



Hawkesbury City Council

special meeting business paper supplementary

date of meeting: 15 April 2004

location: Council Chambers

time: 7.00 pm

SPECIAL MEETING

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- **Apologies.**

- **SECTION 4 - Reports for Determination**

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section

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ITEM: 45 **Land and Environment Court Appeal, 42 Grose Vale Road, North Richmond**

FILE NUMBER: 76598, 83482/EVD/ORD15&BX.V13

PREVIOUS ITEM: 62, GPC Section 1 - Environment (30.09.2003)

PREVIOUS ITEM: 62, Ordinary (14.10.2003)

PREVIOUS ITEM: 183, Ordinary (14.10.2003)

PREVIOUS ITEM: Notice of Motion of Rescission, Item 62, Ordinary (04.11.2003)

REPORT:

Introduction

This report is to consider recent Legal advice in respect to the above appeal in the Land and Environment Court.

Background

The Development Application seeking approval for a multi-unit housing development was refused by Council on 4 November 2003.

The grounds for refusal were:

“The proposed development is inconsistent with and will be prohibited by the provisions of Draft Amendment 130 to Hawkesbury LEP 1989”.

The applicant lodged an appeal against Council decision and Abbott Tout have been engaged to defend the appeal, which is set down for hearing at the end of April.

Current Legal Advice

Abbott and Tout have now written to Council advising that the consultant Town Planner engaged on Council's behalf to defend the appeal has carried out a detailed assessment of the proposal against the Council's Development Control Plan and has indicated that the proposal has even greater compliance with Council's controls than previously thought.

In a recent matter involving a development in Drift Road, Richmond the weight that should be attributed to the amendment by the Court was one of the main issues of that case.

It is clear that amendment 130 will not be gazetted before the hearing dates in these proceedings.

It is the view of Abbott and Tout that whilst the strategic direction of Council in preventing multi-unit housing in areas of the Hawkesbury is clear, the decision to prohibit multi-unit housing on Grose Vale Road, where a number of similar nearly identical developments exist would allow the applicant to argue in the Court that little weight should be given to the Draft LEP.

The advise concludes:

“For these reasons it is our recommendation that Council provide us with instructions to agree to consent Orders in this matter.

By agreeing to Consent Order By agreeing to Consent Orders, resident objectors would still be entitled to attend the Court and inform it of their concerns”.

RECOMMENDATION:

That Council agree to Consent Orders being issued by the Court in this matter.

ATTACHMENTS:

There are no supporting documents for this report.

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end of paper