



Hawkesbury City Council

hawkesbury
local
planning
panel
meeting
business
paper

date of meeting: 18 October 2018

location: council chambers

time: 12:30 p.m.

HAWKESBURY LOCAL PLANNING PANEL MEETING

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Item: 007

SS - Pecuniary Interest Returns - (95496, 96333, 95498)

EXECUTIVE SUMMARY

Hawkesbury Local Planning Panel (HLPP) Members are required by the Code of Conduct for Local Planning Panel Members (the Code) to complete a Pecuniary Interests and Other Matters Return form identifying any pecuniary and other types of interests that they hold as at their date of commencement as a HIHAP Panel Member.

The Return forms for all HLPP Members have recently been lodged with Council on behalf of the HLPP Chair, and the Returns are now tabled at the HLPP Meeting as required by Section 4.22 of the Code.

REPORT:

Hawkesbury Local Planning Panel (HLPP) Members are required by Section 4.18(b) of the Code of Conduct for Local Planning Panel Members (the Code) to complete a Pecuniary Interests and Other Matters Return form identifying any pecuniary and other types of interests that they hold as of the 30 June of each year.

This is because HLPP Members hold a position involving the exercise of functions that, in their exercise, could give rise to a conflict between the person's duty as delegate of Council and the person's private interest.

According to Sections 4.18(b) and 4.22 of the Code, these Return forms must be lodged with the Panel Chair, and must be tabled at the first HLPP Meeting after 30 June of each year.

Section 4.20 of the Code states that the HLPP Chair will provide the lodged Returns to Council's General Manager, who will keep the register of Returns and will cause the Returns to be published on Council's website, with the exception of the addresses of the Panel members' principal places of residence.

The Return forms for all HLPP Members have recently been lodged with Council on behalf of the HLPP Chair, and the Returns are now tabled at the first HLPP Meeting after the required lodgement date.

RECOMMENDATION:

1. That the Section 4.18(b) Pecuniary Interest Returns be received and noted.
2. That the Section 4.18(b) Pecuniary Interest Returns be made available on Council's website.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 008 CP - DA0539/17 - Lot 4 DP 579215, 152 Mountain Avenue, Yarramundi
NSW 2753 - (95498, 142164)

Directorate: City Planning

DEVELOPMENT INFORMATION

File Number: DA0539/17
Property Address: Lot 4 DP 579215,
152 Mountain Avenue YARRAMUNDI NSW 2753
Applicant: Clayton Court
Owner: J & C Property (NSW) Pty Ltd
Proposal Details: Truck Depot and Associated Drive Way/Manoeuvring Area
Estimated Cost: \$545,000.00
Zone: E4 Environmental Living under *Hawkesbury Local Environmental Plan 2012*.
Date Received: 14/09/2017
Advertising: 27/09/2017 - 11/10/2017 and 13/08/2018 – 27/08/2018

Key Issues:

- ◆ Non-compliance with zone objectives
- ◆ Amenity impact (noise, dust)
- ◆ Increased traffic movement

Recommendation: Refusal

REPORT:

Executive Summary

This application seeks consent for the erection of a 720m² (30m x 24m) building and for the use of the building as a truck depot at 152 Mountain Avenue, Yarramundi.

The proposed use as a truck depot is permitted on the land pursuant to the provisions contained in the Hawkesbury Local Environmental Plan 2012. An assessment of the proposal revealed that the development is inconsistent with the relevant planning matters applicable to the development.

The proposed development is not considered to be a low impact development and is inconsistent with the zone objectives in that it will create or contribute to rural land use conflicts. The proposed development is inconsistent with the established character of the locality. The information submitted is deficient in addressing, minimising or mitigating a range of critical issues (e.g. noise, waste, dust, plan of management, access, landscaping), with the operation of the activity likely to cause a nuisance and disturbance to residents in the locality.

The proposal was notified twice due to the amendment of the design. Council received 13 objections during the first notification period and 21 objections during the second notification period. An assessment of the issues raised in the objections received revealed that the main concerns pertaining to the development relate to non-compliance with zone objectives, amenity impacts (noise and dust), increased traffic movements, insufficient information submitted with the application and adverse cumulative impacts for the locality. The information submitted with the application has been reviewed and has failed to satisfy concerns raised in the objections received.

It is therefore recommended that the proposal not be supported.

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Reasons for Reporting to Local Planning Panel

The proposal is being reported to Local Planning Panel under the *Environmental Planning and Assessment Act 1979* due to the fact that 21 objections were received during the notification of the application.

Description of Proposal

The property has a site area of 20.77 hectares and is currently vacant. The proposed truck depot will involve the construction of a 720m² of building measuring 30m long x 24m wide x 7.55m high at Lot 4 DP 579215 152 Mountain Avenue, Yarramundi NSW 2753. The proposed building will be located at the front south eastern corner of the site.

The total proposed works are to occupy approximately 2000m² of the property. A new 5m wide vehicle access is proposed to be constructed which will have a setback of 67.4m from the south eastern corner of the property boundary. A 10m wide x 45.2m long hardstand area will be constructed at the end of the vehicle access to the front of the building. This area is proposed to be used for manoeuvring purposes. The proposal also includes the construction of a hardstand area of 364.8m² (15.2m wide x 24m long) to the south of the proposed building.

The development is proposed to be setback approximately 47.07m from the front boundary and 57.39m from the adjoining eastern property boundary. Landscaping is proposed along the southern and western side of the driveway/hardstand area. A 15m wide landscaped area is also proposed to the south of the hardstand area. The submitted plan depicts retaining walls along the western end of the building.

The proposed truck depot building will have an open plan storage area with a lunch room and two toilets. The submitted amended floor plan did not nominate approximately how many and what type of vehicles/equipment will be stored within the building. No information was provided whether vehicles/equipment would be stored outside of the building.

The submitted additional information dated 20 June 2018 stated as follows;

'the maximum number of plant and equipment that would be stored on the site at any one time during the Christmas and Holiday period would be between 6-10.'

It is noted that the footprint of the proposed truck depot was amended later. The original proposal involved construction of a 1440m² of building measuring a dimension of 60m long x 24m wide x 7.55m high at the same location of the property. The submitted original Statement of Environmental Effects describes the proposal as follows:

'the site will be owned/occupied by a civil pipe laying company which installs water and sewer mains, large stormwater pipes and culverts, and carries out general civil works.'

The site will be used for vehicles and equipment when not in use and occasional servicing and repair of same, otherwise work is done on job sites. Most vehicles and equipment are stored overnight on the job site whilst in use.

The following is a list of vehicles and equipment stored on the subject site when not in use:

3xSkid steers
7xExcavators of various capacities
1xRoller
2xTrucks
3xTrailers
Several utes

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There will be no permanent staff on site, with 1-2 maximum staff visits per day to pick up machinery or parts. Movements of major vehicles or equipment will average approximately 1 per week however some weeks will exceed this and other weeks will involve no movements.

Hours of operation of the proposal will be as follows:

Monday to Friday – 6:30am – 6:30pm

Saturday – 6:30am – 2:30pm

Sunday – no operations

Minor servicing is proposed at the site. Oil changes and major maintenance are proposed to be undertaken off site.

The application is supported by the following:

- a Statement of Environmental Effects; and
- a Noise Impact Assessment

Site and Locality Description

The subject property is legally described as Lot 4 DP 579215 and has an area of approximately 20.77 hectares. The property is irregular in shape. The site is currently vacant. The site is bounded by Grose River to the north, large rural residential lots to the east and west, and Mountain Avenue to the south.

The property is predominantly cleared at the front north eastern part of the land. The front part of the land is relatively flat, and then the land falls to the rear of the property. The rear part of the land along Grose River is flood affected. The land is identified as bush fire prone.

Surrounding development generally comprises of rural, rural residential and agricultural land. The land, directly opposite the site, operates a truck depot business.

Background

14 September 2017	Development Application No. DA0539/17 was lodged with Council.
27 September 2017	The application was notified in accordance with Part A chapter 3 of the Hawkesbury DCP 2002 from 27/09/2017 to 11/10/2017. 14 submissions including 13 objections were received in response to this notification.
27 September 2017	An initial review letter was issued to the applicant requesting to provide additional information including an acoustic report, stormwater drainage concept plan, details of all earthworks and to pay additional fees on the basis of the increased estimated cost of development.
18 October 2017	The applicant requested three weeks extension to provide the requested information. An extension was granted till 10 November 2017.
26 October 2017	Additional information was requested by Council in relation to chemical storage, a detailed waste management plan and responses for the public submissions received.
10 November 2017	Amended plans were received showing a relocated vehicle access way, cut and fill, stormwater concept plan and location of a septic tank.
20 December 2017	Additional information including a noise impact assessment report, amended plans as submitted previously on 10 November 2018 and responses to the submissions were received. However, no detailed waste management plan was received.

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- 6 February 2018 The applicant was advised that the proposal was reviewed by Council's internal Development Review Panel and was not supported due to the bulk, scale and industrial nature of the development. The applicant was requested to withdraw the application.
- 9 April 2018 Council officers had a meeting with the applicant and raised concerns that the proposal is not considered to be a low impact development and unlikely to be supported. The applicant advised that they intended to amend the proposal by reducing the bulk and size of the proposed development.
- 26 July 2018 Amended plans reducing the size of the building and a cover letter justifying the proposal as a low impact development were submitted by the applicant.
- 13 August 2018 The amended application was notified in accordance with Part A chapter 3 of the Hawkesbury DCP 2002 from 13/08/2018 to 27/08/2018. 21 submissions, all objecting to the proposal, were received in response to this notification.

History of Approvals

- DA0035/12 Dwelling, rural shed and swimming pool (approved on 17/06/2013).
The consent lapsed on 17 June 2018.

Council Policies, Procedures and Codes to which the matter relates

Greater Sydney Regional Plan and Western City District Plan
State Environmental Planning Policy No. 33 - Offensive and Hazardous Industry (SEPP 33)
State Environmental Planning Policy No. 44 - Koala Habitat Protection (SEPP No. 44)
State Environmental Planning Policy No. 55 - Remediation of Land (SEPP No. 55)
Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 - 1997) (SREP No. 20)
Hawkesbury Local Environmental Plan 2012 (LEP 2012)
Hawkesbury Development Control Plan 2002 (HDCP 2002)

Matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP & A Act)

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

a) The provisions (where applicable) of any:

i. Environmental Planning Instrument:

State Environmental Planning Policy No. 33 - Offensive and Hazardous Industry (SEPP 33)

The submitted documentation identified the approximate amount of chemicals/ fuels to be stored within the site. The proposal will involve a small quantity of hydraulic fluid (maximum five litres), engine oil (maximum 10 litres), radiator coolant (maximum 10 litres), windscreen wash (maximum five litres). The chemicals are proposed to be stored within a plastic bunded area. These volumes are relatively minor and do not trigger the proposal to be a 'potentially hazardous industry' within the terms of SEPP 33 – Hazardous and Offensive Development.

44) State Environmental Planning Policy No. 44 - Koala Habitat Protection (SEPP No.

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SEPP No. 44 applies to land within the Hawkesbury Local Government Area to which a development application has been made that has an area of more than one hectare. Circular No. B35 was issued by the former Department of Planning (DIPNR) on 22 March 1995. The purpose of the Circular was to provide information relating to the implementation of SEPP 44 and to provide the Guidelines made by the Director for the purposes of the SEPP.

Section 1.5 of the Circular states that:

"In relation to affected DAs it is the intention of the policy that investigations for 'potential' and 'core' koala habitats be limited to those areas in which it is proposed to disturb habitat".

The site exceeds one hectare in area and therefore triggers the requirements of SEPP No. 44. However, as per the submitted documentation the proposed development does not request the removal of native vegetation.

It is noted that no details have been provided for the proposed construction of the access within the unformed section of Mountain Avenue which may require removal of trees within road reserve. In that case, a flora – fauna assessment report including an investigation under this policy would be required for the development. At present with the submitted information the impact on Koala Habitat is not able to be assessed.

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP No. 55)

Clause 7(1) of SEPP 55 outlines a consent authority *"must not consent to the carrying out of any development on land unless:*

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose".*

Whilst limited information has been submitted regarding the history of the site, it appears that the land was previously used for rural residential purposes. As the application involves an industrial – style use there is no evidence to suggest that the land is unsuitable with respect to the provisions of SEPP No. 55.

Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2 - 1997) (SREP No. 20)

This Policy aims *"to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context"*. SREP No. 20 requires an assessment with regard to the general and specific considerations, policies and strategies set out in the Policy.

Insufficient information has been provided and therefore does not allow for a proper assessment of the development against the provisions of this Policy.

It is noted that minor servicing is proposed at the site. The applicant was requested on 26 October 2017 to provide a detailed waste management plan specifying all oils and fluids associated with the servicing of vehicles onsite, detailing the collection and treatment methods proposed, information regarding the disposal of used tyres and details of spill management, bunding and cleaning procedures.

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The additional information submitted on 20 December 2017 states as follows:

'the volume of chemicals stores are small as the works undertaken to the trucks and equipment is minor involving the checking of the fluids and topping up as needed. Oil changes and other major repairs are undertaken off site'.

No detailed waste management plan was provided for the proposed truck depot operation on the property.

Hawkesbury Local Environmental Plan 2012 (LEP 2012)

The subject land is zoned E4 Environmental Living under Hawkesbury Local Environmental Plan 2012.

The prepared documentation suggests that the application involves the use of the proposed building to operate as 'truck depot'. Truck depots are permissible within the E4 Environmental Living zone.

The following definitions within the HLEP 2012's Dictionary are relevant to this proposal:

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

Earthworks mean *excavation or filling.*

Clause 2.3 refers to zone objectives and the land use tables. Clause 2.3(2) is very specific and states that the consent authority *'must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone'.*

The Land Use Table of the HLEP 2012 establishes the following zone objectives for the E4 Environmental Living zone;

- *To provide for low impact residential development in areas with special ecological, scientific or aesthetic values;*
- *To ensure that residential development does not have an adverse effect on those values;*
- *To restrict development on land that is inappropriate for development because of its physical characteristics or bushfire risks;*
- *To ensure that land uses are compatible with existing infrastructure, services and facilities and with the environmental capabilities of the land;*
- *To encourage existing sustainable agricultural activities;*
- *To ensure that development does not create or contribute to rural land use conflicts;*
- *To promote the conservation and enhancement of local native vegetation, including the habitat of threatened species, population and ecological communities by encouraging development to occur in areas already cleared of vegetation;*
- *To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.*

The proposed truck depot is not considered to be a development with a low impact within E4 zoned land. The original proposal involved the construction of a building having a floor area of 1440m² which has a capacity to store a number of vehicles/ trucks and equipment including three skid steers, seven excavators of various capacities, one roller, two trucks, three trailers and several utes. The applicant was advised that the proposal

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could not be supported and later it was subsequently amended by reducing the size of the building to 720m².

The additional information as submitted on 20 June 2018 justifies the bulk and scale of the proposal as follows;

'The Council Farm and Outbuilding Chapter of the Hawkesbury DCP 2002 based on the area of the site which is 20.77ha would permit a maximum size of 575sqm for an outbuilding and together with an open awning of 172sqm (30% of the maximum floor area) giving a total building footprint of 747sqm.

The proposed amended building with a floor area of 740sqm would have slightly small footprint that would be permitted under the Farm building and Outbuilding chapter of the DCP.

The amended shed size and scale based on the building footprint is like the maximum size of the building foot print permitted under the DCP controls and thus is considered to be consistent with the Council controls for shed size.

The maximum number of plant and equipment that would be stored on the site at any one time during the Christmas and Holiday period would be between 6 – 10.

The applicant compared the size of the truck depot with the maximum allowable footprint of an outbuilding on the property. Although the size of the proposed building is similar to that of an outbuilding permitted on the site, the intended operation of the building is not ancillary to any normal domestic use of the land as there is no dwelling on the subject site. As a result the Farm and Outbuilding Chapter of the Hawkesbury DCP 2002 is not relevant to this proposal. Furthermore the proposed operation of the building as truck depot is similar to an industrial type of development and is likely to have adverse amenity impact on the adjoining neighbours and the locality.

The amended floor plan of the building does not detail the type or number of trucks/vehicles/equipment to be stored within the building. It is not clear from the submitted information whether any of the trucks/vehicles/equipment will be parked on the hardstand area during the Christmas and holiday season.

Insufficient information has been provided to properly assess the likely impacts on the locality. The submitted acoustic report has not taken into consideration the increased vehicle movements in and out of the proposed truck depot during the Christmas and holiday season. No detailed plan of management and detailed waste management plan were submitted in support of the proposed development. Given the industrial nature of the development and the fact that insufficient information has been provided appertaining to a range of critical areas (e.g. noise, waste, dust, plan of management, new driveway access, landscaping) associated with the operation of the activity it is considered that the proposal is likely to cause a nuisance and disturbance to residents in the locality and adversely impact the water catchments.

The proposed development is considered to be noncompliant with the zone objectives in that:

- it is not considered to be a low impact residential development,
- It does not encourage sustainable agricultural activities,
- it will create or contribute to rural land use conflicts;
- the proposal does not promote the conservation and enhancement of local native vegetation as some clearing will be required to accommodate access to the property; and

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- it has the potential to adversely affect water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystem such as waterways such as the Grose River which is adjacent to the development.

Clause 6.2 Earthworks

The submitted plan indicates earthworks for the proposed building footprint, hardstand area and new vehicle access. However, no details have been submitted in relation to the proposed works in the road reserve and within the unformed section of Mountain Avenue. Details including long and cross sections of cut and fill areas and source of filling have not been provided. This component of the development can therefore not adequately be assessed.

Clause 6.3: Acid Sulfate Soils

The proposed truck depot is located within land identified as Class 5 Acid Sulfate Soils. It is considered that the proposed land use could be managed in a manner that would not have an adverse impact upon acid sulfate soils. Furthermore works associated with the proposal are not likely to lower the water table.

Clause 6.4 Terrestrial Biodiversity

The land is identified on the Hawkesbury Local Environmental Plan 2012 Terrestrial Biodiversity Map as being affected by biodiversity. The submitted documentation indicates that no vegetation removal is required for the proposed construction of the truck depot. However, it is noted that a new vehicle access is proposed within the unformed part of Mountain Avenue. Insufficient information has been provided as to whether any vegetation removal is required within this unformed part of the road as well as within the road reserve.

ii. Draft Environmental Planning Instrument that is or has been placed on exhibition and details of which have been notified to Council:

There are no Draft Environmental Planning Instruments relevant to the subject land or development.

iii. Non-Statutory Documents

Greater Sydney Region Plan and Western City District Plan

The Greater Sydney Region Plan is the new regional plan for the Sydney metropolitan region, produced by the Greater Sydney Commission. The Western City District Plan is a sub-plan which provides more detailed strategic planning for the Western district in respect of economic, social and environmental matters. It includes the planning priorities for the district and actions to achieve these priorities.

The following objectives as specified in the Greater Sydney Region Plan and priorities as specified in the Western City District Plan are relevant to the proposed development;

Objective 27 Biodiversity is protected, urban bushland and remnant vegetation is enhanced Planning Priority W14 Protecting and enhancing bushland and biodiversity

The subject property is located in E4 Environmental Living zone and is identified on the Hawkesbury Local Environmental Plan 2012 - Terrestrial Biodiversity Map as being affected by biodiversity.

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Insufficient information has been submitted to properly assess this impact on the existing biodiversity. In particular no detailed plan of management, or detailed waste management plan or detailed landscaping plan has been provided in order to undertake a proper assessment of the likely impact on existing biodiversity on the subject land and immediate vicinity.

Objective 28 Scenic and cultural landscapes are protected

It is considered that the 7.5m high proposed building will have a visual dominance within the immediate locality.

Objective 29 Environmental, social and economic values in rural areas are protected and enhanced Planning Priority W17 Better managing rural areas

The increased traffic movement, noise and dust generation and visual dominance are considered to have adverse cumulative impacts to the existing rural residential character in the locality.

iv. Development Control Plan applying to the land:

An assessment of the proposal against the relevant provisions of the Hawkesbury Development Control Plan 2002 follows;

Part A Chapter 2 – General Information

The subject application fails to provide adequate information for the assessment of the proposal and therefore does not comply with this chapter.

Part A Chapter 3 – Notification

The original application was notified between 27/09/2017 and 11/10/2017. 13 submissions were received by Council including 13 objections. The proposal was amended later and was renotified between 13/08/2018 and 27/08/2018. A total of 21 submissions were received by Council which all raised objections against the proposal.

Part C Chapter 4 – Soil Erosion and Sediment Control

Erosion and sediment control can be enforced through conditions of consent in accordance with this chapter if the proposal is supported.

Part C Chapter 1 – Landscaping

A concept landscape plan is provided, however it lacks details of a tree planting program. A detailed landscaping plan including number of plants, species, height and spread, pot size was not submitted to undertake a proper assessment against this chapter. The landscaping plan is to nominate specific species at specific location for relevant purposes such as to minimise dust impact, improve privacy and screening and reduce visual impact etc.

Part C Chapter 2 – Car Parking and Access

The development is proposed to access Mountain Avenue on a section of road which is unformed and to construct a new driveway access. The development is proposed to store large trucks and equipment and utilise the road on a regular basis. In this regard, the unformed section of the road needs to be sealed for a certain distance so that large vehicles can adequately turn around at the end of the road if required. However, no details have been provided in relation to the proposed works within the unformed section

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of Mountain Avenue and within road reserve. No details have been provided whether any vegetation removal is required for the proposed vehicle access.

Concern is also raised regarding the safe manoeuvring of the large vehicles within the proposed hardstand area, in and out of the proposed building and exiting the site in a forward direction. It is noted that the submitted amended floor plan does not provide details about what type of vehicles/equipment would be housed within the building.

In particular, concern is raised that sufficient manoeuvring area is not available at the north eastern corner of the access way for the vehicle to be parked within the smaller bay next to lunch room. It is considered that insufficient information has been provided to make a detailed assessment of the proposal against the requirements of this chapter.

iii. Planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4:

Not applicable.

iv. Matters prescribed by the Regulations:

The Environmental Planning and Assessment Regulation 2000 provides that:

- The proposal be levied against Council's Section 94A Development Contributions Plan. In this respect, Council's Section 94A Development Contributions Plan 2015 would require a 1% levy to be paid on the development based on the estimated development cost; and,
- That the development shall comply with the provisions of the Building Code of Australia (BCA) / National Construction Code.

The nominated cost of development is \$545,000.00 and therefore if approved, the Section 94A contribution would be approximately \$5,450.00. Given the time that the application has been under assessment, and changes to the proposed built form, a revised cost of works would be required, prior to setting this figure in a condition in the event of approval being granted.

b) The likely impacts of that development, including environmental impacts on both the natural and built environments and the social and economic impacts in the locality:

Context and Setting

The locality contains a mix of rural residential uses and agricultural uses. The proposed development is considered inconsistent with these land uses. Given the industrial nature of this development it is not considered to be a low impact development especially within the existing rural and rural residential locality. The proposed development will also adversely impact on the scenic quality of the landscape.

Noise

The movement of trucks, use of heavy machinery, maintenance and servicing works and other aspects of the depot have the potential to create adverse acoustic impacts on the surrounding area. The applicant has undertaken a noise assessment report in accordance with the relevant industrial acoustic policies to determine whether the proposed use is compliant.

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The submitted 'Noise Impact Assessment' dated 20 December 2017 prepared by Day Design Pty Ltd assessed the environmental noise impact from the proposed truck depot on the surrounding area. The submitted report assessed the noise impact based on the movement of on average one large vehicle (semi-trailer) carrying equipment per week and one to two small vehicles (utes or four wheel drives) per day.

The report states as follows:

'the main sources of noise emission on the site would be trucks arriving at the site, reversing to the loading bays, loading the equipment and then leaving the site and also utilities arriving and leaving the site...'

The nearest potentially affected residence is located at 146 Mountain Avenue, R1, to the east of the site.

In section 6 of the report a noise management plan is provided as follows;

'the predicted noise levels at the residential receiver, R1, have potential to be in excess of the acceptable noise limits established in Section 4 of this report, we therefore recommend the following 'Noise Management Plan'.

- *we recommend that no trucks arrive at or leave the site during the early morning period (6:30am to 7am);*
- *we recommend that no truck or heavy machinery movements take place on the site during the early morning period (6:30am to 7am); and*
- *staff in utility vehicles should be encouraged to enter and exit the site as quietly as possible during the early morning period (6:30am to 7am).'*

The additional information as submitted on 20 June 2018 states as follows;

'there are times of the year such as Christmas when the work sites are closed for several week and the operator wants the opportunity to be able to park and store the equipment in the shed rather than in the open on the work site...'

Based on the small scale of likely traffic movements per day and week and that the movements will not occur before 7am in line with the acoustic report recommendations of the acoustic report.

The maximum number of plant and equipment that would be stored on the site at any one time during the Christmas and Holiday period would be between 6 - 10.

It is considered that the submitted Noise Impact Assessment report provides insufficient information to assess the likely noise impact for the proposed development in that the report did not take into consideration the increased vehicle movements in and out of the proposed truck depot during the Christmas and holiday season.

Council's Environmental Health Officer has reviewed the submitted Noise Impact Assessment report and considered it to be unsatisfactory. It is considered that the proposed recommendations in Section 6 are difficult to monitor and regulate. Entering and exiting a property is also very difficult to regulate under environmental legislation. The proposal lacks a detailed noise management plan which should include the proposed hours of operation and proposed movement of vehicles throughout the day including the Christmas and holiday season. No specific noise mitigation measure has been recommended for the nearest affected property at 146 Mountain Avenue.

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Dust

The front part of the land has previously been cleared. The bare land is causing a dust nuisance to the neighbouring property. The proposed construction and operation of the truck depot is likely to worsen the present situation. No specific management measures or future replantation program have been nominated as part of the proposal to minimise any dust impact.

Visual Impact

The proposed truck depot will be located at the end of Mountain Avenue having a front setback of approximately 47m from the front boundary. The front part of the site has previously been cleared and scattered trees are located around the proposed location of the truck depot. It is acknowledged that a concept landscaping plan was submitted for the proposal. However, it is considered that the 7.5m high proposed building will have a visual dominance within the immediate locality. It is also not clear what type of vehicles / equipment will be parked within the building and if there is any outside parking of vehicles/equipment proposed.

Given the maximum number of vehicles to be stored at any one time is six to 10, there is a likelihood that vehicles/equipment will be parked on the open hardstand area which will create an adverse visual impact of the site. The proposed truck depot would have an appearance of an industrial development and does not positively contribute to the landscape values of the locality which is made up of a combination of rural residential and agricultural uses.

Waste

Additional information was requested by Council for the Applicant to provide a detailed waste management plan specifying all oils and fluids associated with the servicing of vehicles onsite and detailing the collection and treatment methods proposed. The proposed location of chemicals storage on the site was also to be specified on the site plan.

The additional information as submitted on 20 December 2017 detailed the amount of chemicals to be stored on site. However, no detailed waste management plan associated with the truck depot operation as well as the collection and treatment of potential spillage of any waste was submitted.

Plan of Management

The Applicant did not provide a detailed Plan of Management (POM) satisfying the planning principles established in *Renaldo Plus 3 Pty Limited v Hurstville City Council* [2005] NSWLEC 315 and *Amazonia Hotels Pty Ltd v Council of the City of Sydney* [2014] NSWLEC 1247. The POM will need to address specific operational issues including noise, traffic movements, parking and arrival of staff, waste, light spill, dust control, run off, vegetation removal and any other relevant matters.

The planning principle provides the following assessment;

Management Plans (or similarly named documents) provide further details on the operation of a particular use that may not necessarily be appropriate as conditions of consent. Management Plans are a well known concept in environmental law (Transport Action Group Against Motorways Inc v Roads & Traffic Authority [1999] NSWCA 196 at par 122) and can be used in a range of different circumstances. Often, and is the case in this application, the contents of a Management Plan are critical to the decision of whether a development application should be approved or refused.

In considering whether a Management Plan is appropriate for a particular use and situation, the following questions should be considered:

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1. *Do the requirements in the Management Plan relate to the proposed use and complement any conditions of approval?*
2. *Do the requirements in the Management Plan require people to act in a manner that would be unlikely or unreasonable in the circumstances of the case?*
3. *Can the source of any breaches of the Management Plan be readily identified to allow for any enforcement action?*
4. *Do the requirements in the Management Plan require absolute compliance to achieve an acceptable outcome?*
5. *Can the people the subject of the Management Plan be reasonably expected to know of its requirements?*
6. *Is the Management Plan incorporated in the conditions of consent, and to be enforced as a condition of consent?*
7. *Does the Management Plan contain complaint management procedures?*
8. *Is there a procedure for updating and changing the Management Plan, including the advertising of any changes?*

It is considered that a plan of management is appropriate to be submitted for this proposed development. The plan of management would be greatly beneficial to understand the proposed truck depot activity, likely impacts to be generated due to proposed operation and mitigation measures to minimise those environmental impacts. The Plan of Management will assist to monitor and regulate the operation and minimise any conflict if approved.

In this instance, the applicant did not submit a plan of management outlining all the proposed activities, likely impacts and mitigation measures, therefore a proper assessment of the proposal cannot be carried out.

Lighting

The submitted additional information dated 20 December 2012 indicates that security lighting would be installed. However, a plan or specification detailing all required lighting accompanied by a report confirming compliance with AS 4282 - Obtrusive Effects of Outdoor Lighting has not been provided.

Cumulative Impacts

The truck depot is proposed in E4 zoned land and at the end of Mountain Avenue. An existing truck depot is already operating from the opposite property on 135 Mountain Avenue. The proposed truck depot will increase the truck/large vehicle movements on Mountain Avenue. Given the location of the proposed development at the end of the road, all existing rural residential properties on Mountain Avenue are likely to be impacted by the increased noise and dust generated by the truck/vehicle movements in particular during the holiday season.

Given the industrial nature of the proposed development is not considered to be of a low impact scale and support of this proposal will be likely to result in similar inappropriate development within the E4 Environmental Living area.

In addition, the application contains insufficient information to properly assess the proposed development, the likely impacts and possible mitigation measures. In this regard it is considered that the proposed development in its current form will result in adverse cumulative impacts to the locality.

c) **Suitability of the site for the development:**

Insufficient information has been provided to demonstrate the suitability of the site for the development.

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d) Any submissions made in accordance with the Act or the Regulations:

The original application was notified between 27/09/2017 and 11/10/2017. A total of 13 submissions were received by Council including 13 objections. The proposal was amended later and was renotified between 13/08/2018 and 27/08/2018. A total of 21 submissions were received by Council. All of the submissions raised objections against the proposal. The issues raised in the submissions have been listed and considered below:

1. *Non-compliance with zone objectives*

Officer's comment: As discussed earlier the proposed development is not considered to be a low impact development. The application also lacks adequate information in relation to a floor plan, noise impact assessment, detailed waste management plan, proposed road works, detailed landscaping plan and a plan of management. The proposed development in its current form is considered to be contrary to the zone objectives of E4 Environmental Living zone for reasons previously discussed in the report.

2. *Noise disturbance of adjoining properties from vehicles/large trucks in and out of the property*

Officer's comment: The submitted noise impact assessment assessed movements on average of one major vehicles or equipment per week and one to two small vehicles per day. Council's Environmental Health Officer has reviewed the report and considers that the mitigation measures as outlined in section 6 are difficult to monitor and regulate. The report also lacks information as it does not take into account the increased large vehicle movements during the Christmas and holiday period.

3. *Increased movement of large trucks on Mountain Avenue will affect safety to the residents and pedestrians.*

Officer's comment: It is acknowledged that Mountain Avenue is a quiet rural road without any footpath. An existing truck depot is currently operating from 135 Mountain Avenue. If this proposed truck depot on 152 Mountain Avenue is supported, the cumulative movement of large vehicles will be increased and will pose a risk to the safety of pedestrians.

4. *Dust impact on adjoining residents*

Officer's comment: It is noted that the front part of the subject land has previously been cleared and is causing a dust issue. The proposed construction and operation of the truck depot is likely to worsen the present situation. No such specific management measures or future replantation program have been nominated as part of the proposal to minimise dust impact.

5. *Pollutants and chemical run off to Grose River*

Officer's comment: It is noted that minor servicing is proposed at the site. The applicant was requested on 26 October 2017 to provide a detailed waste management plan specifying all oils and fluids associated with the servicing of vehicles onsite, detailing the collection and treatment methods proposed, information pertaining to the disposal of used tyres and detail regarding spill management, bunding and cleaning procedures. No detailed waste management plan was provided for the proposed truck depot operation on the property. The proposed

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operation of the truck depot has a potential to pollute the water catchment.

6. *Vegetation clearing of vegetation have been undertaken without consent and these works have impacted the natural environment*

Officer's comment: Council records indicate that a number of complaints were received from the neighbours concerning illegal vegetation clearing. It is noted that unauthorised vegetation clearing has occurred in 2016 and the owner/occupier was penalised on 17 June 2016. No further unauthorised clearing has occurred on the property since 2016. Various inspections were conducted on several occasions in 2017, however, no unauthorised vegetation clearing or earthworks were found.

7. *Cumulative adverse impact on the locality*

Officer's comment: As discussed earlier the proposed development in its current form will have an adverse cumulative impact on the immediate locality.

e) The Public Interest:

The claim within the Statement of Environmental Effects that the development is in the public interest is not supported.

The public interest is best served when development proposals are consistent with the established planning regime and can be managed efficiently to ensure there are positive outcomes resulting from development.

It is generally not satisfactory to simply claim that development is in the public interest because it is permissible with consent in a particular zone. Private interests are benefited from individual decisions and outcomes arising from permissible development, whereas the public interest is generally served by coordinated decisions that take into consideration a broader context and elevate outcomes above the mere perfunctory.

In this case, the land is located at the end of Mountain Avenue in the E4 Environmental Living zone. The proposed development is not considered to be a low impact development and is inconsistent with the relevant zone objectives. The information submitted is deficient in a range of critical areas (e.g. noise, waste, dust, plan of management, new driveway access) with the operation of the activity likely to cause a nuisance and disturbance to residents in the locality.

Internal Referrals

- *Engineering:* Council's Development Engineer has raised concern regarding the insufficient information provided in relation to the proposed works in the road reserve, manoeuvring within the hardstand area and safely manoeuvring in and out of the building and exiting from the site in a forward direction.
- *Environmental Health:* Council's Environmental Health Officer raised concern regarding the assessment of the proposed activity and recommended strategy as stated in the submitted noise impact assessment report. Council's officer did not support the proposal due to the lack of a plan of management and inadequate noise management measures.
- *Septic Management Facility:* Council's SMF Officer has raised concern regarding the inconsistent information submitted with the proposal.

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Development Contributions

Section 7.12 Fixed development consent levies (Hawkesbury Section 94A Contributions Plan 2015)

Given that the development is recommended for refusal the applicable development contributions are not payable.

Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act with all matters specified under Section 4.15 having been taken into consideration. The proposal is inconsistent with the E4 zone objectives and is likely to have negative impacts on adjoining properties in terms of noise and dust. The application is considered to present an unsatisfactory form of development and is recommended for refusal, for the reasons as outlined in the recommendation below.

RECOMMENDATION:

That Development Application No. DA0539/17 at Lot 4 DP 579215, 152 Mountain Avenue Yarramundi NSW 2753 for a truck depot and associated driveway and manoeuvring area be refused for the following reasons;

1. The proposed development fails to adequately respond to clause 2.3 of Hawkesbury Local Environmental Plan 2012, in regards to complying with the objectives of E4 zone, in its failure to demonstrate the development will operate in a way that will have a low impact on the locality and will not create or contribute to rural land use conflicts.
2. Insufficient information has been submitted to allow the full and proper assessment of the application.

Particulars:

- a) The submitted noise impact assessment has not taken into consideration the maximum movements of vehicles associated with the use of the truck depot during Christmas and the holiday season.
- b) The submitted noise impact assessment report has failed to provide a detailed noise management plan and mitigation measures to the affected neighbouring property.
- c) The submitted documentation does not provide a plan of management for the proposed operation of the truck depot.
- d) The submitted documentation does not detail the proposed works within the unformed section of Mountain Avenue and the road reserve. No details are provided as to whether any vegetation removal is required for the proposed construction of vehicular access.
- e) The submitted documentation does not provide a detailed landscaping plan demonstrating the minimisation of amenity impacts.
- f) The submitted documentation does not provide any detailed waste management plan including the collection and spillage of any waste associated with the truck depot operation.
- g) The submitted documentation does not provide adequate information to allow the full and proper assessment under Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2 - 1997).

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- h) The submitted documentation does not provide adequate information to allow the full and proper assessment under State Environmental Planning Policy No. 44 - Koala Habitat Protection.
- 3. The proposed development would have an adverse impact on the amenity of residents in the immediate locality in terms of noise, dust and visual amenity.
- 4. The proposed development is inconsistent with the established character of the locality.
- 5. Approval would not be in public interest.

ATTACHMENTS:

- AT - 1** Locality View
- AT - 2** Location of the proposed truck depot
- AT - 3** Site Plan of proposed development
- AT - 4** Floor Plan of the truck depot building
- AT - 5** Elevation of proposed building
- AT - 6** Section of the proposed building

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AT - 1 Locality View



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AT - 2 Location of the proposed truck depot

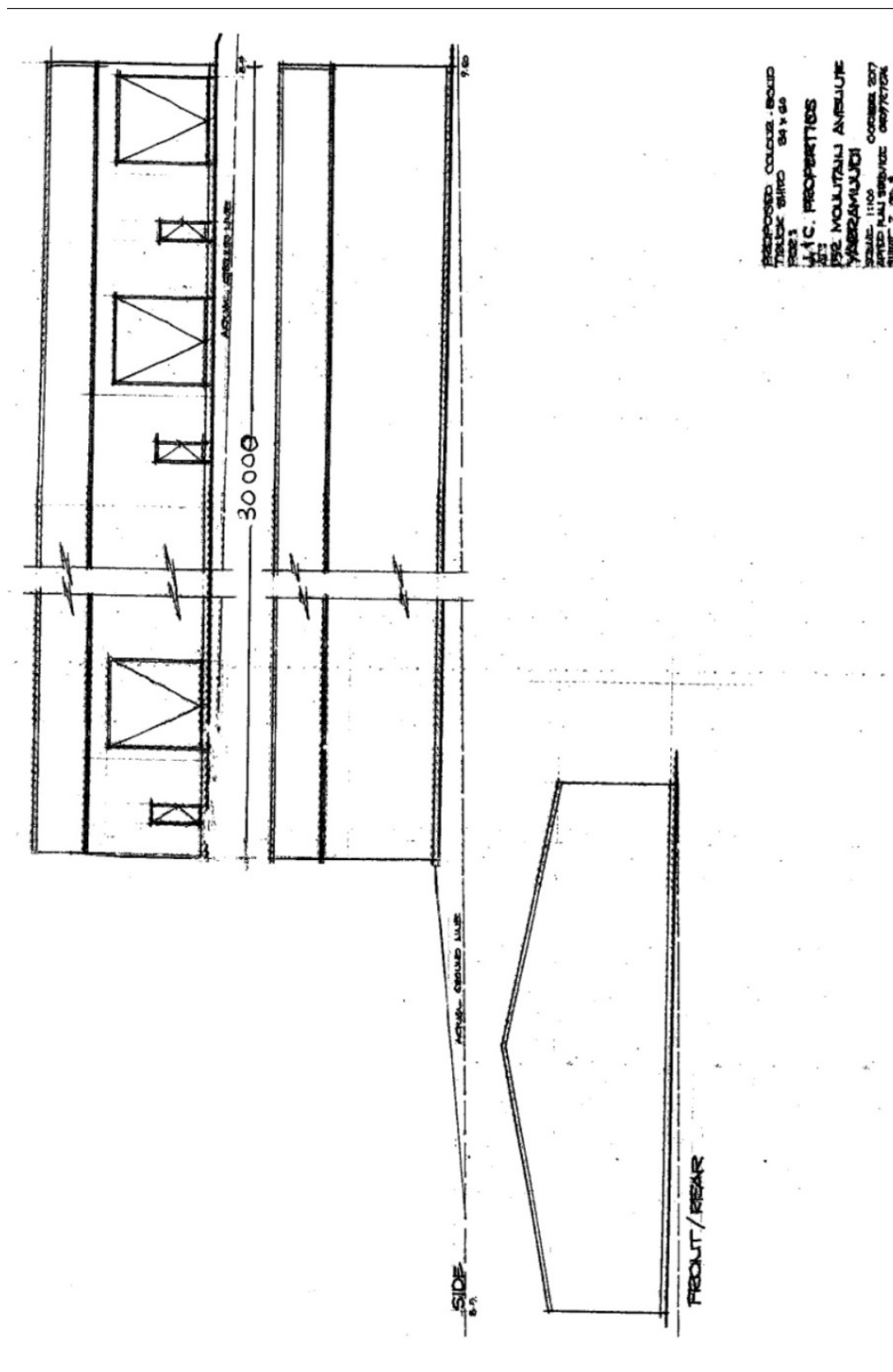


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AT - 5 Elevation of proposed building



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HAWKESBURY LOCAL PLANNING PANEL MEETING

Reports for Advice

Meeting Date: 18 October 2018

Item: 009 **CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 Land Zoning Map from RU4 Primary Production Small Lots to IN1 General Industrial - 27 Park Road, Vineyard and 41 Park Road, Mulgrave - (95498, 144940, 124414)**

Directorate: City Planning

As this matter is a Planning Proposal, it is referred to the Hawkesbury Local Planning Panel for advice only.

The Panel will consider this matter in a closed session in accordance with Clause 26 (1) of Schedule 2 of the Environmental Planning and Assessment Act, 1979, and formulate its advice in the form of a resolution.

The advice will be recorded in the Minutes of the Hawkesbury Local Planning Panel meeting and placed on Council's website to ensure compliance with Clause 26 (3) of Schedule 2 of the Environmental Planning and Assessment Act, 1979.

The advice for the Planning Proposal will also form part of the subsequent report to Council on the matter.

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Reports for Advice

Meeting Date: 18 October 2018

Item: 010 **CP - Planning Proposal to Amend the Hawkesbury Local Environmental Plan 2012 - 42 Bells Lane, Kurmond - (95498, 124414, 136641)**

Directorate: City Planning

As this matter is a Planning Proposal, it is referred to the Hawkesbury Local Planning Panel for advice only.

The Panel will consider this matter in a closed session in accordance with Clause 26 (1) of Schedule 2 of the Environmental Planning and Assessment Act, 1979, and formulate its advice in the form of a resolution.

The advice will be recorded in the Minutes of the Hawkesbury Local Planning Panel meeting and placed on Council's website to ensure compliance with Clause 26 (3) of Schedule 2 of the Environmental Planning and Assessment Act, 1979.

The advice for the Planning Proposal will also form part of the subsequent report to Council on the matter.

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Reports for Advice

Meeting Date: 18 October 2018

Item: 011 **CP - Planning Proposal to Amend the Hawkesbury Local Environmental Plan 2012 - 98 Bells Lane, Kurmond - (95498, 124414, 136641)**

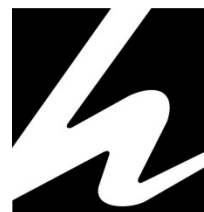
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