	(g) Where parking spaces are located at 90° to the driveway alignment the minimum driveway width adjacent to the space is to be 6.7m, increased as necessary to allow adequate manoeuvring on site.	N/A	Yes

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Element	Rules	Provides	Complies
	(h) On site manoeuvring areas shall be provided to allow entry and exit to the site in a forward direction (except for a single dwelling).		See (j) below
	(i) On site manoeuvring areas shall be provided to allow entry and exit to and from all car spaces including garages, carports, uncovered spaces and visitor spaces by a single turning movement (except for a single dwelling).		See (j) below
	(j) Attached dual occupancies will be assessed on merits in relation to onsite manoeuvring.		See discussion below
	(k) 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.	N/A	Yes
	(l) On site manoeuvring shall be based on the Austroads 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 sweep paths.	N/A	Yes
	(m) 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.		Yes
	(o) Refer to the following chapters for additional requirements: Part C Chapter 2 - Car parking and Access		Yes

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Element	Rules	Provides	Complies
	- Part C Chapter 6 - Energy Efficiency - Part D Chapter 3 - Subdivision		Yes N/A
Basement Parking	(a) Only the basement's parking entry should be seen as a separate level in a building. Large exposed foundations, voids and walls are not to be used. (b) No part of a basement should extend more than 1 metre above natural ground level so the height of the building is not excessive. (c) Consideration may be given to a sump and pump where storm water volumes are low based on merits of the site.		N/A N/A N/A
Visual Amenity	(a) Where there is potential for loss of privacy the proposal should incorporate some of the techniques illustrated in the DCP. (b) Where there is no alternative to a window, it should be screened.	Visual amenity adequate. Visual amenity adequate.	Yes Yes
Acoustic Privacy	(a) Acoustic privacy is to be considered at the design stage. (b) Site layouts should ensure parking areas, streets and shared driveways have a line of sight separation of at least 3 metres from bedroom windows. (c) A distance of at least 3 metres should separate openings of adjacent dwellings.		Yes Yes Yes
External Noise and Vibration	(a) A noise and vibration assessment must be undertaken by a suitably qualified noise consultant for any proposed residential development other than a single dwelling house located within 100 metres of the railway line or within Australian Noise Exposure Forecast (ANEF) 25 or greater.	ANEF Contour of 30-35 Acoustic report provided in support of the application.	Yes

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Element	Rules	Provides	Complies
	(b) 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.		Yes
Safety and Security	(a) Each dwelling is to be provided with direct and convenient pedestrian access to a private or public road.	Satisfactory.	Yes
	(b) Barriers to prevent movement between internal roof spaces of adjoining dwellings are required.	Provided.	Yes
	(c) Elements to be incorporated in site and building design and include: • doorway/entry safety and surveillance to and from the footpath • illumination of public spaces including all pedestrian paths, shared areas, parking areas and building entries to the relevant Australian Standard. • Visibility to the street from the front of the development • Restricted access to the rear of the site.	Satisfactory.	Yes
Utility and Site Services	(a) Where reticulated water is not available, a minimum storage of 100 000 litres must be provided. A minimum of 10 000 litres must be available at all times for fire fighting.		N/A
Cables	(a) The design, location and construction of utility services must satisfactorily meet the requirements of both the relevant servicing authority and Council.		Yes
Recycling, garbage and mail	(a) Collection areas must be integrated into the overall site and building design.	Satisfactory.	Yes

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Element	Rules	Provides	Complies
Fencing and Retaining Walls	(a) Front fences where not screening private open space walls are to be a maximum height of 1.2m if solid.		N/A
	(b) Solid front fences may be 1.8m high and articulated if: - the main private open space is in the front of the building façade; - the site is located on a main or arterial road; - the site is not located within an established heritage character; - 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.		N/A
	(c) The integration of trees and natural ground vegetation with the fence line is desirable.		N/A
	(d) The setback of the fence will be used for landscaping.		N/A
	(e) Solid fences are to be 1 metre from the front boundary.		N/A
	(f) Retaining walls shall: - not be taller than 500mm; - not cut through roots of any tree to be retained.		N/A
Energy Efficiency Chapter	(a) NatHERS Assessment and/or Energy Performance Statement.		Yes

Discussion**Setback**

The existing building setbacks within Claremont Street are varied. The proposed setback of 5.5m (five point five metres) is consistent with recent development within the Street.

Enter/exist site in forward direction

The development requires vehicles to reverse out of the property on Claremont Street, which is considered acceptable as Claremont Street is a one-way street.

Community Consultation

The application was notified from 6 October 2003 until 20 October 2003 in accordance with Hawkesbury Development Control Plan. No submissions were received.

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

Adjoining landuses predominantly consist of single dwelling houses. The proposal is compatible with the adjoining landuses.

The proposed development will have no unreasonable impacts on adjoining properties in terms of overshadowing, or visual and acoustic privacy.

The proposal will have no significant impact on existing views or vistas.

The design, scale and bulk of the proposed development is compatible with the surrounding development.

Site Design and Internal Design

The application does not demonstrate that the double carport complies with the Building Code of Australia in respect to fire requirements. However, compliance can be achieved by providing fire rated doors between the carports and single garages. The consent can be condition accordingly.

Conclusion

The proposed development is consistent with Hawkesbury Local Environmental Plan 1989 and Hawkesbury Development Control Plan. The proposal is prohibited under the provisions of draft Amendment No. 130 to Hawkesbury Local Environmental Plan 1989.

RECOMMENDATION:

That the application for dual occupancy 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.1018/03 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. Prior to construction of the approved development it is necessary to obtain a Construction Certificate.
4. The applicant is advised to consult with:
 - (a) Sydney Water Corporation Limited
 - (b) Integral Energy
 - (c) Natural Gas Company
 - (d) a local telecommunications carrierregarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public road(s).
5. No excavation or site works shall be commenced prior to the issue of the construction certificate.
6. 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.

Prior to Issue of Construction Certificate

7. 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 (\$1169.00)
 - (b) Community Facilities (\$1680.00)

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.

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.

8. Detailed plans demonstrating compliance with the Building Code of Australia (Housing Provisions) shall be provided to the Principle Certifying Authority for separate approval.
9. Separate details of the proposed roofwater and surface water drainage system shall be lodged in duplicate for approval. Such details shall be approved prior to issue of construction certificate.
10. Separate practising Structural Engineer's details of all structural concrete and steelwork shall be lodged prior to issue of construction certificate.
11. Construction of civil works including road, drainage, or 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 Environment and Development or an accredited certifier.
12. Payment of a design checking fee of \$327.50 and inspection fee of \$260.20 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.
13. The submission of engineering designs and calculations covering all works required by this consent.
14. The submission of a satisfactory Erosion and Sediment Control Plan (ESCP) prepared in accordance with the State Government guidelines titled "Managing Urban Stormwater: Soils and Construction (1988)".
15. Submission of proof of the payment of the Building Industry Long Service Levy where the value of civil works exceeds \$25,000 (twenty five thousand dollars).

Prior to Commencement of Works

16. 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.

17. 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.
18. 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.
19. If the work involved in the erection or demolition of a building:
 - (a) is likely to be dangerous to a person in a public place or adjoining property;
 - (b) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - (c) involves the enclosure of a public place,

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

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

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

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

20. Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with the approved ESCP or SWMP. In the absence of any approved plan the work is to be in accordance with Council's Development Control Plan 1/94 - Soil Erosion and Sedimentation.

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

21. 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.
22. 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.
23. 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.

During Construction

24. All building work must be carried out in accordance with provisions of the Building Code of Australia.
25. 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.
26. 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).
27. 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.
28. 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
29. All work must be carried out in accordance with the provisions of Council's Hawkesbury Development Control Plan, Appendix E Civil Works Specification Part 1 Design Specification and Part 2 Construction Specification.

30. The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include, but are not limited to, water, sewerage, drainage, power, communication, footways, kerb and gutter.
31. The provision of conduit/ducts under new driveways to the requirements of Integral Energy, in accordance with Integral Energy drawing 049759H dated 14/7/1987. Conduit and ducting material is available from Integral Energy.
32. Barriers to prevent movement between internal roof spaces of adjoining dwelling are required.
33. Each unit is to provide a hot water system with a minimum energy rating of 3.5 stars.
34. Each unit is to provide an energy rating as indicated on the NatHERs assessment submitted with the application.
35. The building design shall incorporate components that will provide aircraft noise mitigation in accordance with AS2021 and in accordance with the recommendations within the acoustic report prepared by Murphy Pastoral and Technical Company P/L submitted with the application.
36. All part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 are to be submitted to Council within 7 (seven) days of the date of issue. The registration fee is \$16.00 (sixteen dollars) per certificate.

Prior to Issue of Occupation Certificate

37. 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.
38. 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.
39. The submission of a Certificate from Telstra Australia that satisfactory arrangements have been made for the provision of cables for telephones to the development.
40. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to 'Your Business' section of Sydney Water's web site at www.sydneywater.com.au then the 'e-developer' icon or telephone 13 20 92.

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

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the plan of subdivision

41. 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.

42. In order to enhance the amenity of the development, new boundary fences shall be provided at the applicant's expense. Such fencing behind the building line shall be to a height of 1.8 m and provide full privacy to adjoining residences. The owners of adjoining properties are to be consulted regarding suitable fencing.
43. 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.
44. Illumination of public spaces including pedestrian paths, shared areas, parking areas and building entries are to be provided in accordance with the relevant Australian Standard.
45. (a) The construction of concrete kerb and gutter, including layback vehicular crossings, the footway area being formed in earth and all necessary drainage, together with the full construction of the adjacent road shoulder pavement from Bourke Street to the existing kerb and gutter adjacent to the subject site, together with any works necessary to make this construction effective.
- (b) The construction of concrete kerb and gutter, including layback vehicular crossings, concrete path paving 1.2m wide with the remaining footway area being formed in earth and all necessary drainage, together with the full construction of the adjacent road shoulder/half width road pavement with a 25mm ACIO Wearing Course together with any works necessary to make this construction effective.
46. Removal of the existing redundant layback crossing and replacement with concrete kerb and gutter and the restoration of the footway area.
47. 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.
48. Design and construction of site drainage shall be carried out in accordance with Council's Hawkesbury Development Control Plan, Appendix E Civil Works Specification Part 1 Design Specification and Part 2 Construction Specification. Full details of works shall be submitted for approval with the Construction Certificate. On-site detention shall be

provided to maintain all stormwater discharges from the 1:1 year storm up to the 1:100 year storm at predevelopment levels.

49. All necessary works being carried out to ensure that flow from adjoining properties is not impeded.
50. A report by the Design Engineer and a works-as-executed (WAE) drawing by either a suitably qualified Engineer or Registered Surveyor of the stormwater detention basin(s) and stormwater drainage system are to be submitted to and approved by Council prior to the release of the occupation certificate. The report from the Design Engineer is to state the conformance or otherwise of the as constructed basins in relation to the approved design. The WAE drawings shall indicate the following as applicable:
 - a. invert levels of tanks, pits, pipes and orifice plates;
 - b. surface level of pits and surrounding ground levels;
 - c. levels of spillways and surrounding kerb;
 - d. floor levels of buildings, including garages;
 - e. top of kerb levels at the front of the lot;
 - f. dimensions of stormwater basins and extent of inundation;
 - g. calculation of actual detention storage volume provided.
51. A Plan of Management for the on-site stormwater detention facilities within the development is to be submitted to and approved by Council for approval prior to the issue of an Occupation Certificate. The Plan of Management shall set out all design and operational parameters for the detention facilities including design levels, hydrology and hydraulics, inspection and maintenance requirements and time intervals for such inspection and maintenance.
52. Prior to endorsement and release of the Occupation Certificate the owner is required, at their cost and expense, to enter a positive covenant over all of the land comprised in the development providing as follows:
 - a. Covenanting with the Council (the prescribed Authority) to at all times at their costs maintain, repair and keep the on-site stormwater detention facilities in a good and safe condition and state of repair in accordance with the approved design to the reasonable satisfaction at all times of the said Council having due regard to the Plan of Management for the operation and maintenance of the on-site stormwater detention facilities, and
 - b. Providing that the liability under the said Covenant will jointly and severally bind the registered proprietors of the proposed dwellings, and
 - c. Providing that Council (the prescribed Authority) will be the person entitled to release or modify the Covenant.
53. All costs associated with the Covenant, including any legal costs payable by Council, are to be paid by the owner on whose behalf the applicant has lodged the application.

Use of the Site

54. All landscaping shall be permanently maintained in a good condition and in accordance with the intent of the landscaping plan.

ATTACHMENTS:

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

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Att 1: Locality Plan

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Att 2: Site Plan

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Att 3: Elevation Plan

oooO END OF ITEM 11 Oooo

ITEM: 12 **Subdivision into 2 (two) Torrens title lots and the erection of a single storey dwelling on the proposed rear lot, Lot 9 DP244738, 31 Bradley Road, North Richmond**

FILE NUMBER: DA1293/03/EVD/ENB24NAX.V07

Applicant: Jenny Carusi
Applicants Rep: Nil
Owner: R. Carusi, J. Carusi, P. Carusi, T. Intonato and R. Dennis
Stat. Provisions: Sydney Regional Environmental Plan No. 20 (No. 2 - 1997)
 Hawkesbury Local Environmental Plan 1989
 Draft Hawkesbury Local Environmental Plan 1989 - Amendment No. 130
Area: Approximately 1113m²
Zone: Residential 2(a)
Advertising: 20 November 2003 to 05 December 2003
Date Received: 20 October 2003

Key Issues: - Draft Amendment No. 130

Action: Refusal

REPORT:

Introduction

Council has received an application seeking consent for a 2 (two) lot Torrens title subdivision and the erection of a single storey dwelling on the proposed rear lot at 31 Bradley Road, North Richmond.

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

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

Background

Development Application No.1617/03 was lodged with Council on 23 December 2002 for demolition of existing residence and construction of 3 (three) townhouses at 31 Bradley Road, North Richmond. The application was reported to Council due to the submissions received in relation to the application. At the September Ordinary meeting of Council, Council resolved that the application be refused, as it was inconsistent with Amendment No.130.

Description of the Site

The site is located on the eastern side of Bradley Road approximately 40m from the head of the cul-de-sac. It is irregular in shape with an area of approximately 1113m² 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 some 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 in Campbell Street.

The Proposal

The application proposes Torrens title subdivision into 2 (two) lots with the retention of the existing dwelling on the proposed front lot and the erection of a single storey dwelling on the proposed rear lot. The rear lot is a hatched shaped allotment with an access handle along the northern boundary. The proposed front lot has an area of 540m² and the proposed hatched lot has an area of 451m² (excluding the access handle). The proposal also includes demolition of some minor existing structures.

Statutory Situation

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

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 Local Environmental Plan 1989 (HLEP 1989)

The subject land is zoned Residential 2(a) under the HLEP 1989. The proposed development is 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:

- (a) *To provide for housing and associated facilities in locations of high amenity and accessibility;*
- (b) *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.*
- (c) *To ensure that development does not create unreasonable demands, in the present or future, for the provision or extension of public amenities or services.*

The locality is dominated by residential uses with a high amenity and the proposed development is considered to satisfy the objectives of the Residential 2(a) zone.

Clause 12 of the HLEP 1989 states that Council may only consent to the subdivision of land:

"in the case of land within Zone No. 2(a) or 2(c) and serviced by reticulated sewerage, if each separate lot to be created has an area of not less than 450 square metres...the area of any access handle for a hatchet shaped lot shall be excluded from the minimum area for that lot"

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The proposed front allotment has an area of 540sqm. The proposed rear hatched shaped allotment an area (excluding the access handle) of 451sqm. The proposed subdivision therefore complies with the 450sqm minimum requirement.

Other relevant clauses of HLEP 1989 are Clause 18 Provision of water, sewerage etc services, Clause 21 Danger of Bushfire and Clause 37 Land affected by aircraft noise. The proposed development is capable of satisfying these Clauses.

Draft HLEP 1989 - Amendment No. 130

This draft plan is a matter for statutory consideration under section 79C of the Environmental Planning and Assessment Act 1979.

The subject site is within the proposed Housing zone. The amendment increases the minimum allotment sizes for land zoned Housing in North Richmond. In accordance with the amendment, the proposed subdivision would not comply with the minimum allotment sizes of 600m² for the front lot and 700sqm (excluding the access handle) for the rear lot.

The application was received on 20 October 2003, after the exhibition of the draft plan.

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, Residential Development and Subdivision. The proposed development is capable of complying with the requirements of these chapters.

The following table provides an assessment of the proposed development against the requirements of the Residential Development Chapter.

Element	Required	Proposed	Complies
Building Height Plane	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.	The proposed dwelling is located within the building height plane.	Yes
Building Height	7m to ceiling 10m to ridge	2.6m to ceiling 5.2m to ridge	Yes

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Element	Required	Proposed	Complies
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.	N/A - proposed development located on rear site. Setback to existing building to remain as existing.	N/A
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" landscaped area; • total ground level private open space; and • total common open space.	Front Lot = 540sqm. <u>Required soft pervious landscape area</u> = approx 162sqm. (30%) <u>Provided soft pervious landscaped area</u> = approx 304.6sqm (56%) Rear Lot = 573sqm (including access handle) <u>Required soft pervious landscape area</u> = approx 171.9sqm. (30%) <u>Provided soft pervious landscaped area</u> = approx 265.8sqm (46%)	Yes
Private Open Space	Single dwelling houses and multi unit housing are to provide at least one area of private open space for each dwelling.	One private open space area has been provided for each dwelling.	Yes

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Element	Required	Proposed	Complies
	The total of private open space at ground level must be a minimum of 20% of the site area, regardless of permeability of the surface. This space must:	<i>Front Lot</i> = 540sqm. <u>Required total private open space area</u> = 108sqm (20%) <u>Provided total private open space area</u> = approx 109sqm (20.2%) <i>Rear Lot</i> = 573sqm (including access handle) <u>Required total private open space area</u> = 114.6sqm (20%) <u>Provided total private open space area</u> = approx 143.5sqm (25%)	Yes. Note: The calculations provided on the plans for the front lot give a 1sqm surplus. When measured and calculated from the 1:200 scale plan submitted, Council staff find a 1.6sqm deficient. However, this discrepancy is likely to be the result of reduced accuracy suffered with increased scaling of plans.
	- be capable of containing a rectangle 5 metres x 6 metres that has a slope less than 1:10; - not be comprised of any area with a dimension less than 4 metres; and - be exclusive of clothes drying areas, driveways, car parking and other utility areas.	5m x 6m rectangle provided Calculated private open space area has a minimum dimension of equal to or greater than 4m. Calculated private open space area is exclusive of driveways, clothes drying, car parking and utility areas.	Yes Yes Yes

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Element	Required	Proposed	Complies
	Driveways next to any side or rear boundary must have a landscape strip of at least 1 metre to separate them.	1m to northern adjoining property.	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.	>1.5m.	Yes
	All driveways must have a minimum width of 3 metres and must be sealed to prevent surface erosion.	3m provided for proposed driveway.	Yes
	For development that contains more than 2 units driveways are to have a minimum driveway width of 6m from the layback/kerb line to 6m inside the property.	N/A	N/A
	Garages and carports must not visually dominate the street facade, should occupy less than 50% of the building facade and must be compatible with the building design.	Garages and carports do not visually dominate.	Yes

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Element	Required	Proposed	Complies
	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. Where parking spaces are located as 90° to the driveway alignment the minimum driveway width adjacent to the space is to be 6.7m, increased as 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.	N/A N/A Satisfactory manoeuvring is provided.	N/A N/A Yes
	On site manoeuvring areas shall be provided to allow entry and exit to and from all car spaces including garage, carports, uncovered spaces and visitor spaces by a single turning movement. 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.	Satisfactory manoeuvring is provided. N/A	Yes N/A

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Element	Required	Proposed	Complies
	On site manoeuvring shall be based on the Ausroads Standard 5.0m design vehicle. Templates for this standard are provided in the appendices. When using the templates a minimum of 150mm shall be provided between any fixed object and the extremities of the swept paths. 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.	Satisfactory manoeuvring is provided. <i>Front Lot</i> - Stacked carport partly adjacent to wall dimensions required part 3.2m and part 2.6 x 11m. Dimensions provided 2.6m x 10. <i>Rear Lot</i> - Double carport dimensions required 6.4 x 5.5m. Dimensions provided 6.4m x 5.6m.	Yes Existing carport does not comply. However, given it is existing, this is considered satisfactory. Should strict compliance be required there is sufficient area for the application to comply.
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.	The proposed dwelling is single storey and has been designed to reduce any potential loss of privacy to adjoining properties.	Yes

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Element	Required	Proposed	Complies
Acoustic Privacy	Acoustic privacy is to be considered at the design stage.	No shared driveways proposed.	N/A
	Site layouts should ensure parking areas, streets and shared driveways have a line of sight separation of at least 3 metres from bedroom windows.		Yes
Safety and Security	A distance of at least 3 metres should separate openings of adjacent dwellings.	Yes	Yes
	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.	N/A	N/A

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Element	Required	Proposed	Complies
	Elements to be incorporated in site and building design and include: • doorway/entry safety and surveillance to and from the footpath; • illumination of public spaces including all pedestrian paths, shared areas, parking areas and building entries to the relevant Australian Standard; • visibility to the street from the front of the development; • restricted access to the rear of the site.	The 'garden court' of proposed dwelling must be designed to allow surveillance from bedroom 1 to the driveway area.	Yes - can be provided.
Cables	(a) 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	(a) Collection areas must be integrated into the overall site and building design.	Satisfactory frontage to cater for the collection of bins. External access to private open space can be provided for bin storage.	Yes

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Element	Required	Proposed	Complies
Fencing and Retaining Walls	Front fences where not screening private open space walls are to be a maximum height of 1.2m if solid.	N/A	N/A
	Solid front fences may be 1.8m high and articulated if: - the site is located on a main or arterial road; - 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.	N/A	N/A
	The integration of trees and natural ground vegetation with the fence line is desirable.	Some provided along side fences.	Yes
	The setback of the fence will be used for landscaping.	N/A	N/A
	Solid fences are to be 1m from the front boundary.	N/A	N/A

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Element	Required	Proposed	Complies
	Retaining walls shall: • not be taller than 500mm; • not cut through roots of any tree to be retained.	N/A	N/A

Community Consultation

The development application was publicly exhibited from 20 November 2003 to 05 December 2003. No submissions were received.

Planning Assessment

Full consideration has been given to Section 79C of the Environmental Planning and Assessment Act and is contained on file. Below are the relevant matters.

Amendment No. 130

The subject site is within the proposed Housing zone and is located in North Richmond. Amendment No. 130 increases the minimum allotment sizes for lots created in the Housing zone in North Richmond to 600sqm for the front allotment and 700sqm for the rear hatched shaped allotment (excluding the access handle). The application proposes subdivision into a 540sqm front allotment and a 451m² (excluding the access handle) rear hatched shaped allotment. The subdivision does not comply with Amendment No.130.

Conclusion

The proposed development is permissible with Council consent under the current Residential 2(a) zoning. The proposed development complies with the Hawkesbury LEP and DCP and demonstrates that the proposed additional lot can be developed in accordance with Council's requirements and with minimal impact on the locality.

The proposed development would not comply with the provisions of Amendment No.130. The application was lodged after the exhibition of the draft plan. In accordance with Council's current practise for determining applications lodged after the exhibition of draft Amendment No. 130 the application is recommended for refusal.

RECOMMENDATION:

That the application for subdivision into 2 (two) Torrens title lots, with the retention of the proposed existing dwelling on the proposed front lot, and the erection of a single storey dwelling on the proposed rear lot, be refused for the following reasons:

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1. The proposed development is prohibited under the provisions of Draft Amendment 130 to Hawkesbury Local Environmental Plan 1989.

ATTACHMENTS:

AT-1 Locality Plan

AT-2 Site Plan and Subdivision Plan

AT-3 Floor Plans

AT-4 Elevations

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Locality Plan

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Site Plan and Subdivision Plan

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Floor Plans

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Elevations

oooO END OF ITEM 12 Oooo

ITEM: 13 **Application to Modify DA0582/01 for a 2 (Two) Lot Torrens Title Subdivision at Lot 36, DP250171, 5 Glenn Place, North Richmond**

FILE NUMBER: DA0582/01/EVD/ENB24NAX.V04

Applicant: McKinlay Morgan & Associates Pty Ltd
Applicants Rep: Brian McKinlay
Owner: Mr & Mrs Ambesi
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: Approximately 1018sqm
Zone: Residential 2(a) under Hawkesbury Local Environmental Plan 1989
Advertising: Nil
Date Received: 15 September 2003

Key Issues: - Additional Driveway Crossing

Action: Approval

REPORT:

Introduction

Council has received an application under Section 96(2) of the Environmental Planning and Assessment Act 1979 to modify DA0582/01 for a 2 (two) lot Torrens Title subdivision at Lot 35, DP250171, 5 Glenn Place, North Richmond.

DA0582/01 was approved by Council, therefore, the application for modification is reported to Council.

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

Description of the Site

The site has an area of approximately 1018sqm (one thousand and eighteen square metres) and falls to the rear. The site has frontage to the north-western side of the cul-de-sac bulb of Glenn Place, North Richmond. Adjacent properties contain residential dwellings with the exception of the western adjoining property which is zoned Special Uses 5(a) - Drainage under the Hawkesbury Local Environmental Plan 1989.

Background

DA0582/01 was approved by Council at its Ordinary Meeting of 11 September 2001. This application proposed the subdivision of Lot 36, DP250171, 5 Glen Place, North Richmond into 2 (two) Torrens Title lots being a 450sqm (four hundred and fifth square metres) front lot and a 513sqm (five hundred and thirteen square metres) hatched shape allotment (the 513sqm (five hundred and thirteen square metres) excludes the area of access handle).

The access handle to the rear lot was along the north-eastern boundary. This access handle was proposed as a right of carriageway with vehicle access to both proposed lots to be via this handle. An existing crossing to the south of the frontage was to be removed as per Condition 23 (twenty three).

The Proposal

An application seeks approval for the modification of DA0582/01 by deleting Condition 23 (twenty three) so as to utilise the existing southern crossing and allow for the access to the front lot to be along the south-western boundary.

The applicant also has a Development Application lodged to construct a garage and carport on the south-western portion of the site that will utilise this crossing. The application has not been determined and is held pending the decision on the Section 96 (ninety six) application.

Statutory Situation

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject land is zoned Residential 2(a) under the HLEP 1989. The proposed development is permissible under this zone.

The proposed development complies with the requirements of HLEP 1989.

Hawkesbury Development Control Plan (DCP)

DA0582/01 was approved prior to the adoption of the Hawkesbury Development Control Plan. The application for subdivision would no longer comply with Council's requirements for subdivision. Notwithstanding this, the application was previously approved and the proposed modification will not have significant adverse impacts on the locality.

Draft HLEP 1989 - Amendment No. 130

This draft plan is a matter for statutory consideration under Section 79C of the Environmental Planning and Assessment Act 1979.

The subject site is within the proposed Housing Zone. The proposed subdivision does not comply with the draft amendment. Notwithstanding this, the application was previously approved and the proposed modification will not have significant adverse impacts on the locality.

Community Consultation

The development application was notified from 8 December 2003 to 23 December 2003. Notification was in accordance with the Hawkesbury DCP. Persons who had made submissions to DA0582/01 were also notified. 1 (one) submission was received. The matters raised in the submission are addressed in the planning assessment below.

Planning Assessment

A comprehensive assessment under Section 79C of the Environmental Planning and Assessment Act is contained on file. Below are the relevant matters.

Loss of Privacy (issue raised by respondent)

An application was made under Council's Tree Preservation Order for the removal of a tree located between the dwelling proposed to be retained on the front lot and the south-western adjoining property. Removal of this tree was approved. The respondent states that this has led to loss of privacy to their dwelling on the south-western adjoining property. As a result and with consideration given to the proposed relocation of the vehicle access along this boundary, the respondent requests the erection of a new fence along their common boundary.

A 1.8m (one point eight metres) high lapped and capped fence is required by DA0582/01 for the south-western boundary of the proposed rear lot 362. Given the proposed relocation of the vehicle access to the front lot, this fencing should be extended for the entire length of the south-western boundary. Furthermore, the driveway proposed along this boundary should be set back 1m (one metre) from the boundary and this setback landscaped in accordance with the requirements of the Hawkesbury Development Control Plan.

Kerbed frontage reduced

The proposed modification will result in an additional crossing. This reduces the kerbed frontage of the site and therefore, the area available for on street parking and bin collection. Notwithstanding this, the proposed modification will result in an additional off street parking space for the proposed front lot. Furthermore, adequate area for bin collection is still provided.

Conclusion

The application seeks approval for the modification of DA0582/01 to utilise the existing southern crossing and allow for the access to the front lot to be along the south-western boundary. The proposed modification will result in the provision of an additional off-street parking space. It is considered that the proposed modification will not result in any significant adverse impacts.

RECOMMENDATION:

That the application for modification of DA0582/01 be approved subject to the following amendments:

Condition No. 1 amended to read as follows:-

- "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 & Associates Pty Ltd numbered 90629:DA:1, Amendment C, dated 10/09/2003 submitted with Development Application No. 0157/03 (as modified) and any supportive documentation, except as otherwise provided by the conditions of this consent."*

Condition No. 22 amended to read as follows:

- “22. *In order to enhance the amenity of the development, new boundary fences shall be provided at the applicant’s expense for the entire length of the south-western adjoining property boundary (proposed Lot 361 and Lot 362). Fencing shall be to a height of 1.8m and lapped and capped fencing shall be tapered within the 7.5m front building line to the street to ensure adequate sight lines.*”

Replace Condition No. 23 with a condition to read as follows:

- “23. *Construction of Council’s standard residential footway vehicle crossing to suit the access to proposed Lot 361 with a minimum width of 3m. A 1m landscaping strip is to be provided between the driveway of proposed Lot 361 and the south-western property boundary.*”

ATTACHMENTS:

AT-1 Locality Plan

AT-2 Site Plan

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AT1 - Locality Map

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AT2 - Site Plan

oooO END OF ITEM 13 Oooo

ITEM: 14 **Application to Modify Consent Issued by the Land and Environment Court for the Continuation of Extraction and Processing of Sandstone at Properties Now Known as Lot 4 DP 556534, 940 Singleton Road East Kurrajong and Lot 1 DP 1042615, 33 Bull Ridge Road, East Kurrajong.**

FILE NUMBER: DA0365/90/EVD/ENB24NAX.V08

Applicant: Sydney Sandstone Quarries Pty Ltd
Applicants Rep: Nil
Owner: Schaffer Properties Pty Ltd
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: Approximately 55.25ha
Zone: Rural 1(b) under Hawkesbury Local Environmental Plan 1989
Advertising: Nil
Date Received: 24 July 2003

Key Issues: - Nil

Action: Approval

REPORT:

Introduction

Council has received an application under Section 96AA of the Environmental Planning and Assessment Act 1979 to modify the consent issued by the Land and Environment Court (the Court) for the continuation of extraction and processing of sandstone at properties now known as Lot 4 DP 556534, 940 Singleton Road East Kurrajong and Lot 1 DP 1042615, 33 Bull Ridge Road, East Kurrajong.

The application seeks to modify condition No.23 of the approval such that the development can continue for a further 2 (two) years from the date the modification is determined.

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

Background

An application for quarrying and removal of sandstone was approved by Colo Council in 1972. This consent became operative in 1973 and contained a condition that the consent lapsed after 20 (twenty) years.

On the 14 August 1990 Council refused an application for a 30 (thirty) year extension to the existing sandstone quarry and sandstone sawing. Notwithstanding this, the Council resolved that the applicant be invited to submit a new application incorporating changes including a reduced time period of no longer than 10 (ten) years.

On the 6 September 1993 the Land and Environment Court approved the continuation of extraction and processing of sandstone. Condition No.23 of this consent states that "development in accordance with this consent is limited for a period of the 10 (ten) years from the date this consent become effective."

The Proposal

The application seeks approval for the modification of condition No.23 of the Court issued consent such that the time permitted for the development is extended for 2 (two) years from the date the modification is approved.

The period of time will allow the applicant adequate time to submit a new development application for the activity for a more extended period of time.

Statutory Situation

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject land is zoned Rural 1(b) under the HLEP 1989. The proposed development is permissible under this zone.

The proposed development complies with the requirements of HLEP 1989.

Draft Hawkesbury Local Environmental Plan 1989 - Amendment No. 108

The subject site is proposed to be zoned Mixed Agriculture. The proposed development is still be permissible under the proposed zone.

Community Consultation

The development application was publicly exhibited from 15 January 2004 to 29 January 2004. Notification included a notice in a local newspaper and a sign erected on the site. Furthermore, all reasonable attempts were made to send written notification to each person who made a submission to the application approved by the Court (including Government authorities) and to owners and occupiers of properties adjoining the subject site. The Court was also notified.

No submissions were received.

Planning Assessment

Full consideration has been given to Section 79C of the Environmental Planning and Assessment Act and is contained on file. Below are the relevant matters.

Lapsing of Consent

The consent issued by the Court became effective on the 6 September 1993. The 10 (ten) years approved by the Court for the development finished on the 6 September 2003.

Notwithstanding this, the applicant requested the modification for extension on 24 July 2003, prior to the lapsing of the consent. However, additional information was required prior to Council being able to consider this request.

Council has received legal advice on a similar situation (Tinda Creek) and it was considered that given the request was lodged prior to the lapsing of the consent, it is still open to Council to determine the application.

Substantially the same development

An application made under Section 96AA can only be approved by Council if it is satisfied that the development to which the consent as modified relates is substantially the same development as development for which the consent was originally granted.

The applicant has indicated that the extraction rates have been less than the original estimations and that the original expected time required to extract the approved material was optimistic.

The application does not propose to increase the quantity of materials previously approved to be removed from the site and the operations will still be required to be carried out in accordance with the conditions approved by the Court.

The granting of the further 2 (two) years to carry out the works previously approved by the Court is considered to be substantially the same development.

Conclusion

The application seeks approval for the modification of the consent issued by the Land and Environment Court for the continuation of extraction and processing of sandstone such that the consent continues for a further 2 (two) years from the date the modification is determined. The application does not propose to increase the quantity of materials to be removed from the site that were previously approved to be removed.

The further 2 (two) years will allow adequate time for the applicant to lodge a new development application for the continued use of the activity.

RECOMMENDATION:

That the application for modification of the consent issued by the Land and Environment Court for the continuation of extraction and processing of sandstone on 6 September 1993 be approved subject to the following amendments:

Replace Condition No. 23 with a condition to read as follows:

Development in accordance with the Conditions applied by the Land and Environment Court dated 6 September 1993 for the continuation of extraction and processing of sandstone is extended for a period of 2 (two) years from the date the modification No. 365/90A lodged under Section 96AA of the Environmental Planning and Assessment Act 1979 was approved.

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Item: **14**

ATTACHMENTS:

AT-1 Locality Plan.

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AT-1 - Locality Map

oooO END OF ITEM 14 Oooo

ITEM: 15 **Erection of a Rural Shed, Lot 1, DP813316, 208 Midson Road, Oakville.**

FILE NUMBER: DA1449/03/EVD/ENB24NAX.V05

Applicant: Falson & Associates Pty Ltd
Applicants Rep: Glenn Falson
Owner: Mr R Lesniewicz
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: Approximately 2.168ha
Zone: Rural 1(c) under Hawkesbury Local Environmental Plan 1989
Advertising: Not Required
Date Received: 24 November 2003

Key Issues: - Non-compliance with Hawkesbury Development Control Plan

Action: Approval

REPORT:

Introduction

Council has received an application seeking consent for erection of a rural shed at 208 Midson Road, Oakville.

The application has been reported to Council due to non-compliance with the Hawkesbury Development Control Plan (DCP) with regards to the size and height of the shed.

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

Background

The application initially proposed a shed of 360sqm (three hundred and sixty square metres) (18m x 20m). This size was considered to be excessive and, as a result of discussions with Council's officers, the owner has reduced the shed size to 260sqm (two hundred and sixty square metres) (13m x 20m).

Description of the Site

The site has an area of approximately 2.168ha (two point one six eight hectares). The area proposed for the erection of a shed has been previously levelled and is clear of vegetation. The site is located on the south-eastern side of Midson Road and between Cusack Road and Martin Road.

The locality is dominated by rural residential uses. Rural sheds are visible though out the locality. A large rural shed is located on the north-eastern adjoining property.

The Proposal

The application seeks approval for the erection of a rural shed on the subject land. The proposed shed has a floor area of 260sqm (two hundred and sixty square metres) and is rectangular in shape with dimensions of 13m x 20m (thirteen metres by twenty metres). The proposed shed has a ridge height of 6.4m (six point four metres).

The shed will be used by the owner of the property for the storage of a variety of machinery associated with his occupation as an earth-moving contractor and for storage of private vehicles and other large items. Some of these items are associated with the owners hobby of collecting and restoring cars.

The proposed shed would be constructed of colourbond material in a mid-green colour.

Statutory SituationSydney Regional Environmental Plan No. 20 (No.2 -1997)

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 Local Environmental Plan 1989 (HLEP 1989)

The subject land is zoned Rural 1(c) under the HLEP 1989.

Clause 9A of HLEP 1989 provides the objectives of the Rural 1(c) zone which are:

- (a) to primarily provide for a rural residential living style; and
- (b) to prevent the establishment of traffic generating development along main and arterial roads.

The proposed development was assessed to be capable of satisfying other relevant clauses of HLEP 1989.

Hawkesbury Development Control Plan (DCP)

Relevant chapters of the Hawkesbury DCP include General Information, Landscaping, Soil Erosion and Sedimentation Control, and Rural Sheds. The proposed development is capable with complying with the requirements of these chapters with the exception of the requirements for Rural Sheds. This is discussed in the planning assessment below.

The following table provides an assessment of the proposed development against the requirements of the Rural Sheds Chapter.

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Design Principles	The Proposal	Compliance
Siting Cut and fill shall be limited to 2m of cut and 900mm of fill	The proposed site has been previously levelled. Compliance with this requirement is possible. To be conditioned.	Yes
Sheds shall be located no closer to the road than the existing dwelling house.	The proposed shed is setback a greater distance from Midson Road than the existing dwelling .	Yes
Sheds are not to be erected on land which has a slope in excess of 10%.	The proposed site has been previously levelled.	Yes
The erection of rural sheds should involve minimal disturbance to native vegetation.	A site inspection revealed that the site is relatively clear.	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. 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.	260sqm N/A	No (see discussion in report) N/A
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. 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. The total height of 'barn style' sheds may exceed 5m based on individual merit.	6.4m to ridge. N/A Barn style not proposed	No (see discussion in report) N/A N/A
Form Rural sheds with standard roof form will be limited to rectangular shapes. Sheds of other roof forms, for example barn style, will be encouraged.	The proposed shed is rectangular with dimensions of 18m x 20m. Barn style not proposed	Yes N/A
Colour The colour of a rural shed will match or blend in with those of existing buildings. On vacant land the colour for rural sheds shall be taken from the natural environment.	Walls - mid-green Trims - an earthy tone not specified N/A	Yes N/A

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Design Principles	The Proposal	Compliance
Type of Building Materials Building materials used in the construction of rural sheds are to be new, prepainted and non-reflective.	Colourbond materials are proposed.	Satisfactory
The use of corrugated iron will be considered subject to the size, height, design and location of the rural shed.	N/A	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	N/A
Landscaping Plantings are to be a mix of trees, shrubs and ground cover. Trees shall include species that at maturity have a height above the ridgeline of the shed. Shrub mass shall provide adequate screening. Plants endemic to the area are to be chosen.	The SEE states that "landscaping around the majority of its perimeter and around the base of the building platform. This landscaping will incorporate species and be designed in a way so as to minimise the shed from the road and adjoining properties." A landscape plan has not been submitted.	Can be conditioned

Variation

Size

The proposed shed does not comply with the DCP with regards to size. The Statement of Environmental Effects prepared by the applicant states that the shed is not inconsistent with shed sizes in the locality and is consistent with the Hawkesbury LEP. A floor plan detailing the proposed items to be stored in the shed was submitted to justify the proposed size.

Comment:

The site is surrounded by existing rural shed of similar or larger area. The application provides justification for the size based on the owner's earthmoving business and machinery used.

The aims of limiting the size in the rural 1(c) and 1(c1) zones is to control the size of the sheds so as to minimise their visual dominance in the landscape and reduce the number of unnecessary large sheds. The size of the shed is associated with the use of the shed, land and size of the property.

Based on the existing sheds erected in the locality the proposed shed is not likely to have a significant impact on the visual dominance in the landscape. The provision of suitable, scaled tree planting will also help further reduce any potential impact. In this circumstance the variation to the size of the shed is considered to be justified.

Height

The shed does not comply with the height. The owner has indicated that the height of 6.4m (six point four metres) to the ridge is needed to enable maintenance to be undertaken on the earthmoving equipment which has to be fully extended within the shed (i.e. tip truck tray).

Comment:

The height restriction is to ensure the shed's dominance and bulk on the landscape is minimised. The height of 6.4m (six point four metres) is consistent with the adjoining sheds and it is considered that the height will not dominate the landscape of the area and its bulk and scale being consistent with other sheds that adjoin the site. In this case the variation is justified.

Community Consultation

Hawkesbury DCP does not require notification of Rural Sheds.

Planning Assessment

Full consideration has been given to Section 79C of the Environmental Planning and Assessment Act and is contained on file. Below are the relevant matters.

Size and Height / Context and Setting

The locality has a rural residential nature. A number of large sheds are visible in the locality. A 600sqm (six hundred square metres) shed is located on the north-eastern adjoining property and is highly visible from the Midson Road and the subject site. This shed was approved prior to the adoption of the Hawkesbury Development Control Plan.

The proposed shed is setback from Midson Road approximately 70m (seventy metres) and is on land lower than the residential dwelling located on the site. These factors assist in minimising the dominance of the shed.

At Council's meeting of 9 July 2002, Council was resolved to amend the Complying Development provisions of the HLEP 1989 to include rural sheds of 170sqm (one hundred and seventy square metres) that comply with the Rural Sheds Chapter of the DCP and do not require removal of vegetation. The Rural Sheds Chapter will also be amended to change the maximum shed size in the Rural 1(c) and Rural 1(c1) zones to 170sqm (one hundred and seventy square metres) to be consistent with this Complying Development provision.

The proposed shed exceeds this increased maximum floor area of 170sqm (one hundred and seventy square metres) by 90sqm (ninety square metres) and exceeds the maximum height of 5m (five metres) by 1.4m (one point four metres).

Conclusion

The application proposes the erection of a rural shed with a floor area of 260sqm (two hundred and sixty square metres) and a ridge height of 6.4m (six point four). The proposed does not comply with Hawkesbury Development Control Plan with regards to size and height. A number of large shed are visible in the locality. While the proposed shed does not comply with the numeric provisions of the Hawkesbury Development Control Plan, the shed meets the aims and objectives in relation to size and height. It is considered unlikely that the shed will dominate the visual landscape of the area. The applicant has reduced the size of the shed from 360sqm (three hundred and sixty square metres) to 260sqm (two hundred and sixty square metres).

RECOMMENDATION:

That the application for the erection of a 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. DA1449/03 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 Issue of Construction Certificate

4. Details of how the drainage from the roofwater of the shed is to be disposed.
5. Submission and approval of a landscaping plan. Such plan (drawn to scale) shall include a mixture of trees, shrubs and plants, varying in maturity and endemic to the locality. Trees shall include species that at maturity have a height above the ridgeline of the shed. Shrub mass shall provide adequate screening. The landscaping plan shall detail the species, number, mature heights and location of plants. The landscaping is to provide suitable screening of the shed when viewed from surrounding areas.

Prior to Commencement of Works

6. 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.
7. 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.
- 8. 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.
- 9. The applicant or person having the benefit of this development consent must give at least two days notice prior to commencement of works to Council of the intention to commence works. This notice is to be given in accordance with form 7 of the Environmental Planning and Assessment Regulation 1998.
- 10. The applicant shall advise Council of the name, address and contract number of the principal certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1997.

During Construction

- 11. All building work must be carried out in accordance with provisions of the Building Code of Australia.
- 12. 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;
- 13. 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.
- 14. 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).
- 15. 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.
- 16. 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.

17. The maximum fill is to be 900mm and cut to be 2m.

Use of the Site

18. 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.
19. The shed shall not be used or adapted for use for human habitation or for commercial or industrial purposes other than for the production of hay, without the approval of Council.

ATTACHMENTS:

- AT-1** Locality Plan
AT-2 Site Plan
AT-3 Floor Plan
AT-4 Elevation Plan

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AT1 - Location Map

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AT2 - Site Plan

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AT3 - Floor Plan

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AT-4 - Elevation Plan

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ITEM: 16**Draft Local Environmental Plan 1/02 - Amendment 138,
Reclassification of Land from Community to Operational****FILE NUMBER:**

LEP1/02/EVD/ENB24NBX.V06

REPORT:**Introduction**

The purpose of this report is to summarise and discuss the issues contained in the submissions received as a result of the notification and public exhibition of Draft Local Environmental Plan 1989 - Amendment 138. The report also includes a report of the Public Hearing conducted by Mullane Planning Consultants.

As the draft local environmental plan affects Council owned land, independent planning consultants, Berzins Environmental Planning, were engaged to prepare the relevant documentation for the preparation of this draft local environmental plan, and this report.

Amendment 138 affects the following properties:

1. **Former Hawkesbury Hospital** - Lot 50 DP1035291, 320 George Street, Windsor
2. **Hawkesbury Heritage Farm** (former Australiana Pioneer Village)
Lot 22, DP829589, 18 Rose Street, Wilberforce
3. **Hawkesbury Sports Stadium and Tennis Courts** - Lot 3 & 4, DP 816809, No. 2 & 16
Stewart Street, South Windsor
4. **Residential and Commercial Development** - Lot X and Y, DP 163621, No.292 - 296
George Street, Windsor
5. **Richmond Pool** (part of) Lot 2 in DP 202288, No. 71 East Market Street
6. **Sewer Pumping Station** - Lot 11 in DP 861071, No14 Havelock Street, McGraths Hill
7. **Richmond Tennis Centre and Tourist Information Centre** - Part of Lot 133 DP752032,
Richmond Road, Richmond and
8. **Upper Hawkesbury Power Boat Clubhouse** - Part of Lot X DP161237, Governor Phillip
Reserve, Windsor

The maps of the sites are displayed at this meeting.

Background

At the introduction of the Local Government Act in 1993, Councils were required to classify, by resolution, all public land owned or under the control of Council as either "Community" or "Operational" except roads, Crown land, a common or land subject to the Trustees of Schools of Arts Enabling Act 1902. In accordance with the Act, Hawkesbury City Council adopted a schedule of land to be classified on 14 June 1994.

Community land would normally comprise land such as a public park and Operational land would generally comprise land held as a temporary asset or an investment, land which facilitates the carrying out of its functions or land which may not be open to the general public such as a works

depot. Community land cannot be sold. Nor can it be leased or licensed for more than 21 years and may only be leased or licensed for more than 5 years if public notice is given and, if in the event that an objection is made, the Minister's consent must be obtained. No such restrictions apply to Operational land.

Community land which has been dedicated under Section 94 of the Environmental Planning and Assessment Act and is subsequently found to be unsuitable for the provision of public amenities and services because of its size, shape, topography, location or access difficulties may be reclassified by resolution of Council.

Land that was not classified on 14 June 1994 or within, three months of acquisition or does not fall into the above categories must be re-classified by a Local Environmental Plan.

Council at its Ordinary Meetings of 7 May 2002 and 11 June 2003 resolved to prepare a draft Local Environmental Plan (LEP) to reclassify the above parcels of land from Community to Operational land.

Section 62 Consultation with government agencies

The draft plan was referred to the following government agencies in accordance with Section 62 of the Environmental Planning and Assessment Act 1979:

- Deerubbin Local Aboriginal Land Council
- Department of Land and Water Conservation
- Integral Energy
- NSW Heritage Office
- NSW Tourism Commission
- Sydney Water

Responses were received from Sydney Water and the Department of Land and Water Conservation (DLWC). No amendments were required to be made to the draft plan as a result of the submission from Sydney Water. The (former) DLWC requested additional information concerning the waterfront activities adjoining the Hawkesbury Heritage Farm. This information was provided by way of the report prepared by Berzins Environmental Planning and no further comments or requirements were received from the former DLWC.

Public Exhibition of the draft plan

In accordance with the provisions of Section 66 of the Environmental Planning and Assessment Act 1979 the draft plan was publicly exhibited from Wednesday, 15 October 2003 to Friday, 14 November 2003.

Notices advertising the draft plan were placed in the Hawkesbury Gazette on 15 and 22 October 2003.

All adjoining owners to the subject sites were also notified of the draft plan and invited to make submissions. Approximately 140 (one hundred and forty) letters were sent to adjoining owners and 8 (eight) community/interested groups.

The draft plan and associated documents were made available at the Environment and Development Enquiries Counter, including a detailed information report to assist the community consultation process and a composite map of the various sites. The report, maps and information sheet were distributed to interested persons free of charge. The information relating to the draft plan was also posted on Council's website. This report contained for each of the parcels of land:

- A statement of Council's interest
- Purpose of the Draft LEP
- A statement on the anticipated development
- Financial implication

It also outlined copies of all reports and recommendations by Council in the draft plan, details of the exhibition, a copy of the draft plan and its maps.

Submissions

In response to the public exhibition period 14 submissions were received. Submissions were received from:

- Mr L & Ms J Vincent
- Mr R Hartas, Rotary Club of Windsor
- Ms L George
- Ms M Clarke
- Mr R Anderson
- Mr J Stackhouse
- Ms M Noble
- Mr P & Ms E Best
- Mr B McKinlay
- Mr C McLachlan
- NSW Federation of School Community Organisations Inc.
- Federation of Parents and Citizen's Associations of NSW
- NSW Department of Education and Training
- Nepean District Historical Society

The following tables summarise the issues and provide comments where appropriate for the various sites.

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Australiana Pioneer Village (Hawkesbury Heritage Farm)

Issue	Comment
Council has discouraged community involvement in the management of the "Village" by leasing the property to an individual.	For many years Council expended a considerable amount of money maintaining the site for little return. Council's policy position is that it does not see itself as a tourist site operator or investor of significant funds in tourism facilities. Consequently Council in the mid 1990's entered into a leasing arrangement with a tourism operator which had the effect of precluding continued involvement by the Village Volunteers.
The "Village" has been poorly managed under Council's leasing arrangement with artefacts damaged and or missing.	Agreed. Inventory taken before and after lease granted. Six monthly inspections carried out. Reported to Council separately.
The leasing arrangement of the "Village" to a private individual was in contravention of the Local Government Act 1993.	Agreed as the lease was for a period of more than 5 years over community land. Community land can be leased to an individual or a company provided certain procedures are observed.
The "Village" was well looked after by "The Friends" and was part of the social life of Wilberforce.	Agreed
The "Village" was a great educational experience for local children as well as for school kids around the state.	Agreed
The "Village" should be looked after by a community group such as the "The Friends of the Australiana Village" because local people respect the humble beginnings of our pioneers as well as the hardships they endured.	Management of the site can be undertaken by an individual, group or company. A commitment to excellence can be achieved by any party irrespective of place of residence. It is acknowledged however that the local community has a vested interest in the "Village" and a demonstrated commitment to its preservation.
The Australiana Pioneer Village is a unique historical feature that needs protecting and enhancing that can only be done with the dedication if the Village Volunteers, Hawkesbury City Council and the NSW Heritage Council work together to plan the future development and services of the site needed by the wider community.	A recommendation in this report arising from the exhibition process and the subsequent public hearing is that Council instigate discussions with the Village Volunteers in regard to the future management of the Australiana Pioneer Village.

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Issue	Comment
Over the last six years there has been mis-management on the site with the removal of animals and the loss of significant memorabilia. The site is better described now as an open air museum rather than a theme park. As such the "Village" can be linked to the Hawkesbury Museum and be administered by Council in a similar manner.	The reclassification process does not prescribe the future management of the land rather it enables Council to be more flexible in its management approach.
The reclassification from "community" to "operational" will restrict Council's ability to attract funding (grants) in regard to conservation and business management.	The reclassification per se will have no effect on Council's ability to obtain grants.
The site can be operated as an open air museum with no direct costs born by Council if certain initiatives (admission and operating changes) are introduced.	Again the reclassification process does not prescribe the future management of the land rather it enables Council to be more flexible in its management approach.
The Village has almost been lost through inept and incompetent management. The only way to protect the Village is for it to remain as community land.	The reclassification of the land will enable Council more flexibility in securing the long term future of the site (eg longer leases or the like). The reclassification may also enable Council to sell the land.
The Village gives school groups the opportunity to learn about Australia's pioneer heritage. Reclassification may mean that the village land is sold and the educational resource is lost.	See previous comments. It should be noted that the Heritage Council of NSW has recommended to the Minister that the Australiana Pioneer Village be included on the State Heritage Register. To date the Village has not been listed as an item on the Register. Notwithstanding the non-listing, the Village is a Heritage Item under Hawkesbury LEP 1989. This being the case there is a level of protection afforded to the buildings and improvements on the site in that they cannot be demolished or removed without development consent being obtained from Council.
The Village should be re-opened as quickly as possible to provide a much needed education resource to school children.	The re-opening of the Village is a decision for Council. Any such decision would need to involve discussions with the Village volunteers.
The Village is an important educational tool in that it enables children to see and touch buildings and historical artefacts. The setting of Wilberforce is also important in that it provides a historical context.	Agreed.

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Issue	Comment
A new management structure for the Village should include the Village volunteers. This should take the form of a limited liability company. One of the first tasks should be to prepare a Conservation Management Plan.	The reclassification from Community to Operational does not preclude any of these initiatives.
Council's previous management of the Village proved to be totally inadequate and detrimental to the continuance of many displays. If Council sells this land they will not be able to offer the same degree of protection that the site deserves. The land belongs to the community not council and it should not be sold.	The reclassification of the land will enable Council more flexibility in securing the long term future of the site (eg longer leases or the like). The reclassification may also enable Council to sell the land. It should be noted that the Village is a Heritage Item under Hawkesbury LEP 1989 which affords a significant level of protection. The site has also been recommended to the Minister to be placed on the State Heritage Register. No decision has been made in this regard.

Richmond Pool

Issue	Comment
If the land containing the Richmond Pool is reclassified and developed then there will be no room for the overflow parking that currently utilises the land.	This issue does not prohibit the reclassification of the land. Rather, the issue of parking provision around the Richmond pool needs to be investigated and documented to understand future development options for the land adjoining the pool complex.
The vacant land on the southern side of the Richmond pool complex serves as a local detention basin when there is a severer local storm event. Development of this land will cause flooding problems to other properties in the locality.	Same reasons as above, however an investigation into the local stormwater flooding characteristics needs to be undertaken.
The land at the southern end of the Richmond pool complex is used as a truck turning area.	The reclassification does not change this situation. Future development on the subject land may be affected by this issue. Again this issue would need to be investigated as part of the management of the land.
Richmond Pool services Hawkesbury residents as far afield as Bilpin.	The reclassification per se will not change the status quo in regard to the pools availability to Hawkesbury residents.
Land around the pool was meant to be used by Hobartville residents for recreational purposes.	The reclassification does not change this situation. Reclassification does not automatically mean that Council will sell or develop the land. Reclassification enables Council greater flexibility in the management of the land.

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Issue	Comment
Richmond's population is steadily growing and it will be necessary for more swimming facilities to be made available at Richmond. With increased medium density housing in Richmond, this makes having a backyard pool impossible. Water shortages and restrictions also validate public swimming facilities. Council needs to provide more facilities and activities for our local youth.	The reclassification process will enable Council to potentially be more flexible in managing the site and thereby improving this public facility.
Increased length of leases is likely to lead to increased user charges.	The issue of user charges is a commercial issue and is driven by market considerations. If entry fees are too high then patron numbers will be down and businesses operating under leasing arrangements will suffer.

Former Hawkesbury Hospital

Issue	Comment
The change from Community land designation to Operational Land is supported.	Noted.

Hawkesbury Sports Stadium & Tennis Courts and Richmond Tennis Centre & Tourist Information Centre

Issue	Comment
The sale of these properties could result in either cessation of operation or increased cost to access these facilities. Once again this could severely affect our local youth and families. These facilities provide an invaluable service to the community, one that should not be quantified by a profit margin. The cost of the loss of these services would be far greater in real terms. • Community cohesiveness and involvement. • Sporting activities are directly related to numerous health issues. • Venues and activities that provide our youth and community with positive activities and role models. • Affordability and accessibility is a key factor in the participation of the community as a whole, not just the affluent who can afford higher prices.	There is no certainty that the reclassification will lead to sale and /or development of the subject land. The reclassification will however provide Council with a more flexible management regime.

Public Hearing

Section 29 of the Local Government Act 1993 requires that a Public Hearing be held in accordance with the Environmental Planning and Assessment Act 1979. The Public Hearing was held on Wednesday, 26 November 2003 and conducted by Mr John Mullane of Mullane Planning Consultants.

The Public Hearing was advertised in the Hawkesbury Gazette on 15 and 22 October 2003. The details were also provided with the above neighbour notification of 150 (one hundred and fifty) people and groups as well as posted on Council's website.

Approximately 60 (sixty) people attended the Public Hearing.

Report of the Public Hearing

Mullane Planning Consultants lodged the report of the Public Hearing on 13 February 2004 and is reproduced below.

Similar issues were brought forward at the Public Hearing to those contained in the written submissions summarised above. Comments have been inserted at the end of the sections entitled General Comments, Observations and Findings in the report reproduced below.

“1.0 INTRODUCTION

Council, by letter dated 28th June 2002, sought to engage the services of Mullane Planning Consultants Pty Ltd for the conduct of an independent Public Hearing into the reclassification of eight "sites" within the City.

The proposed reclassification of those sites would have the effect of changing the classification of the land from Community Land to Operational Land, in accordance with the provisions of the Local Government Act.

Section 29 of the Local Government Act provides as follows with respect to the Public Hearing.

2.0 THE LAND

The eight sites, subject of this Public Hearing are as follows:

1. ***Former Hawkesbury Hospital*** - Lot 50 DP1035291, 320 George Street, Windsor;
2. ***Hawkesbury Heritage Farm*** (former Australiana Pioneer Village) Lot 22, DP829589, 18 Rose Street, Wilberforce;
3. ***Hawkesbury Sports Stadium and Tennis Courts*** - Lot 3 & 4 DP816809, No.2 & 16 Stewart Street, South Windsor;

4. **Residential and Commercial Development** - Lot X and Y, DP163621, No.292-296 George Street, Windsor;
5. **Richmond Pool** (part of) Lot 2 in DP202288, No.71 East Market Street;
6. **Sewer Pumping Station** - Lot 11 in DP861071, No.14 Havelock Street, McGraths Hill;
7. **Richmond Tennis Centre & Tourist Information Centre** - Part of Lot 133 DP752032, Richmond Road, Richmond; and
8. **Upper Hawkesbury Power Boat Clubhouse** - Part of Lot X DP161237, Governor Phillip Reserve, Windsor.

3.0 NOTIFICATION OF THE HEARING

Correspondence notifying owners of land considered to have had a potential interest in the reclassification of the land, was sent to 151 people.

Of those letters sent, 15 were returned, presumably unknown at the particular address.

Correspondence was also sent to representatives of 10 community groups considered to have an interest in the proposed reclassifications.

Those who were notified were advised that the Public Hearing would be held on the evening of 26th November 2003, and this notification also appeared in the local newspaper over a two week period.

Approximately 60 people attended the Public Hearing and maintained a sense of fairness such that all those who wished to speak were allowed to do so without interruption.

Those present were invited to present their submissions verbally and, if necessary supplement those with a written submission, if appropriate.

Each site was dealt with in the chronological sequence identified in 3 above and the following is a list of the issues raised with respect to each site.

1. **The Former Hawkesbury Hospital**
(Lot 50 DP1035291 - No.320 George Street, Windsor)
No submissions were made with respect to this site.
2. **Hawkesbury Heritage Farm (Former Australian Pioneer Village)**
Lot 22 DP829589 - No.18 Rose Street, Wilberforce
Fifteen submissions were made at the Hearing and these are summarised thus:

The community had transported the buildings to the site.

The facility had been a social and economic hub for the Wilberforce.

The tenant had alienated those in the Community who had contributed so much to the creation of the village.

Valuable memorabilia donated to the village had been lost or destroyed by the tenant.

A number of Community Groups had benefited from the Village, it had been a valuable meeting place for those groups.

The Village had been particularly significant on Australia Day - the local community had manned the Village for that celebration.

The local community had moved equipment in times of flood.

The Village had been a national treasure and the community having created and run the Village in the past, could do so again.

The Community's involvement with the Village was a practical example of Council's Mission Statement.

The Community was prepared to work with Council to restore the Village to a working Village.

The Village had a distinct character (its own "flavour") and was a heritage item, not of the landed gentry but of the working class.

The Village was an outstanding example of a living museum on a site of 25 acres.

The buildings which comprised the Village had been moved to the site from locations solely within the City.

The Village was extremely important to the Village of Wilberforce.

The Village survived when it was in the hands of the Community but failed when in the hands of someone seeking financial returns from the Village. The Village thrived in Community ownership.

The Village was a living piece of work.

A plea for a consultative approach between Council and community volunteers. There is commitment from the volunteers to work with Council.

There was a real need to understand the necessity for community ownership when regard was had to the history of the Village.

The evidence of what had happened in the past was the most effective reason for maintaining the Community Land classification.

The Village was home to 80 animals when the community handed the facility over to Council - 3 were left at the end of the "private" management of the Village.

The heritage Office has advised of the possibility of receiving grants for the Village.

Council is a more efficient financial manager and should retain the facility as Community Land.

The whole argument should be focused on what is best for the Village.

The Village should have a Management Plan and a Interpretive Plan in place.

Sufficient ground work has been undertaken to allow the restoration and functioning of the Village as an open air Museum.

The financial burden of the Village can be altered with an appropriate financial structure put in place.

Advice from the Environmental Defenders Office indicates that the land should be retained as Community Land as it appears that the Village is a place of cultural significance.

First experiences of the Village were as a school child - the effect of the River, the Mountains and the experience of what life was like 100 years ago.

The only reason for the current debate is that the land is classified as Community Land. reclassification and rezoning to Operational Land has ramifications for Councillors, and Council Officers have not exercised an appropriate duty of care in dealing with the Village.

Hawkesbury Greens are opposed to the reclassification of the land from Community Land to Operational Land.

The facility should be accessible to the community. Operational Land can be disposed of by Council at any time.

The assets evident in the Village only exist because of the work of the community.

The real value of the Village is not just the value of the real estate.

The community has donated machinery and memorabilia on the understanding that the Village was a community asset - the community feels betrayed.

There is an issue of inter-generational equity - the facility should be preserved for future generations.

Council's come and go, projects come and go - without Community Land classification the asset is severely jeopardised

Hawkesbury City Council invested significant funds in the restoration of the Hospital however the facility remains vacant.

The community was not aware of this Public Hearing - a further Hearing (meeting) should be held. Australian Netball has invested \$200,000 and the local netball group was not aware of the Hearing.

The City is rich in heritage items with significant values. Council has invested large sums on the acquisition and support of art.

Community Land is priceless. Heritage can't be defined in economic terms.

Is natural justice being breached if the Village is sold prior to the Minister's signature being obtained.

A Heritage listing is supported.

Volunteers can have the Village financially stable very quickly.

We shouldn't dwell on the mistakes of the past.

The resolution to pursue the reclassification may be unlawful.

Children can receive significant experiences from the Farm (Village).

The Village had been recognised as significant outside of the Hawkesbury. As a resident of Wilberforce for thirty years, his children had received work in the Village.

Plea to Council to have regard to what is on the other side of Windsor Township, across the River.

The Hospital has been beautifully restored but it shouldn't take resources away from other projects like the Village.

The School of Arts building was allowed to deteriorate prior to sale - the same thing could occur to the Village.

If the Village is to be sold then there should be a pro-rata return to the Community.

Can the Village be re-opened while this process is moving forward.

Young people, not just school children should have access to the Village. Wilberforce has a high percentage of young people.

Sale of Village is not only a betrayal to this generation but to future ones as well.

Communication re. meeting (Hearing) with community was not good.

The circumstances surrounding the Village indicate a mal-administration of assets.

The Village is the only facility school children can be taken to experience the urban fabric of early Australia.

Some 70-100 schools per year visited the Village. This created a very positive perception of the District.

Financial benefits could flow to Council from increased tourism and increased value of heritage fabric of the City.

3. **Hawkesbury Sports Stadium & Tennis Courts**

Lots 3 & 4 DP816809 (Nos. 2 & 16 Stewart St, South Windsor)

Hawkesbury Greens reiterated the issue of the community's lack of knowledge of the Hearing. \$200,000 had been invested by Australian Netball yet no-one knew of the Hearing and the proposed reclassification.

Many other matters were more important than the bottom line.

Private ownership of the facility meant that costs would increase.

The District has produced many Olympians. Sale of the facility may impact on the potential to produce more Olympic athletes.

The Stadium is well patronised, hive of activity, good range of facilities and services, should be revenue positive, parking is a difficulty.

Investigation of how much Grant Funds and Section 94 Funds have been invested in the facility. Funds from those sources could prevent asset from being sold.

Community consideration needs to be greatly improved. Wider and better publicity needs to be undertaken in order to alert the Community.

4. **Residential and Commercial Development**

(Lot X & Y DP163621 - No.292-296 George Street, Windsor)

No Submissions.

5. **Richmond Pool (part of)**

(Lot 2 DP202288 - No.71 East Market Street)

Photos were tabled of the land being used for parking. What provision exists for alternative parking if sit is sold.

The end of Market Street floods - some work has alleviated the problem.

If the subject land is built on then increased run-off will occur on Best's Land.

Tracks have difficulty manoeuvring through corner. If developed problems will occur.

Once land is reclassified and rezoned, then the land is lost to the community.

If the land is sold there will be no opportunity to expand the Pool.

Medium density development of the land will increase already evident traffic problems.

Hawkesbury Greens say there is demand now for another pool. Additionally, a resolution exists to sell the land.

A Council report of 2 years ago discussed the possibility of erecting medium density housing on the land, without reference to the Community Land classification.

Council has been planning medium density development of the land for 5-6 years.

Initially residents were charged a levy to pay for the Pool. Concern expressed at potential sale of land paid for by the levy.

Nothing appears in the documentation as to what sits behind the move to reclassify the land. it is apparent that the outcome of the reclassification process is to sell the land.

6. **Sewer Pumping Station**

(Lot 11 DP861071 - No.14 Havelock Street, McGraths Hill)

No Submissions.

7. **Richmond Tennis Centre & Tourist Information Centre**

(Pt Lot 133 DP752032 Richmond Road, Richmond)

Hawkesbury Greens say the facility is desperately needed and shouldn't be sold.

8. **Upper Hawkesbury Power Boat Clubhouse**

(Pt. Lot X DP161237 Governor Phillip Reserve, Windsor)

Club has two-fold interest - Council constructed shell of Clubhouse, Club fitted out premises.

Council could only issue short term lease because of classification of the land.

Club supports the reclassification but with a 40 year lease.

Club concerned at how much land is to be reclassified and sold.

Council considers 21 year lease.

Plan of reclassified land shows boundary going to River. Issue of public access to river if land reclassified.

General Comments

At the conclusion of the Hearing a number of general comments were made and these are as follows:

- It would be appreciated if Council had outlined the various options for each property, in terms of the reclassification.*
- This Council could adopt a particular resolution with respect to those properties only to have the resolution overturned by a future Council.*
- Council appeared to be losing sight of its role as a service provider, with the sale of assets.*
- The Community does not object to paying for access to facilities.”*

Comment: The main purpose of reclassifying land parcels is to increase Council's management flexibility with respect to leasing of these parcels. In the case of the Richmond Pool land there is a possibility that some of the land may have potential for medium density housing however there are a number of investigations (traffic, parking and flooding) and a rezoning process that would need to be completed before such an outcome can be achieved.

Any resolution of Council may be overturned by the Council at a future date. It is also noted that Council has not resolved to rezone the land to allow multi-unit housing.

Apart from the Australiana Pioneer Village there is no evidence that Council has intentions to sell the land parcels. In the case of the Australiana Pioneer Village there is a resolution passed some years ago to sell the land. This resolution probably has no legal status as at the time the resolution was made Council had no power to sell the land. Accordingly, if the subject lands are reclassified, then Council will again have to go through due process and pass another resolution in regard to the future management of the Australiana Pioneer Village site.

This comment in regard to the community not objecting to paying for access to facilities is noted.

OBSERVATIONS

A number of major issues emerged from the Hearing.

- A general view in the Community that reclassification and rezoning automatically meant that properties, the subject of that process, would be sold. The reclassification and rezoning process was seen as a precursor to asset sales.*
- The Public Hearing process was poorly communicated to the community which heightened the sense of concern at the sale of community assets.*

- *The Heritage Farm (Pioneer Village) appears to have been a significant element in the lives of a number of Wilberforce residents and residents of the wider city, apart from it being just a Tourist Facility.*
- *Council did not present any material to the Hearing other than several brief explanations to questions raised by the community.*

Comment: The perception in regard to the sale of the various land parcels has been discussed in the previous section.

In accordance with the provisions of Section 66 of the Environmental Planning and Assessment Act 1979 the draft plan was publicly exhibited from Wednesday, 15 October 2003, to Friday, 14 November 2003.

Notices advertising the draft plan and the public hearing were placed in the Hawkesbury Gazette on 15 and 22 October 2003.

All adjoining owners to the various subject sites were also notified of the draft plan/public hearing and invited to make submissions. Approximately 140 (one hundred and forty) letters were sent to adjoining owners and 8 (eight) community/interested groups.

The draft plan and associated documents were made available at the Environment and Development Enquiries Counter, including a detailed information report to assist the community consultation process and a composite map of the various sites. The report, maps and information sheet were free of charge. The information relating to the draft plan was also posted on Council's website. Also see the previous comments concerning the contents of the information report.

It is clear from the written submissions and the Public Hearing that the Village is an important element in the community of Wilberforce.

Senior Council officers were present and answered questions at the Public Hearing. Documentation in regard to each land parcels was provided in a report that was available as part of the exhibition process. The nature of the reclassification process in this instance is that there are no set plans for each of the land parcels. The main objective of the reclassification process has been to increase Council's management flexibility especially with respect to leasing arrangements.

FINDINGS

Based on the written and oral submissions to the Public Hearing, the following appear worthy of consideration.

- *In the absence of any submission which would have clarified Council's decision with respect to the Heritage Farm, it would seem appropriate that discussions take place with the Village Volunteers as to whether or not, management arrangements can be put in place so as to enable the Heritage Farm to be reopened.*
- *The issues raised in the written and oral submissions be carefully considered by Council prior to any action on Items 2, 3, 5 and 8.*

- *A Community Consultation Strategy should be adopted so as to ensure more that effective consultation and information sharing can occur between the Council and the Community.*
- *The reclassification and rezoning of items 1, 4, 6 and 7 proceed.*
- *The reclassification and rezoning of items 2, 3, 5 and 8 should only proceed when it is clear that the Community's interests and concerns have been given due weight and that the process of reclassification and rezoning is in the public interest.*

Comment: The finding that Council should have discussions with the Village Volunteers in regard to the future management of the site is supported.

The issues raised in the written submissions and the Public Hearing have been presented and discussed in this report to an extent that will enable Council to make a resolution in regard to the classification of each of the land parcels under consideration. If Council wishes to defer an item for further discussion, then this can take place now prior to the draft plan being sent for gazettal.

Conclusion

It is recommended that Council proceed with the reclassification of all of the land parcels as exhibited and refer the draft plan to the Department of Infrastructure Planning and Natural Resources for finalisation and gazettal.

RECOMMENDATION:

That:

1. The draft plan be to reclassify the following parcels proceed and be forwarded to the Department of Infrastructure Planning and Natural Resources for finalisation and gazettal:
 - (a) **Former Hawkesbury Hospital** - Lot 50 DP1035291, 320 George Street, Windsor
 - (b) **Hawkesbury Heritage Farm** (former Australiana Pioneer Village) Lot 22, DP829589, 18 Rose Street, Wilberforce
 - (c) **Hawkesbury Sports Stadium and Tennis Courts** - Lot 3 & 4, DP 816809, No. 2 & 16 Stewart Street, South Windsor
 - (d) **Residential and Commercial Development** - Lot X and Y, DP 163621, No.292 - 296 George Street, Windsor
 - (e) **Richmond Pool** (part of) Lot 2 in DP 202288, No. 71 East Market Street
 - (f) **Sewer Pumping Station** - Lot 11 in DP 861071, No14 Havelock Street, McGraths Hill
 - (g) **Richmond Tennis Centre and Tourist Information Centre** - Part of Lot 133 DP752032, Richmond Road, Richmond and
 - (h) **Upper Hawkesbury Power Boat Clubhouse** - Part of Lot X DP161237, Governor Phillip Reserve, Windsor
2. The submission authors be notified accordingly.

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3. A meeting be convened with representatives of the Village Volunteers to discuss the future management of the "Village".

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 16 Oooo

ITEM: 17 **BP Convenience Store and Fuel Dispensing Facility, Lot 2 DP630616, 362 Macquarie Street, Windsor**

FILE NUMBER: DA0382/02/EVD/ENB24NBX.V02

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

PREVIOUS ITEM: 34, Ordinary (08.07.2003)

REPORT:

On 8 July 2003, Council considered a report concerning a development application for a BP convenience store and fuel dispensing facility at Lot 2 DP 630616, 362 Macquarie Street, Windsor.

Due to concerns raised by respondents about notification of the application being considered at the General Purpose Committee meeting of 24 June 2003, Council resolved to defer the matter for 1 (one) month. Further, Council also resolved that staff undertake discussions with the applicant in relation to modifications to the height of the sign. The sign in question being the proposed 7 (seven) metres high freestanding site identification sign in the south-western corner of the site.

Subsequent to this resolution, the applicant raised concern about the Roads and Traffic Authority (RTA) and Local Traffic Committee proposed restriction requiring access to the site being left in/left out only (see Condition 3). The applicant engaged in a series of discussions with Council's Local Traffic Committee and the RTA regarding the possibility of right turn access to the site.

The applicant has now advised that their client:

- will no longer be pursuing the right turn access; and
- will accept a reduction in the proposed height of the freestanding site identification sign to a maximum of 6 (six) metres above surrounding ground level.

It is considered that reducing the proposed sign to a maximum of 6 (six) metres in height is appropriate and that the following condition be added to the recommendation to the General Purpose Committee meeting report of 24 June 2003.

- 1a The height of the freestanding site identification sign to be erected in the south-western corner of the site being not more than 6m above surrounding ground level.*

Finally, all previous respondents to this application have been advised in writing of this meeting and invited to attend.

RECOMMENDATION:

That Council grant a deferred commencement consent subject to the conditions outlined below:

The application for a BP Convenience Store and Fuel Dispensing Facility at Lot 2 DP 630616, 362 Macquarie Street, Windsor be granted a **Deferred Commencement** consent subject to the conditions in the attached consent:

- 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

- 1. Submission of an additional noise assessment and where necessary amended plans/noise mitigation measures demonstrating that the development can comply with the provisions of the EPA's Industrial Noise Policy in the event that Lot 1 DP 630616, 362 Macquarie Street, Windsor is redeveloped for residential purposes.

Schedule 2

General

- 1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the plans submitted with Development Application No. DA382/02 and any supportive documentation, except as otherwise provided by the conditions of this consent or Schedule 1.

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. The height of the freestanding site identification sign to be erected in the south-western corner of the site being not more than 6m above surrounding ground level.
- 3. Access to the site is to be restricted to left-in / left-out.
- 4. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
- 5. Prior to construction of the approved development it is necessary to obtain a Construction Certificate.
- 6. No excavation or site works shall be commenced prior to the issue of the Construction Certificate.
- 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. 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.
9. All part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 are to be submitted to Council within 7 (seven) days of the date of issue.
10. 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.
11. The approval of the Work Cover Authority may be required under the provisions of the Factories, Shops and Industries Act, 1962. The applicant should ascertain from Work Cover whether its approval is required, prior to commencement of any work.

Roads and Traffic Authority Conditions of Consent

12. Should the design require the northbound carriageway to be moved west, kerb and guttering and associated drainage is to be provided on the western side of Macquarie Street between George Street and Ham Street.
13. Road Design and cycle facilities should be provided in accordance with Austroads Guide to Traffic Engineering Practice and the RTA's Road Design Guide.
14. As the roadworks proposed for this development will impact upon neighbouring access points. The developer will need to consult with the owners of adjoining properties to identify concerns and provide written advice of any amelioration measures to be adopted to address their concerns.
15. All utilities are to be relocated to their ultimate location.
16. As a result of the right turn restrictions to and from the site, it is also a requirement for the developer to submit a Traffic Management Plan (TMP) to the Authority for approval. The TMP should also address issues relating to any impacts on existing bus stops (if any in front of the site) and to the implementation of "No Stopping" signage across the Macquarie Street frontage of the site.
17. The following amendments to concept plans R70362C02 (Issue 0) dated Feb 03 through to R70362C06 (issue 0) dated Feb 03 are to be submitted to the RTA for approval
 - The median is to include SF kerbing. Type of new kerbing is to be shown on line marking plan
 - All line marking to RTA Standards and Specifications
 - Plans to show the connection to the existing line marking

- "No Right Turn" regulatory signposting to be shown at George Street on the line marking plan
 - The width of the through lanes on plan R70362C04 (Issue 0) is to be 3.5m
 - The proposed slip lane pavement between the entry and exit vehicular crossings to the site is to be marked out with chevron pavement markings
 - To ensure that when the future widening of Macquarie Road occurs the access arrangement can accommodate a petrol tanker turning left into the site from the ultimate location of the deceleration lane, the RTA requests that the developer show this arrangement with the relevant turning path overlaid. This will highlight any adjustments to be made to the access design at this stage. The deceleration lane in its ultimate location will be 3.5m from the boundary allowing for a footway area.
18. Detailed design plans of the proposed road works / deceleration lane / concrete median within Macquarie Street must be forwarded to the RTA for approval prior to the commencement of any roadworks. The applicant should be advised that a plan checking fee (amount to be advised) and lodgement of a performance bond will be required prior to the release of the approved road design by the RTA.
19. All works associated with the development will be at no cost to the RTA.
20. No portion of the development, lighting, signage, land use activities, or the associated building work shall obscure or resemble any traffic control device or any regulatory, warning, advisory guidance or parking signage on any classified road.
21. For road safety reasons, all lighting of the development shall be designed and installed such that it does not provide glare or distraction to approaching drivers on any road.

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.

22. Details demonstrating that the proposed building will comply with the requirements of the Building Code of Australia are to be submitted to the principal certifying authority for approval.
23. Should any part of the building be proposed to be used as a food shop then separate details of the floor, wall and ceiling finishes and of any benches, appliances, equipment, fittings and mechanical exhaust ventilation system shall be lodged with Council in duplicate for approval. Such details shall be approved by Council prior to construction or installation of the relevant work.

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24. Construction of civil works including road, drainage, access, or sewer works are not to commence until 3 (three) copies of the plans and specifications of the proposed works are submitted to and approved by the Director Environment and Development..
25. Payment of a design checking fee of \$1,228.00 (one thousand, two hundred and twenty eight dollars) and inspection fee of \$2,383.80 (two thousand, three hundred and eighty three dollars and eighty cents) 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.
26. The submission of engineering designs and calculations covering all works required by this consent.
27. The submission of a satisfactory soil and water management plan (SWMP) prepared in accordance with the State Government guidelines titled "Managing Urban Stormwater: Soils and Construction (1988)".
28. Submission of proof of the payment of the Building Industry Long Service Levy where the value of civil works exceeds \$25,000 (twenty five thousand dollars).

Prior to Commencement of Works

29. Separate application shall be made by a licensed drainer for permission to carry out work in relation to Council's sewer. The attached application shall be returned with the appropriate fee prior to the relevant work commencing.
30. Separate application shall be made to Council's Asset Services and Recreation Department for the construction and location of the proposed crossover. (Refer to enclosed agreement form for driveways).
31. The applicant or person having the benefit of this development consent must give at least 2 (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.
32. The applicant shall advise Council of the name, address and contract number of the principle certifier, in accordance with Section 81A 4(b) of the Environmental Planning and Assessment Act, 1997.
33. 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.
34. Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with the approved ESCP or SWMP. In the absence of any approved plan the work is to be in accordance with Council's Development Control Plan 1/94 - Soil Erosion and Sedimentation.

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

35. Sanitary accommodation shall be provided for workmen throughout the course of the building operations in accordance with the Local Government Act 1993 and the Environmental Planning and Assessment Act.
36. 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.

During Construction

37. All building work must be carried out in accordance with provisions of the Building Code of Australia.
38. 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.
39. No burning of demolition or construction material being carried out on the site.
40. 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.
41. 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.
42. 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.
43. Stockpiles and materials shall be covered to reduce windblown dust. When excavating, keep the surface moist to reduce dust.

44. Dust control measures shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
45. Effluent generated from portable toilet facilities is to be removed off site by a licensed waste contractor.
46. The building 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.
47. Inspections for Compliance Certificates to be requested from the Sewer Authority (Hawkesbury City Council) for internal and external sewer drainage prior to covering any pipe (24 hours notice for inspection is required, the fee is \$70.30 (seventy dollars and thirty cents) per inspection to be paid prior to requesting the inspection).
48. All work must be carried out in accordance with the provisions of Hawkesbury Development Control Plan, Appendix E Civil Works Specification Part 1 Design Specification and Part 2 Construction Specification.
49. The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this development. Such utilities include, but are not limited to, water, sewerage, drainage, power, communication, footways, kerb and gutter.
50. The provision of conduit/ducts under new driveways to the requirements of Integral Energy, in accordance with Integral Energy drawing 049759H dated 14/7/1987. Conduit and ducting material is available from Integral Energy.
51. The garbage area shall be constructed with a surface that is easily cleaned, graded to a drain connected to a sewer, and shall have a supply of water under pressure available within the enclosure. No stormwater shall be the garbage area.

Prior to Issue of Occupation Certificate

52. Occupation of any buildings and the use of the site for the proposed development should not take place until all landscaping is completed, all car parking spaces are constructed and designated and all the conditions of approval have been satisfied.
53. The submission of a Certificate from Telstra Australia that satisfactory arrangements have been made for the provision of cables for telephones to the development.
54. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to 'Your Business' section of Sydney Water's web site at www.sydneywater.com.au then the 'e-developer' icon or telephone 13 20 92.

Following application a 'Notice of Requirements' will detail water extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water

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 occupation of the development.

55. The following documentary evidence is to be obtained 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.

56. All part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 are to be submitted to Council within 7 (seven) days of the date of issue. The registration fee is \$16.00 (sixteen dollars) per certificate.
57. The construction of concrete kerb and gutter, including heavy duty layback vehicular crossings, the footway area being formed in earth and all necessary drainage, together with the full construction of the slip lane and intersection works at Macquarie Street and George Street, together with any works necessary to make this construction effective. Allowance is to be made in the construction for vehicles entering and leaving the adjoining Lots Part A DP 410572 and Lot 1 DP 630616.
58. The construction of sewerage reticulation, including junctions where not already provided.
59. The submission of a Surveyor's Certificate stating that all buildings on the lots comply with the Building Code of Australia in relation to boundary setbacks.
60. Payment of a contribution of \$1,044.00 (one thousand and forty four dollars) towards sewer headworks. This sum will remain fixed until 30 June 2004 after which it will be recalculated at the rate applicable at the time of payment.
61. Construction of Council's standard heavy duty footway and layback vehicular crossings to suit the access to the site as shown on the approved plans.
62. Design and construction of site drainage shall be carried out in accordance with Council's Hawkesbury Development Control Plan, Appendix E Civil Works Specification Part 1 Design Specification and Part 2 Construction Specification. Full details of works shall be submitted for approval with the building application. On-site detention shall be provided to maintain all stormwater discharges from the 1:1 year storm up to the 1:100 year storm at predevelopment levels.

63. To ensure parking necessary for the development is provided and kept clear and available, 33 (thirty three) off-street car parking spaces, together with access driveways and turning areas, shall be constructed, paved, line marked, signposted and maintained, as shown on the approved plan.

Note: The disabled space is to be increased to 2.8 (two point eight) metres wide making a total width of 3.8 (three point eight) metres in combination with the pathway to the entrance to the shop.

64. Exit/entrance points are to be clearly signposted and visible from both the street and site at all times.

65. The registered proprietor of the land shall submit a report and a works-as-executed (WAE) drawing of the stormwater detention basin(s) and stormwater drainage system. The WAE drawings shall be prepared by a registered surveyor and/or the design engineer on completion of the system and shall indicate the following as applicable:

- (a) Invert levels of tanks, pits, pipes and orifice plates
- (b) Surface levels of pits and surrounding ground levels
- (c) Levels of spillways and surrounding kerb
- (d) Floor levels of buildings
- (e) Top of kerb levels at the front of the lot
- (f) Dimensions of stormwater basins and extent of inundation
- (g) Calculation of actual detention storage volume provided

The plan shall be accompanied by a report from the designer stating the conformance or otherwise of the as constructed basins in relation to the approved design. The WAE plan and report shall be submitted to and approved by Council prior to the release of the occupation certificate.

66. Application must be made to and approved by the Work Cover Authority for all appropriate licences issued under the Dangerous Goods Legislation.

Use of the Site

67. The development shall be conducted in such a manner that noise levels emitted from the site comply with the EPA's Industrial Noise Policy.
68. The hours for the delivery of all petroleum products including LPG and products for the convenience store is to be restricted to the following times: 7.00am to 5.00pm, Monday to Saturday and 8.00am to 5.00pm Sundays and Public Holidays.
69. All operations relating to the use of the LPG shall be conducted in a manner as described in the BP LP Gas Safety Management System for Retail Outlets.
70. The refrigeration equipment and all associated fittings are to be installed and operated in such a manner that they do not cause a noise or vibration nuisance for adjoining properties.

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71. All air conditioners are to be installed and operated in such a manner that they do not cause a noise or vibration nuisance for adjoining properties.
72. The convenience store is to be registered with Council as a food premises and have inspections conducted by Council's officers as necessary.
73. Any building or part thereof to be used for the purposes of storage, preparation or sale of food for human consumption shall be constructed in accordance with the requirements of the Food Act 1998 and Regulations there under, and Council's Food Premises Code.
74. A thermometer complying with Chapter 3 of the Australia New Zealand Food Standard Code is to be kept at the premises at all times for the purposes of checking food temperatures.
75. Garbage is to be stored, collected and disposed of to the satisfaction of Council.
76. An Annual Fire Safety Certificate in accordance with the Fire Safety Schedule shall be submitted to Council for registration.
77. 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, vibration, odour, dust, wastewater, waste products or otherwise.
78. The operations of the development shall be conducted in a way that no grease, oil or other pollutants from the development are allowed to enter the stormwater system.
79. All bulk storage items such as oils, solvents and liquid wastes are to be stored away from stormwater drains and are to be stored in a storage area that is covered, sealed and bunded.
80. Oil, lubricant, coolant, and hydraulic fluid spills or stains should be removed by an approved absorbent material and disposed of at an authorised waste depot. The absorbent material should be kept in good supply at all times.
81. All waste generated under the canopy area of the development must be delivered via a coalescing plate separator to the sewer. There shall be no surface water runoff generated under the canopy to surrounding locations to prevent the pollution of waters.
82. Council must be consulted regarding acceptable limits to the sewerage system. A trade waste agreement must be entered into with Council prior to discharge of trade waste from the premises. A trade waste agreement application must be submitted and assessed.
83. All landscaping shall be permanently maintained in a good condition and in accordance with the intent of the landscaping plan.
84. 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;

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- (b) all vehicles must be driven in a forward direction at all times when entering and leaving the premises; and
 - (c) all vehicles associated with the use shall be accommodated within the approved car park on the subject land, to the satisfaction of Council.
85. 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.
86. No signs shall be displayed on the footpaths, pedestrianways, roadways or in the vicinity.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 17 Oooo

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ITEM: 18 **Development Application Affected by Draft Amendment 130 to HLEP 1989**

FILE NUMBER: 79347/EVD/ENB24NBX.V01

REPORT:

Introduction

Council has requested a report on the current Development Applications lodged that are affected by Draft Amendment 130. This report will provide details of the applications and options available to Council to determine the applications.

Current Application

The list has only focussed on those applications that are for properties that are outside the multi-unit areas identified by Draft Amendment 130 or do not comply with the subdivision provisions contained in Draft Amendment 130 (North Richmond).

The applications have been divided into 2 (two) groups, being:

- Applications lodged before the exhibition of Draft Amendment 130.
- Applications lodged after the exhibition of Draft Amendment 130.

Before the exhibition of Draft Amendment 130.

Multi-Unit Housing

DA0443/03	12 Matheson Avenue	North Richmond
DA0843/03	79 Grose Vale Road	North Richmond
DA1027/03	43 Bosworth Street	Richmond
DA0928/03	26A Michael Street	North Richmond
DA0946/03	5 Yvonne Place	North Richmond

After the exhibition of Draft Amendment 130

Multi-Unit Housing

DA1200/03	9 Fairfield Avenue	Windsor
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Subdivision

DA1198/03	13 Pecks Road	North Richmond
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As well as the above, Council has 3 (three) applications where appeals to the Land and Environment Court have been lodged.

- 49 Elizabeth Street, North Richmond;
- 42 Grose Vale Road, North Richmond;
- 5 Chapel Street, North Richmond; and
- 15 Drift Road, Richmond.

These matters are with Council's Solicitors to represent Council in these proceedings. The Elizabeth Street, Chapel Street and Drift Road applications have non-compliance with the DCP as well as Amendment 130 issues. The Fairfield Avenue application also has DCP issues.

Available Options

After the exhibition of Draft Amendment 130, Council provided the following direction in respect to applications lodged for Multi-Unit Housing/Subdivision (North Richmond) that were outside the identified areas.

- Applications lodged before the exhibition of Draft Amendment 130 were to be determined by Council.
- Applications lodged after the exhibition of Draft Amendment 130 were to be not supported and refused.

While the Draft Amendment 130 prohibits multi-unit housing in certain areas and provides new subdivision provisions for North Richmond, it is only a draft and is a matter Council can consider under Section 79 of the Environmental Planning and Assessment Act. The amount of weight that Council wishes to place on the Draft Amendment is a matter for Council to consider.

Applications, where an Appeal has been lodged with the Land and Environment Court, the Court generally places appropriate weight on the Draft Amendment based on whether the Draft Plan is imminent. The Court has the power, even if the Draft Amendment has been adopted by Council and based on the merits of the proposed development, to approve the development. When the Draft Amendment has been gazetted, the Court has no power to approve a development that is prohibited by the LEP.

Council officers are currently preparing the necessary documentation for its final submission to the Department of Infrastructure, Planning and Natural Resources seeking gazettal of Draft Amendment 130. It is likely that the gazettal of the Draft Amendment could still take several months.

The options available to Council are as follows:

1. Refuse all current applications that are inconsistent with Draft Amendment 130.

2. Consider all applications on their merits.
3. Consider applications received before the exhibition of Draft Amendment 130 on their merits and refuse those lodged after the exhibition of Draft Amendment 130.

Option 1 would not be fair for those applications that were lodged before the exhibition of Draft Amendment 130. The applicants for these proposals have generally been working with Council officers to ensure total compliance with the Hawkesbury Development Control Plan and acceptable development.

Option 2 is considered to be a consistent approach to all applications as each will be considered in the same manner. However, other applications that were lodged after the exhibition of Draft Amendment 130 have either been withdrawn, based on the unlikely support for the application, or refused.

Option 3 maintains the status quo of determining the application and is consistent with the recent decisions made on the applications.

If appeals are lodged with the Land and Environment Court based on the current situation, it is likely that it would be several months before the matter could be heard by the Court and in this period of time the Draft Amendment could be gazetted or close to being gazetted, which may have some bearing on the weight that the Court places on Draft Amendment 130.

RECOMMENDATION:

That Option 3 be endorsed by Council for determining the current applications affected by Draft Amendment 130.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 18 Oooo