



Hawkesbury City Council

ordinary meeting business paper

Maps/Attachments

date of meeting: 01 November 2005

location: council chambers

time: 5:00 p.m.

ORDINARY MEETING

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Questions With Notice

QUESTIONS WITH NOTICE

Questions With Notice - 1 November 2005 - (97149, 90476)

REPORT:

Question 1

Councillor Devine

- a) Has a complaint been received by Council regarding the operation of a business at 25 Golden Grove, Bligh Park, which is a residential area?
- b) If there has been a complaint made, what action has been taken by Council?
- c) Does the operation of this business, with a sign promoting the business constructed on Council land and vehicles obviously used in the business parked on the nature strip, signify how the new "template" for home based businesses will operate? (Photos Attached)

Response

- 1. Council received a complaint regarding the operation of a real estate business at these premises on 21 June 2005.
- 2. On 6 July 2005 Council sent a letter to the owner of the premise advising that the land is identified as Residential 2(a) under the Hawkesbury Local Environment Plan (LEP) 1989, and developments such as real estate offices are considered to be activities of a commercial nature which are prohibited within that zone. However, the activity being undertaken on the premise may fall into the category of "Home Occupation" which is exempt development under Council's LEP. The owner was advised to write to Council outlining the business activities being undertaken on the premise, and seek written confirmation of the ability to continue with this use.

The owner was also advised that advertising signage was not permitted and must be removed, and other signs were not permitted on power poles, trees or on any public land.

On 19 July 2005 the owner of the above premise wrote to Council outlining how the business operated. Council responded with a letter dated 9 August 2005 advising that no approval from Council was required as the subject activity complies with the definition of "Home Occupation".

- 3. The owner of the premise has previously been advised that the signage must be removed in accordance with Council's LEP (definition of "Home Occupation"). Vehicles associated with the business should not be parked on the nature strip. These matters will be raised with the premise owner.

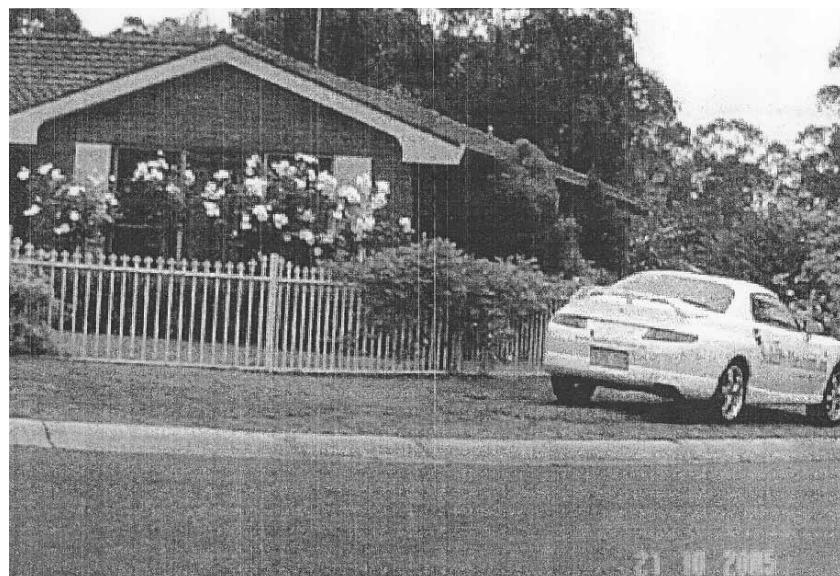
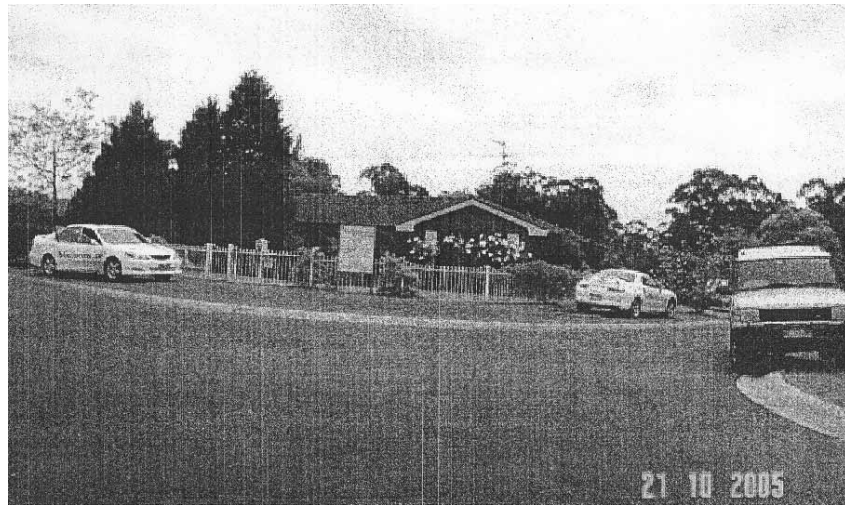
The new "template" LEP contains a similar definition for "Home Occupation" as defined in Council's LEP, hence advertisements are prohibited (other than a notice, advertisement or sign exhibited on that dwelling-house to indicate the name and occupation of the resident).

ATTACHMENTS:

AT - 1 Photos in relation to Question 1

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AT - 1 Photos in Relation to Question 1



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ordinary

section 4

reports
for determination

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SECTION 4 - Reports for Determination

Item: 319 **ES - The Women's Cottage Rental - (95494, 79342, 80358, 73506)**

Previous Item: 129, General Purpose Committee (28 November 2000)
 12, General Purpose Committee (24 February 2004)
 121, Ordinary (14 September 2004)
 58, General Purpose Committee (28 September 2004)

REPORT:

This report has been prepared to advise Councillors of the impending lapse of Council Resolution of 9 November 2004 in which Council resolved that:

'rent payable on the Women's Cottage be refunded from Council's Donation Budget for a period of 12 (twelve) months and in the intervening period, and, in consultation with the Women's Cottage, Council explore alternate accommodation for the Women's Cottage'

The reports summarises information previously provided to Council in relation to this matter and outlines the current situation with respect to the position of the Women's Cottage.

Background:

- The Women's Cottage is an activity of the Hawkesbury Area Women's and Kids Services Collective Inc. (HAWAKS). The Women's Cottage operates as an information centre offering resources, referral and advocacy services for women and children living and/or studying in the Hawkesbury. The Women's Cottage also provides women with access to therapeutic and counselling services with a focus on dealing with the impacts of violence, sexual assault and homophobia. The services provided through the Women's Cottage are primarily funded by the Department of Community Services (DoCS).
- In 1985, 22 Bosworth Street was acquired by Council for the purpose of providing car-parking within the Richmond Commercial Area. At the time, due to the lack of demand for additional car parking spaces in Richmond, Council agreed to lease the property to the HAWAKS. The Women's Cottage has been operating from this venue since 1985.
- Since 1985, HAWAKS has paid a subsidised rental to Council for the premises occupied by the Women's Cottage. Initially, a subsidised rental of \$130 was paid by HAWKAS for the Women's Cottage. At the time of Council's Resolution of 9 November 2004, the subsidised rent charged for the use of the building had increased to \$227 per week (due primarily to CPI adjustments). The current charge is approximately 50% of the market rent of the property (which is estimated to be between \$350 to \$450 per week).
- Council's Resolution of 9 November 2004 allocated funds from the Community Donations budget to meet the rental charges for the Bosworth Street property. In Council's 2005/2006 adopted budget, a sum of \$4,500 has been allocated from the community grants program to meet this commitment for the 2005/2006 financial year. Due to a reduction in the total funds allocated within the Community Donations Program for 2005/2006, no additional funding can be provided from within the Program to maintain the payment of the rental charges for the Women's Cottage beyond November 2005 (without prejudicing Council's ability to meet its other commitments within the Program).

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- HAWAKS has consistently argued that the payment of subsidised rental for the Women's Cottage has had the effect of reducing its capacity to provide services. HAWAKS would prefer to divert its rental contribution to Council towards the funding of its programs and services.
- In 1992, HAWAKS was successful in securing an additional recurrent grant under the Western Sydney Area Assistance Scheme of \$10,500 as a 'rental component' to meet the rental charges levied by Council. This funding was 'picked up' by DoCS and subsequently incorporated into the DoCS funding grant received by HAWAKS (a copy of the letter of advice from Council who administered the WSAAS Scheme on behalf of the then Department of Planning is attached - Attachment 1). It would be reasonable to assume that since 1992, this rental component has been indexed by CPI and would conservatively be equal to approximately \$14,000 in today's dollars.
- The decision to divert that portion of the DOCS funding grant which was initially provided to meet the rental charges associated with the Bosworth Street Property, to fund programs and services provided through the Women's Cottage is one that has been made by the Management Committee of HAWAKS. This was an operational decision taken by HAWAKS without reference to Council. The decision taken by HAWAKS carried the expectation that Council would absorb the loss of income (from the non-payment of the subsidised rental). Council is in effect being asked to further subsidise, on an ongoing basis, the operations of the Women's Cottage (given that existing subsidised rental charges are 50% of the market rate).
- Council has recognised that the Women's Cottage is a key provider of services to women and children within the Hawkesbury and that the Bosworth Street property is the only dedicated womens information and resource centre within the Hawkesbury.
- Previous reports to Council have raised the issue of 'cost shifting' in relation to this matter. There is a concern that Council, by default, is being asked to provide additional financial assistance to the Women's Cottage to support programs and activities, which are primarily the responsibility of state and Federal Governments to resource. Council is in effect being compelled to augment insufficient levels of funding provided by state and federal authorities to enable the Women's Cottage to achieve its desired service levels.

Current Situation

- Pursuant to Council's Resolution, Council staff have met with representatives of HAWAKS to explore alternate accommodation options. The requirements for such accommodation (in terms of location, lay-out, size and cost) have meant that no readily available alternate accommodation options have been identified.
- Council staff are currently investigating medium-to longer term accommodation options which could be developed using Section 94 funds which have been collected for Catchment 4 (an area which includes Richmond, Hobartville, Agnes Banks). Council's current S94 plan provides for the building of a multi-purpose centre in this catchment and there is some scope for designing and building a multi-purpose community services centre in Richmond. Preliminary options being explored include the development of land behind Bowman Cottage, the feasibility of extending and reconfiguring the Richmond CWA/Early Childhood Centre, a possible 'partnership' development on land held in trust by Council occupied by Hawkesbury Skills, or the construction of a centre on a Council car park. These options would, of course, be subject to the agreement of relevant parties and compliances with Sec 94 requirements.
- Council staff had also requested HAWAKS to consider what level of contribution they could make towards the rental charges for the Bosworth Street premises. Advice has been received (Attachment 2) indicating that HAWAKS considers that a rental contribution of 50% of the current rental can reasonably be accommodated by their organisation. This would amount to approximately \$120 per week or \$6,250 per annum. The rental of \$120 per week is in the vicinity of 30% of the market rate and would represent a contribution by Council to the operation of the Women's Cottage of approximately \$15,000 per annum.

Options

The Women's Cottage have requested that Council give consideration to a 50% reduction in the rental charge of \$227 per week, which previously applied to the use of the Bosworth Street premises (a figure which is approximately 50% of the market rate). The Women's Cottage have indicated they would be willing to contribute an amount of up to \$120 a week for the remainder of the 2005/2006 financial year (a period of approximately 34 weeks). If Council resolved to accept this request it would represent a reduction in budgeted income of \$3,638. If Council wishes to lower the rental savings would need to be identified from elsewhere within Council's adopted budget to offset this loss of income. Due to the need to maintain projected levels of income for the 05/06 financial year, this report recommends that - at a minimum - the previous subsidised rental charge of \$227 per week be reinstated. As outlined above the reinstatement of the previous below market rental charge effectively represents a contribution by Council to the operating costs of the Women's Cottage of approximately \$10,000 a year.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: Ensuring minimal vacancies for Council's commercial properties"

Funding

The reinstatement of the previous subsidised rental charge of \$227 a week will have no impact on the budget. A reduction to this charge will reduce the level of projected income within Council's Property Services Branch.

RECOMMENDATION:

That

1. The use of funds from the Community Donations budget to pay the rental charges for the premises at 22 Bosworth Street, Richmond occupied by the Women's Cottage to be discontinued as from 9 November 2005.
2. Council to reinstate the previous subsidised rental charge of \$227 per week (plus GST) for the rental of 22 Bosworth Street as from 9 November 2005.
3. Council write to the Minister of Community Services informing the Minister of its decision to contribute \$10,000 - by way of a rental subsidy - to the operating costs of the Women's Cottage to compensate for the insufficient level of DoCS funding received by HAWAKS. The Minister be requested to review the level of funding provided to HAWAKS in light of the difficulty experienced by HAWAKS in maintaining appropriate service levels from within its existing funding allocation.

ATTACHMENTS:

AT - 1 Rental Contributions Letter from the Women's Cottage Co-ordinator dated 23 August 2005

AT - 2 Area Assistance Scheme - Recurrent Funding Correspondence dated 5 November 1992

ORDINARY MEETING

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AT - 1 Rental Contributions Letter from the Women's Cottage Co-ordinator dated 23 August 2005



The Women's Cottage

Hawkesbury Area Women's & Kids Services Collective Inc.

22 Bosworth Street (P.O. Box 305) Richmond NSW 2753

Phone: 02 4578 4190 Fax: 02 4578 2480

Email: womcot@pnc.com.au

Hawkesbury City Council

30 AUG 2005

23/8/05

Cc Hawkesbury Councillors

To Whom it May Concern

Rental Contribution

In response to the letter from council regarding a request to 'consider the future needs of our service' and 'the percentage of our funding that we could allocate to a rental component for the service'

We are aware that council has no plans to relocate this service and the Women's Cottage is happy to stay at the current location.

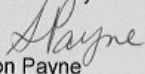
In regard to our rent; we ask that we pay no more than 3-4% of our recurrent funding income which is \$152,333. This is about 50% less than what we have paid in the past.

I am aware that our present subsidy came from a pot of money used for community grants and would assume that if there is a permanent reduction in our rental that this pot of money would be unaffected as we are not asking for a grant but a permanent reduction.

We ask a commitment from council to charge The Women's Cottage a reduced rate of rental more in line with other Hawkesbury services that receive the same type of recurrent funding and a (purpose built) building rent free (I am aware that Forgotten Valley is an exception however it is also supported by two other councils because of it's unique geographical position). The Women's Cottage provides an essential service to women and children who live, study and work in the Hawkesbury area and we ask council to value and acknowledge the importance of this service through a reduction in our rental fee.

I apologise for the delay in responding but I have been off work with the flu for over a week.

Yours sincerely


Sharon Payne

Women's Cottage Co-ordinator

On behalf of HAWKS Collective



SCANNED

This Service is funded by the Dept. of Community Services

ABN: 12 756 046 044

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Reports of Committees

AT - 2 Area Assistance Scheme - Recurrent Funding Correspondence dated 5 November 1992

40738

GC021/05/PT06⁷
JA19:SB

November 5, 1992

M/s M McDermott
Women's Cottage
23 Bosworth Street
RICHMOND NSW 2753

Dear M/s McDermott,

AREA ASSISTANCE SCHEME - RECURRENT FUNDING

The Department of Planning has written to confirm that the annual rental subsidy, which was approved under the Area Assistance Scheme, will be picked up as a recurrent grant by the Department of Community Services. This will apply from 1st July, 1994, and will be at \$10,500 a year. This will be a rental component of the overall grant.

It is encouraging that the Department has recognised the need for a rental subsidy as part of the annual grant. Your organisation should write to Julie Gal at the Department of Community Services to confirm that your funding will be available automatically as a WSAAS pick-up from 1st July, 1994.

Now that the work is almost completed on the renovations of the building, it is suggested that the increased rental apply from 1st January, 1993, at the amount of \$130 per week and remain at this level until 30th June, 1994, at which time the amount can be reviewed.

Your organisation should have received the \$4,400 from the Department of Planning to cover additional rental for the Area Assistance Scheme funding period of two years. However, it should be noted that the Department of Community Services funding should be available from 1st July, 1994.

From that time the rental should be at \$10,500 per year if the Department confirms this will be picked up at that level.

Yours faithfully,

Pat Smith

For TOWN CLERK/GENERAL MANAGER.

For enquiries please contact: M/s P Smith

oooO END OF REPORT Oooo

Item: 322 **ES - Educational Establishment - Childcare Centre, Lot 1 DP 783233, 208 Richmond Road, CLARENDON NSW 2756 - (95494, 96329, 81262, 35546, 27919, 27918)**

Development Information

Applicant: Springwood Drafting & Construction Service
Applicants Rep: Mr Lloyd Williams
Owner: Mrs D M Moss & Mr G M Moss
Stat. Provisions: SREP 20 - Hawkesbury Nepean River
Hawkesbury LEP 1989
Hawkesbury LEP draft amendment 108
Hawkesbury DCP
Area: 3269m²
Zone: Rural 1(c)
Proposed Rural Living Under Draft Local Environmental Plan
8/98 (Amendment 108)
Advertising: 27 June 2005 to 11 July 2005
Date Received: 21 June 2005

Key Issues: ♦ Aircraft Noise Exposure Forecast (ANEF)
 ♦ Traffic

Recommendation: Refusal

REPORT:

Introduction

This development application proposes a 135 place childcare centre on land, which is severely affected by aircraft noise from operations at the Richmond RAAF Base. The matter is reported to Council at the request of the Mayor, Councillor Bassett. The application is recommended for refusal. This report also provides an opportunity for Council to resolve to prepare a new draft chapter for the DCP on Aircraft Noise.

The Proposal

It is proposed to demolish the existing structures situated on the subject site and to construct a single level building for the purpose of establishing an educational establishment/child care centre. The building is to accommodate five internal play areas containing associated wet areas and amenities providing accommodation for 90 children aged from 0-6 years with provision for 45 school aged children for before and after school care. In addition, the building is to contain entry foyer, staff room, kitchen, cot rooms and store rooms. Rendered brickwork is to be used for the walls, windows and doors are to be aluminium framed and colorbond steel is proposed as the roofing material.

Three outdoor play areas are proposed in conjunction with the proposal, with one situated to the north of the proposed building and two generally to the south. The play area proposed at the northern side of the building is to accommodate 0-2 year olds, whilst the areas to the south are to provide for 2-3 and 3-4 year olds. Acoustic fencing is proposed along the eastern, western and southern boundaries of the site ranging in height from 2.1 to 2.4 metres.

Access to the site is to be provided from Richmond Road via a two separate three metre wide driveways, the easternmost providing for entry only and the westernmost used for exit. On-site parking for 30 vehicles, inclusive of one disabled space, has been provided and is situated on the northern portion of the site.

Background

Department of Defence Advisory Comments

In conjunction with the preparation of the application the applicant consulted the Department of Defence having regard to impact of aircraft noise on the proposed development. In response to this consultation the Department provided the following specific written advice to the applicant:

Your proposal was assessed against the 2014 Australian Noise Exposure Forecast for RAAF Base Richmond. The subject land is located within the 25-30 ANEF Zone. The proposed development of the land, described in your letter as "child care centre/educational facility" the building type (school) is classified as UNACCEPTABLE within the 25-30 ANEF Zone under the Australian Standard AS 2021 – 2000 Acoustics - Aircraft Noise Intrusion – Building Siting and Construction, Table 2.1 – Building Site Acceptability Based on ANEF Zones.

Pre-Application Meeting 7 April 2005

A meeting was held between Council staff and the applicant prior to lodgement of the subject application at a Development Advisory Panel on 7 April 2005. Issues relating to noise were highlighted with the applicant at this meeting and subsequent correspondence was prepared on 20 April 2005 advising the applicant as follows:

Noise

The property is within the 30 - 35 ANEF contour as identified on the map provided to Council by Department of Defence. In this regards, Clause 37 of the Hawkesbury Local Environmental Plan 1989 needs to be considered, however, as indicated at the meeting, the information provided on the Department of Defence map and the letter that was tabled from the Department of Defence indicated that establishment of an educational establishment or child care centre within a 25 or above ANEF contour area is unacceptable. In this regard it is difficult for Council officers to support such an application and a recent decision in the Land and Environment Court involving Hawkesbury City Council where the Court placed a significant weight on the map prepared by the Department of Defence with respect to appropriate forms of development within the various noise contour areas. It is understood that the Department of Defence has prepared a new map that will be lodged with Council shortly.

It would not be considered good planning practice to allow the establishment of a sensitive noise use, being a child care centre, within a high aircraft noise area.

It is noted that the ANEF contour in respect of the subject site is described as 25 - 30 in correspondence prepared by the Department of Defence and 30 - 35 in the pre development advice prepared by Council. In this regard it is advised that Council has not adopted any updated noise forecasts from the Department of Defence as further information has been requested from the Department. In any case the development is unacceptable in areas above 25 ANEF.

Statutory Situation

SREP 20 - Hawkesbury Nepean River

The subject site is affected by SREP No. 20 (No. 2 - 1997). Relevant specific planning policies and recommended strategies include those relating to total catchment management, environmentally sensitive areas, water quality, water quantity, flora and fauna, agriculture/aquaculture and fishing, rural residential development, and metropolitan strategy. Relevant development controls relate to filling, sewerage systems or works.

It is considered that the proposal is consistent with the aims of the plan as well as the general and specific planning policies, recommended strategies and development controls outlined in Parts 1, 2 and 3 of SREP No. 20 (No. 2).

Hawkesbury LEP 1989

Relevant clauses are listed below.

Clause 2 - Aims, objectives etc.

The proposed development is considered to be inconsistent with the general aims and objectives as outlined in Clause 2 of the LEP in that the proposed use is considered incompatible with the identified constraints associated with the site.

Clause 9 – Carrying out development

The proposal, classified as child care centre/educational establishment is a permissible land use with development consent within the Rural 1(c) zone.

Clause 9A – Zone objectives

- (a) *to primarily provide for a rural residential living style; and*

Comment: The application proposes the establishment of an educational establishment/child care centre that does not provide for rural residential living.

- (b) *to prevent the establishment of traffic generating development along main and arterial roads.*

Comment: The application for an educational establishment/child care centre is considered to represent a traffic generating development that is inconsistent with the zone objectives detailed above.

Clause 25 – Development of flood liable land

The provisions of Clause 25(3) of Hawkesbury Local Environmental Plan 1989 requires the following having regard to development on identified flood affected land:

- (2) *Each habitable room in a building situated on any land to which this plan applies shall have a floor level no lower than the 1 in 100 year flood level for the area in which the land is located*

Comment: The subject site varies from AHD 15.75m to 16.69m. The proposed building will have a finished floor level of 17.3 AHD, being the identified 1 in 100 year flood level thereby satisfying the provisions of this clause.

Clause 28 – Development in the vicinity of heritage items

The subject site is situated immediately to the east of an identified heritage item “Rhodesia” (Lot B DP 160847, No. 210 Richmond Road) and in proximity of two other identified items at Lot 1 DP 745143, No. 211 Richmond Road and Part Portion 63 Parish of St Matthew, No. 221 Richmond Road.

Whilst the proposal does not have any direct impact upon the identified items of heritage significance it is noted that the application proposes an extensive area of hard paved area within the northern portion of the site associated with the access driveways and open hardstand car parking area. A landscape plan has been submitted in conjunction with the application, prepared by Monaco Designs detailing the provision of screen planting adjacent to the northern (front), eastern and western (side) boundaries of the site. This plan details that a 1.0 metre wide landscape strip has been provided adjacent to the western boundary of the site. It is considered that this landscaped strip would provide minimal opportunity to screen the proposed car parking area.

Clause 37 – Land affected by aircraft noise

Clause 37 of Hawkesbury Local Environmental Plan 1989 provides the following:

37. (1) The Council must not grant consent to the carrying out of development on land within a 20 or higher ANEF contour for the purpose of a hospital, school, child-care centre or for a residential purpose, unless the Council has taken into consideration the guidelines provided in AS 2021 regarding noise reduction and construction requirements.

(2) In this clause:

"ANEF" means the Australian Noise Exposure Forecast within the meaning of AS 2021.

"AS 2021" means Australian Standard AS 2021-1994 (Acoustics -- Aircraft noise intrusion -- Building siting and construction) published on 21 February, 1994;

"20 or higher ANEF contour" means a noise exposure control of 20 or higher ANEF as advised by the Commonwealth Department of Defence (Air Office) in relation to the Richmond RAAF Base.

The subject site is situated in the 30 to 35 ANEF contour as detailed on the map provided by the Department of Defence. The proposed development does not satisfy this clause or the relevant Australian Standard. The planning assessment, which follows provides further information.

Clause 37A – Development on land identified on Acid Sulfate Soils Planning Map

The subject land is identified as Class 5 on the Acid Sulfate Soils Planning Map.

It is considered that the works proposed in conjunction with the subject application will satisfy the requirements of this clause.

Hawkesbury LEP draft amendment 108

This plan introduces the recommendations of the Hawkesbury Sustainable Development Strategy and amends the zone names and objectives for the Rural and Environmental Protection zones. The subject site is situated in the proposed Rural Living zone. The relevant objectives of the proposed zone are detailed as follows:

- a) *to provide primarily for rural residential life style;*
- b) *to minimise conflict with rural living land uses;*
- c) *to prevent the establishment of traffic generating development along main and arterial roads; and*
- d) *to ensure that development does not create unreasonable or economic demands, or both, for provision of extension of public amenities or services.*

The proposal will provide a traffic generating development along an arterial road contrary to the above objectives of the Rural Living Zone contained in Draft Amendment 108.

Hawkesbury Development Control Plan (DCP)

The following chapters within Part C of Hawkesbury DCP are relevant to the proposal. Assessment of the proposal with respect to these matters is contained within the planning assessment section of the report.

- Landscaping
- Building Height
- Setbacks

Community Consultation

The application was notified to 15 nearby property owners and occupiers in accordance with the Hawkesbury DCP. A sign was also displayed on the subject site. In response to this notification two written submissions were received raising the following issues:

Neighbouring Property owner

- The adjacent property is used for rural purposes with horses and is surrounded by electric fences as such concern is raised in relation to the safety of small children.
- Traffic concern in relation to the level of vehicular movements associated with the site.
- The subject land is flood affected and the proposal may cause detrimental impact upon the adjoining heritage property due to additional water runoff.

Railcorp Property

- Noise and vibration
- Stray currents and electrolysis from rail operations
- Geotechnical and structural stability and integrity
- Building setbacks and design
- Derailment protection of structures
- Demolition, excavation and construction impacts
- Environmental conditions
- Graffiti, screening and landscaping
- Fencing

Planning Assessment

Australian Noise Exposure Forecast (ANEF)

Having regard to the provisions of Clause 37 of Hawkesbury Local Environmental Plan 1989, Table 2.1 contained in Australian Standard AS2021 provides the following:

<i>Building Type</i>	<i>ANEF Zone of Site</i>		
	<i>Acceptable</i>	<i>Conditionally Acceptable</i>	<i>Unacceptable</i>
School, university	<i>Less than 20 ANEF</i>	<i>20 to 25 ANEF</i>	<i>Greater than 25 ANEF</i>

It is noted that Note 4 of the AS2021 provides that:

This Standard does not recommend development in unacceptable areas. However where the relevant planning authority determines that any development may be necessary within existing built-up areas designated as unacceptable, it is recommended that such development should achieve the required ANR determined according to Clause 3.2. For residences, schools, etc., the effect of aircraft noise on outdoor areas associated with the buildings should be considered.

As detailed in Table 2.1 of AS2021 the proposed use of the site for the purpose of an educational establishment/childcare centre falls within the unacceptable land use category and no substantive argument exists that the proposed development within this location is “necessary” pursuant to the provisions of AS2021. An analysis of the ANEF contour map provides significant opportunity for the establishment of educational establishments/child care centres in areas not subject to aircraft noise within the Hawkesbury Local Government area.

Accordingly, it is considered that adequate opportunity exists to establish noise sensitive land uses in areas not subject to such constraint.

Given the existing noise environment within which the site is situated it is considered that approval of this application is not warranted as the proposal is acknowledged as a noise sensitive land use and that adequate mitigation of such impacts are not achievable to all areas, inclusive of outdoor play areas, associated with the centre.

Acoustic Assessment

In conjunction with the application an acoustic report was prepared by Renzo Tonin and Associates Pty Ltd. A number of conclusions that have been derived in this report are questioned. In particular the following conclusions are highlighted:

Table 7.2 in the acoustic report provides the following acceptable internal design sound levels

Table 7.2 – Internal Design Sound Levels [dB(A)]	
Occupancy	Max Noise Level, L_{max} dB(A)
<i>Sleeping rooms for infants, staff offices</i>	50
<i>General play areas for children</i>	55
<i>Foyers, corridors in bulding</i>	65

It is considered that the acceptable internal design sound levels that are relied upon by the acoustic report are excessive. In this regard the maximum noise level for sleeping rooms of 50dB is at the upper level of the general acceptable range that is unlikely to cause awakening reactions. This figure may not be appropriate for an area dedicated as a sleeping area for infants.

Section 7.1.2 of the acoustic report provides that some of the aircraft using the base are:

- *Boeing 707, 767, 717, KC10, Antanov, C17, IL76, Starlifter, Qantas Link, Caribou, Hercules C130J, Hercules C130H along with a variety of helicopters and light aviation.*
- *Flights usually operate between 7am and 11pm, 7-days a week. The frequency of flights departing and leaving the base is determined by external factors. An estimate of maximum numbers was provided at 10 flights departing and 10 flights leaving in one day.*

The report has not made reference to a number of aircraft that regularly use the base having specific regard to the following:

- *F/A18, F111 and C5 Galaxy*

The analysis has provided specific focus upon the Lockheed C-130H which is quoted as having an associated noise level, as measured at the subject site, of 80dB(A). No details are provided for other aircraft that operate from the base with a significantly higher noise impact. It is noted that the Appendix C – Noise Monitoring Results contains recorded ambient noise levels associated with the subject site. This detail provides that noise levels associated with the site regularly exceed 80dB(A) during daylight hours.

Accordingly, it is considered that the conclusions relating to the measures proposed to be incorporated to achieve an acceptable internal acoustic environment have not adequately taken into account the existing noise levles associated with the operation of the RAAF Richmond.

Landscaping

The relevant objectives of the landscaping chapter of the DCP are detailed as follows:

- *encourage the enhancement of the natural, cultural and built environment;*
- *encourage the recognition of climatic influences and the incorporation of landscape design features to enhance or modify the climatic factors relating to the site;*
- *encourage the design of low maintenance landscaping;*
- *integrate development into the landscape to minimise the impact on the natural environment; and*

- *provide for landscaping which allows freedom of access and mobility.*

The DCP requires that residential development provide a total of 30% of site area for landscape purposes. Whilst the application does not constitute residential development it is considered appropriate to consider this requirement in order to establish the appropriateness of the proposal in its surrounding context. Whilst the application proposes the provision of 30% of site area for the purpose of landscaped area it is considered that the landscaping proposed in conjunction with the proposal will provide minimal opportunity to screen the proposed car parking area and associated driveway areas.

Car Parking

The DCP does not provide specific guidelines in relation to on-site car parking requirements for child care centre development. In this regard it is considered reasonable to apply the on-site parking requirements contained in the Roads and Traffic Authority's Guide to Traffic Generating Development. This guide provides that car parking for child care centre development be provided at a rate of one space per four children.

The facility is proposed to accommodate a total of 135 children thereby requiring the provision of (34) on-site car parking spaces.

A traffic/car parking assessment was prepared by Traffic Solutions Pty Limited, which concludes as follows:

It should be noted that the RTA rates were derived by averaging the results of centres surveyed in 1992 and was generally separate centres (i.e before and after separate from and not combined as with the subject site) and therefore would not take into consideration the lesser car parking required by a higher proportion of siblings (brothers and sisters being cared for at the same centre).

Based upon surveyed parking rates the centre proposed in Richmond Road would require less than 24 car parking spaces. Therefore the proposed 135 place centre in Richmond Road with the provision of 29 car parking spaces is considered to be sufficient, based upon the results of 2 separate surveys undertaken by this firm.

It is considered that the proposal is satisfactory having regard to on-site car parking provision given the anticipated peak parking demand associated with the proposal.

Access

The subject site is situated on an arterial road. Vehicles accessing the site will cross oncoming traffic in order to enter the site from the west and leave the site in an easterly direction.

The application was referred to the Roads & Traffic Authority for comment. The RTA commented, in part, as follows:

"It is considered undesirable to locate a child care centre on a high speed rural (arterial) road environment. It is noted that a number of Councils have adopted LEP's and DCP's to prohibit child care centres on arterial roads."

The RTA is however, prepared to grant concurrence to the development subject to a number of conditions relating to access construction, including an auxiliary right hand turn lane. Concerns are also raised by the RTA in relation to road traffic noise, and require that the building be designed such that the following noise levels are achieved within the building:

- All habitable rooms other than sleeping rooms: 45dB(A) Leq(15hr) and 40 dB(A) Leq(9hr) and
- Sleeping rooms: 35dB(A) Leq(9hr)

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It is noted that these requirements are not met by the proposed development.

Building Height

It is noted that Council's DCP does not contain specific guidelines in relation to height for educational establishment/child care centre development. Given that no specific control exists it is considered appropriate to apply the height control for residential development. In this regard the building height plane for residential development is detailed as follows:

Residential Use	At Property Boundary	At Ceiling Height	Maximum Height at Ridgeline
Single dwelling	1.8m	7m	10m
Multi-unit housing	1.8m	7m	10m

Having regard to the above, the proposal satisfies the maximum height measured at uppermost ceiling and at uppermost ridgeline of 4.11 and 7.66 metres respectively. It is noted however that the proposal does not satisfy the building height plane controls in that all parts of the building are not situated within the adopted height plane. In this regard the north eastern corner of the building encroaches up to 0.60 metres, the north western corner encroaches up to 0.90 metres and the south western corner encroaches up to 1.30 metres.

In addition, it is noted that the plans submitted with the application do not accurately reflect the height of the proposed building in that existing ground levels are not shown on the elevations.

It is considered appropriate for a building within the Rural 1(c) zone to comply with the building height plane to control the bulk of the building.

Setbacks

Buildings fronting main, arterial or collector roads are to be setback a minimum of 10 metres from the front boundary. The proposal provides a minimum setback of approximately 27.5 metres to the front boundary whilst the car parking area is situated up to 3.8 metres from the front boundary.

It is considered that the setbacks proposed are satisfactory having regard to the objectives of the DCP.

Information submitted by the Applicant

By letter of 29 August 2005, the applicant submitted that a wide range of developments have been approved over a number of years within the ANEF contours. He submitted a list of a number of developments, citing five child care centres, which have been reviewed by Council staff for the purposes of this report. The following table summarises the developments cited.

Property	Development	ANEF zone	Approval date
36 Pitt St Richmond	- DA for 40 place pre-school - S96 Modification to change operating hours from 7:30-5:30 to 7:00 - 6:00.	35-40	13/10/92 10/6/03
95 Francis St Richmond	- DA for 16 place kindergarten - Approval to increase to 22 children - DA to change hours from 8:00 - 4:00 to 7:00 - 6:00	30 -35	15/5/84 17/3/95 30/5/05

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Property	Development	ANEF zone	Approval date
69 Andrew Thompson Dr Mc Graths Hill	DA for 40 place child care centre	20 - 25	25/6/85
45 Dight St Richmond	DA for 39 place child care centre	30-35	4/1/02

The applicant also refers to a development at 91 Francis St Richmond, however, this was professional chambers for the NSW Family Day Care Association, not a child care centre. The other properties cited by the applicant include residential, commercial and motel developments and are not comparable to the subject development.

Although a noise assessment report was prepared for the Dight Street development in 2002, it is fair to say that until recently, Council has been relatively flexible in relation to aircraft noise impacts. However, there has been a number of events which have led to the need for a strict application of the guidelines relating to aircraft noise.

The applicant has also submitted a letter from Council's Family Day Care Services Manager in relation to home based child care. It would appear that the owner has made a separate application for registration for home based child care. This is limited to seven children, and although regulated in terms of safety, does not require development consent. The letter lists some eight alterations, which would be required to the home. The applicant believes that this should assist in giving favourable consideration to his development application.

There is a vast difference between home based child care and the current application which is for a full-time child centre for 135 children. It is considered that the home based child care application is not relevant to Council's consideration of the DA.

Recent Events

In February 2004 Council adopted draft amendment 130 to HLEP1989 following public exhibition. One of the effects of this amendment was to exclude land within the ANEF contours from the multi unit housing zone.

In November 2004 a case was decided in the Land and Environment Court in relation to a multi-unit development at No. 5 Chapel Street Richmond. The site is within a 30-35 ANEF zone and the Court found the site to be unacceptable for multi-unit development, due to the noise affectation, and as no special case was made for exclusion in terms of AS2021 the application was refused. This was a landmark case in that when detailed evidence was analysed, the only way a building could comply with the Australian Standard was, in addition to insulation, thicker glazing etc, to mechanically ventilate the building at all times. As soon as a window is opened the building would not comply. Clearly this is not acceptable from an amenity or energy efficiency point of view.

In February 2005, the Department of Defence first expressed concerns about industrial development close to the runway. Until that time no protocol existed for referring development applications to the Department. A number of discussions have been held since that time and a formal protocol is being developed. In the interim, Council staff have agreed to refer certain developments to the Department for comment, when there is a likelihood of impacting on flying operations.

In June 2005 the Department of Defence supplied a new 2014 ANEF map to Council staff. The Department has been asked to provide some additional information and clarification prior to presenting the map to Council for adoption.

Clearly there has been a closer focus on the impact of aircraft noise on development proposals in the last two years than ever before.

Court of Appeal Case

Advice was received in a solicitors' bulletin on 11 October 2005 that the NSW Court of Appeal recently found Port Stephens Council liable for damages for granting development consent in breach of its duty of care. The court found that the Council was negligent as a result of the failure to properly consider the issue of noise.

Briefly, Port Stephens Council approved a holiday cabin resort close to Williamstown RAAF base. Over the ensuing five years the aircraft noise became increasingly frequent to the point where the resort could not operate during weekdays. This case has direct implications for decisions by Hawkesbury Council.

Conclusion

The Department of Defence considers the development to be unacceptable, the Australian Standard AS2021 categorises the development as unacceptable and the Roads and Traffic Authority considers the development as undesirable.

It is understandable that the applicant may believe that he is not being afforded the same opportunity as some other existing developments. However, as is demonstrated within the background to this report, the applicant was fully informed at all times that the application would not be supported. It is considered that there is no special case in relation to AS2021.

Council has a duty of care in exercising its statutory powers, and this was highlighted in the recent Court of Appeal case, where the Court indicated that it will not give any latitude to councils in negligence suits merely because they are exercising their statutory powers.

Having considered all relevant matters, the subject site is clearly unsuitable for the development, which is proposed. Accordingly the application is recommended for refusal.

Conformance to Strategic Plan

The recommendation conforms with the objectives as set out in the Strategic Plan; i.e

"A prosperous community sustained by a diverse local economy that encourages innovation and enterprise to attract people to live, work and invest in the city", and

"Sustainable and liveable communities that respect, preserve and manage the heritage, cultural and natural assets of the City".

Funding

No impact on budget.

RECOMMENDATION:

- A. The development application for an educational establishment/childcare centre at Lot 1, DP 783233, No. 208 Richmond Road, Clarendon be refused for the following reasons:
1. The site is unsuitable for the proposed development.
 2. The proposed development is inconsistent with the provisions of Clause 37 of Hawkesbury Local Environmental Plan 1989 in that the land is subject to significant aircraft noise impacts and the proposal is unacceptable development on such land.
 3. The proposed development is contrary to the provisions of Chapter 1.3 in Part D of Hawkesbury Development Control Plan 2002 in that the building encroaches upon the building height plane.

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4. The proposed development is contrary to the building site acceptability classification based on ANEF Zones contained in Australian Standard AS2021 - Acoustics—Aircraft Noise Intrusion—Building Siting and Construction in that the proposed use is classified as unacceptable in the noise contour of the site.
 5. The proposed development is inconsistent with the objectives of Hawkesbury Local Environmental Plan 1989.
 6. The proposed development is inconsistent with the provisions of 9A and Draft Amendment 108 of Hawkesbury Local Environmental Plan 1989 in that it the application involves the provision of a traffic generating development having direct access onto an arterial road.
 7. The design of the proposed development will not provide an acceptable level of amenity for staff and children attending the child care centre.
 8. The access is unsuitable for the proposed development.
 9. The submitted drawings do not accurately describe the proposed building in that natural ground levels are not shown and access details relating to the proposal's compliance with the requirements of AS 1428 – Design for Access and Mobility have not been demonstrated.
 10. In the circumstances, approval of the development would not be in the public interest.
- B. 1) Council resolve to prepare a draft development control plan chapter for Aircraft Noise Exposure, with objectives including:
- To provide clear guidelines for potential development applicants as to suitable land uses where land is affected by ANEF contours.
 - To provide clear guidelines for the requirements for acoustic reports as necessary.
 - To provide clear and consistent direction for decision making where land is affected by ANEF contours.
 - To ensure as far as possible that development approvals do not place undue constraints on the future operation of the Richmond Air Base.
- 2) The draft DCP be reported to Council for endorsement prior to exhibition.

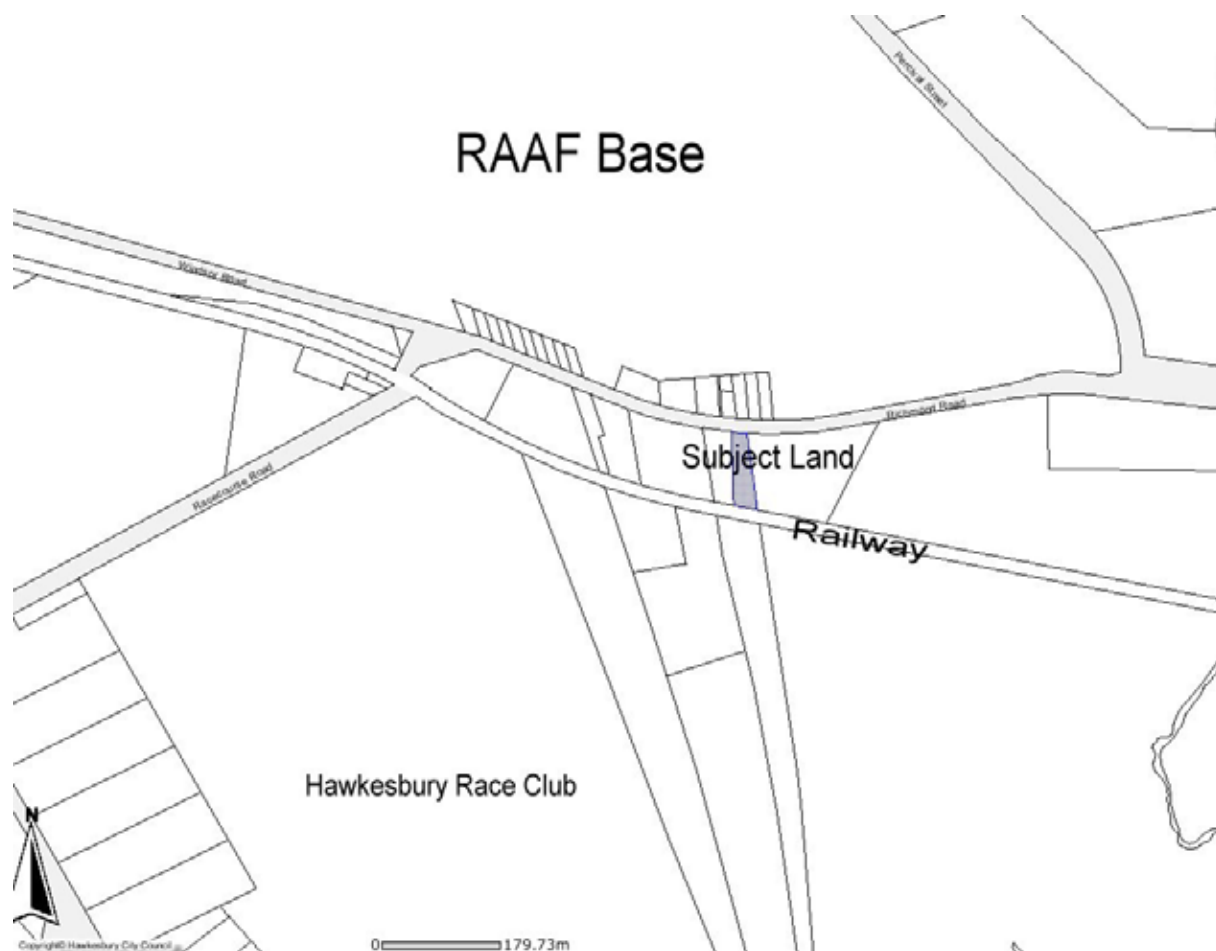
ATTACHMENTS:

AT - 1 Locality Plan

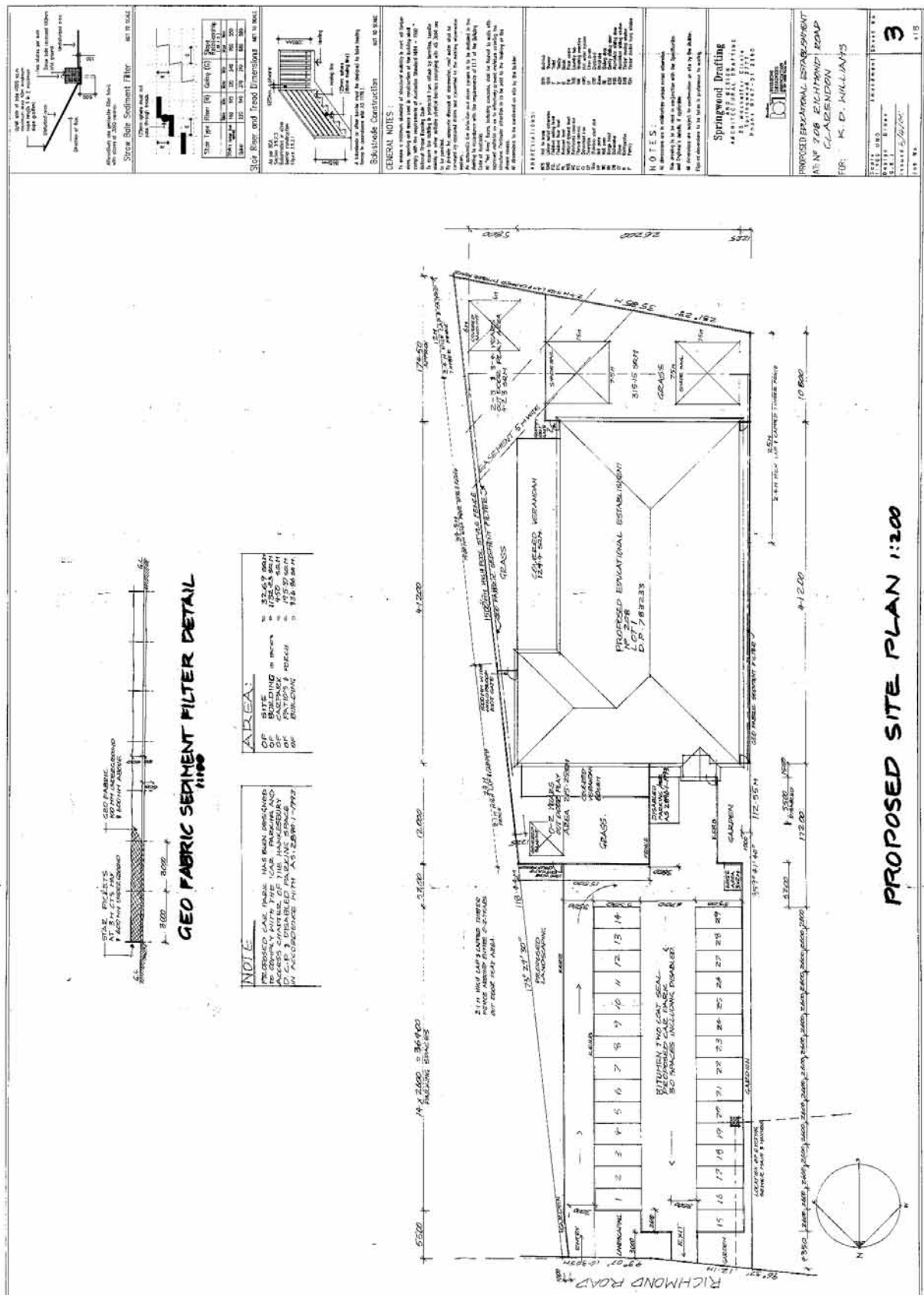
AT - 2 Site Plan

AT - 3 Elevations

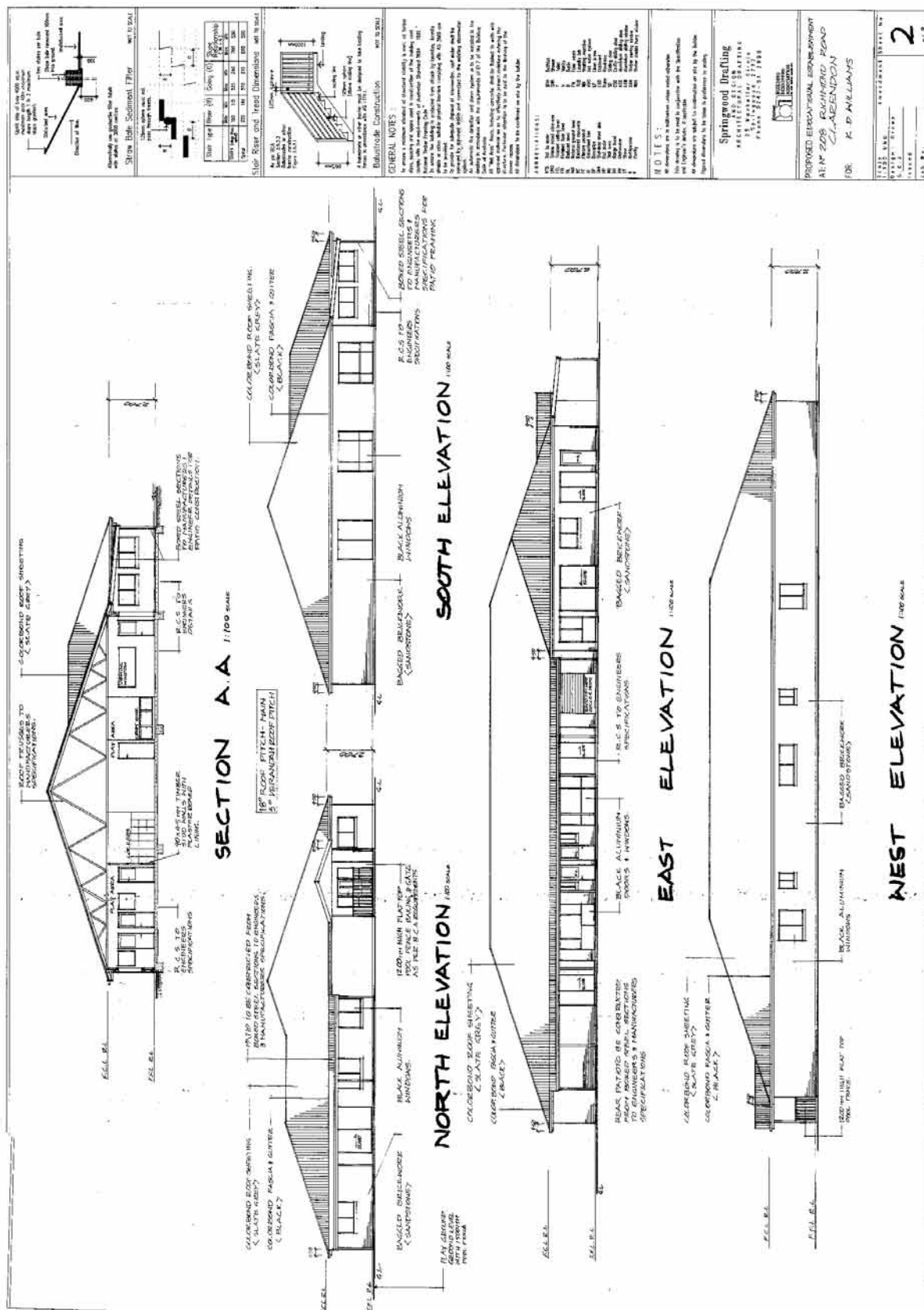
AT - 1 Locality Plan



AT - 2 Site Plan



AT - 3 Elevations



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Item: 325 **IS - Road Naming Proposal - Subdivision Lot 2 DP814567, Blaxlands Ridge Road, Kurrajong - (95495, DA1208/03)**

REPORT:

Incorporated within a three lot rural subdivision of Lot 2 DP814567, 703 Blaxlands Ridge Road, Kurrajong is a public road running in a generally north west direction from Blaxlands Ridge Road. This public road was originally a Crown Public Road. The transfer of the Crown Public Road to Council was Gazetted of 24 March 2005.

The plan of subdivision, was registered by the Land Titles Office as DP1082298 on 24 May 2005.

No suggested names have been put forward by the developer. In accordance with the guidelines set down by the Geographical Names Board of NSW and the requirements of the Road Act 1993, the Hawkesbury Historical Society and Council's Library Historian were approached to ascertain names for this new public road. The following information as provided is listed below.

Hawkesbury Historical Society recommends the name "Trafalgar". The Bicentenary of this battle falls on the 21 October 2005.

On receipt of the news of Nelson's victory the Bowman Flag was designed and flown in the Hawkesbury. The flag was the first flag designed in this country and was the first flag to include the kangaroo and emu, which are now part of the Australian Coat of Arms.

Hawkesbury City Council Library Historian advises the following suggestions:

- Ironbark Ridge - The name of the ridge at Blaxlands Ridge.
- Mitchell - Name of the first title holder of the land through which the road runs.
- Kirkwood - Lillian Kirkwood was a nurse and midwife who attended to the health needs of the "Ridge" for many years from 1930s.
- Connor - Nora Connor was a teacher at the school from 1930s and her home still stands a short distance from the school.
- Tierney - One of the families who lived on the "Ridge" for many years.
- Hennessey - (need to check exact spelling) another of the families who lived on the "Ridge" for many years.
- These are all names drawn from the local area.

With regard to "Trafalgar", the significance of this event in establishing British Maritime hegemony is recognised; however, the name/event is of singular import to the British nation. Evidence by the fact that Nelson's flagship, "Victory", is still maintained as a fully commissioned warship of the British Navy. It is felt that the Australian National identity has emerged sufficiently to recognise its own citizenry/event/milestones.

To this end it is suggested that the name "Kirkwood" be allocated to this road on the following bases:

- a) Lillian Kirkwood was a local identity within the Blaxlands Ridge community, she was a nurse/midwife.
- b) As nurse/midwife, Lillian Kirkwood fulfilled a crucial role within, at that time, a relatively isolated community requiring independent and self-reliance in serving the various needs of the community.

Conformance to Strategic Plan

The proposal has no linkages to the objectives set out in Council's Strategic Plan.

Funding

Funding is available within the current budget.

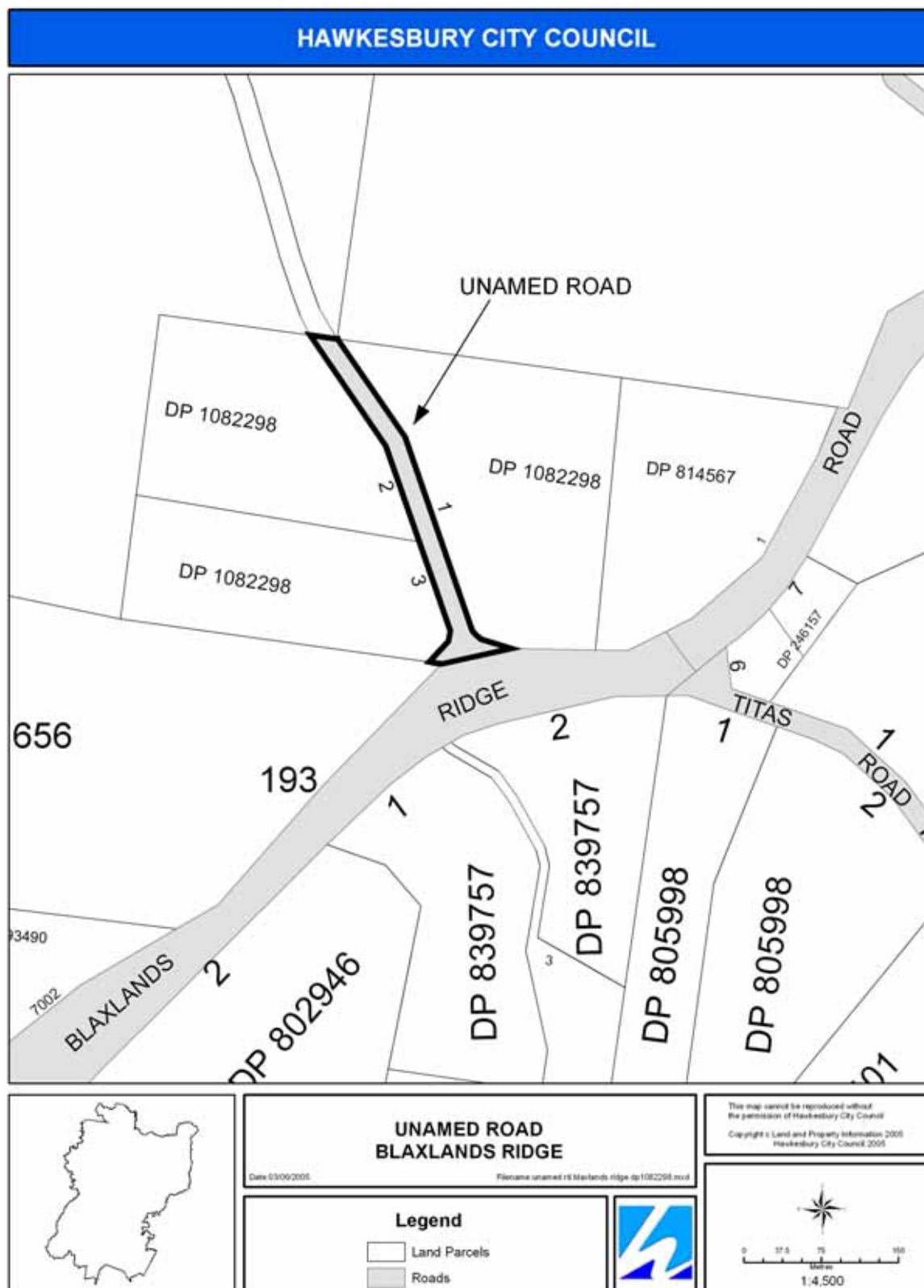
RECOMMENDATION:

That public comment be sought regarding naming of the proposed public road within the subdivision of Lot 2, DP814567 Blaxlands Ridge Road Kurrajong as "Kirkwood Road".

ATTACHMENTS:

AT - 1 Sketch Plan

AT - 1 Sketch Plan



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