



Hawkesbury City Council

attachment 1
to
item 47

Development Assessment
Report by PGH
Environmental Planning

date of meeting: 11 March 2008
location: council chambers
time: 5:00 p.m.

1 Introduction

This planning report has been prepared by PGH Environmental Planning, on behalf of Hawkesbury City Council. The Council has received a development application from Montgomery Planning Solutions (the “**Applicant**”) for a “*proposed restaurant with drive through takeaway (and demolition of existing building)*”.

The development application was lodged on 24th December 2007 and considered by the Local Traffic Committee (“**LTC**”) at its meeting held on 16th January 2008. In response to the recommendations of the LTC the Applicant submitted amended plans on 25th January 2008.

Following my initial review (in February 2008) of the proposal I had discussions with the Applicant in respect of: floor levels; signs; and stormwater drainage. Subsequently, on 28th February 2008 the Applicant submitted further correspondence. These matters, along with the recommendations of the LTC are discussed in this report.

The subject site (the “**site**”) is known as Lot 2 DP 737483, No. 246 Windsor Road, Vineyard. The site is owned by Hawkesbury City Council and is classed as “operational land”.

The Applicant seeks approval to demolish the existing commercial building (presently vacant but previously used as a restaurant) and construct a new KFC restaurant building, including indoor and outdoor seating and drive through takeaway facilities with associated signs (the “**proposal**”).

The land is presently zoned 3(b) (Business Special) under Hawkesbury Local Environmental Plan 1989 (“**LEP 1989**”). The proposal has been assessed having regard to the relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979 (the “**EP&A Act**”).

Following my assessment I have concluded that the proposal satisfies the relevant legislation and Council’s controls and is recommended for approval.

2 Site and Locality

An inspection of the site and surrounding area has been undertaken, resulting in the following observations.

2.1 Subject Site

The site is known as Lot 2 DP 737483, 246 Windsor Road, Vineyard and is 9,121m² in area. The site is located on the corner of Windsor Road and Groves Avenue, Vineyard. The land is rectangular in shape and has a frontage to Windsor Road of approximately 69metres and frontage to Groves Avenue of approximately 107metres. A right of carriageway and easement for services runs north-south from Groves Avenue to the adjoining Lot 1. Both Windsor Road and Groves Avenue are classified roads.

The site is bounded by a McDonald’s restaurant to the north, vacant land to the west, and light industrial/bulky goods retail units to the north-west and south. A rural residential area is located immediately to the east of Windsor Road.

2.2 Existing Development

The site currently contains a single storey brick commercial building and sealed car parking area with established landscaped areas. The building is presently unoccupied but until recently operated as a “Black Stump” restaurant. An existing pylon sign is located on the eastern boundary (Windsor Road) of the site.

2.3 Character of Locality

The site is located within the Windsor-McGrath’s Hill District of the Hawkesbury Local Government Area. Hawkesbury has an estimated population of 66,000 while the Windsor-McGrath Hill district has an estimated population of 5,565 persons¹. The Hawkesbury Social Atlas 2003 identifies Vineyard as being an urban area (1,000 or more population).

The subject site is located within an area zoned 3(b) (Business Special), with lands to the west and south zoned industrial, and on the eastern side of Windsor Road, zoned Rural Living.

3 Description of the Proposal

The Applicant seeks approval to demolish the existing single storey building and construct a new building that contains a KFC restaurant, administrative offices, and a staff training room. Plans of the proposal are attached.

The building is generally single storey in height and is described as a contemporary design. It will be clad in fibre cement sheeting with a parapet fascia and finished in the KFC corporate branding and colours.

The restaurant will accommodate 142 persons comprising (80 persons inside and 62 persons in the external dining area). It is proposed to reconstruct and reconfigure sections of the existing sealed parking area and provide an additional 16 carparking spaces. When completed, the proposal will have a total of 72 car parking spaces and 6 coach/trailer spaces and a drive-through lane accommodating 10 queuing cars.

It is also proposed to remove two (2) existing trees located on the western side of the site to accommodate the restaurant and drive-through facility. The restaurant will trade from 10.00am to 12 midnight (seven days).

The following signs are proposed:

- Pylon sign (S01) 8.5metres high x 2.065metres wide (Groves Avenue).
- 2400mm x 2400mm KFC logo on both side elevations of the building.
- Drive through signage (S03 and S04) 1.705metres high x 0.7metres wide.
- Menu board signage (S06) 1.96metres high x 0.9metres wide.
- Height bar – drive through (S02) 3.5metres high x 3.2metres wide
- Existing wall mounted sign (on concrete/brick wall facing Windsor Road) to be re-imaged (S08).
- Existing pylon sign (S07) to have faces replaced.

¹ Hawkesbury Social Atlas 2003

4 Planning Controls

This section provides an assessment of the various planning controls considered applicable to the proposal.

4.1 Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River (No. 2 1997)

Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River (SREP 20) 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. The policy requires a consent authority to consider, in determining an application for development on affected land, the general planning considerations outlined in Clause 5 of the policy as well as the specific planning policies and related recommended strategies outlined in Clause 6 of the policy. If the proposed development is specifically listed in Part 3 of the policy, the development is required to comply with the relevant development controls and address any listed matters for consideration.

The subject site is not located within an environmental constraint area. The site contains large impervious areas and although the impervious area will increase it is not considered that on-site detention is required to be installed (this matter is discussed in **Section 4.3**). It is considered that sufficient controls exist to prevent sediment and turbid runoff from entering the surrounding river system areas. It is considered that the proposal is consistent with the aims and objectives of this plan.

4.2 State Environmental Planning Policy No. 64 – Advertising and Signage

SEPP No.64 aims to ensure that signage (including advertising) is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of high quality design and finish. As stated previously the proposal includes the following signs:

- Pylon sign (S01) 8.5metres high x 2.065metres wide (Groves Avenue).
- 2400mm x 2400mm KFC logo on both side elevations of the building.
- Drive through signage (S03 and S04) 1.705metres high x 0.7metres wide.
- Menu board signage (S06) 1.96metres high x 0.9metres wide.
- Height bar – drive through (S02) 3.5metres high x 3.2metres wide
- Existing wall mounted sign (on concrete/brick wall facing Windsor Road) to be re-imaged (S08).
- Existing pylon sign (S07) to have faces replaced.

The following is an assessment of the proposed signs against the nominated assessment criteria.

Schedule 1 - Matters for Consideration

Character of the area

Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?

Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

Comment: -The site is located within a commercial area, with like commercial uses (adjacent McDonald's restaurant) and is consistent with the theme for the immediate area.

Special areas

Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?

Comment: -The site is not located near or adjacent to any sensitive areas, heritage areas or other natural or conservation areas.

Views and vistas

Does the proposal obscure or compromise important views?

Does the proposal dominate the skyline and reduce the quality of vistas?

Does the proposal respect the viewing rights of other advertisers?

Comment: -The signs do not obscure views or protrude into the skyline.

Streetscape, setting or landscape

Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?

Does the proposal contribute to the visual interest of the streetscape, setting or landscape?

Does the proposal reduce clutter by rationalising and simplifying existing advertising?

Does the proposal screen unsightliness?

Does the proposal protrude above buildings, structures or tree canopies in the area or locality?

Does the proposal require ongoing vegetation management?

Comment: -The signs are considered to be in proportion to the use. The existing and proposed pylon signs do, at certain angles, extend above the surrounding tree canopy, however when considered in context with existing advertising in the locality, it is considered that they are compatible in scale and are not unsightly.

Site and building

Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?

Does the proposal respect important features of the site or building, or both?

Does the proposal show innovation and imagination in its relationship to the site or building, or both?

Comment: -The signs represent a corporate brand and will be constructed in high quality materials. It is considered that they are in scale with surrounding development and the commercial characteristics of the site and surrounding development.

Associated devices and logos with advertisements and advertising structures
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?

Comment: -The proposed KFC logo and illumination is an integrated part of the signage package, consistent with the KFC branding.

Illumination

Would illumination result in unacceptable glare?

Would illumination affect safety for pedestrians, vehicles or aircraft?

Would illumination detract from the amenity of any residence or other form of accommodation?

Can the intensity of the illumination be adjusted, if necessary?

Is the illumination subject to a curfew?

COMMENT: The signs are internally illuminated and it is considered that they will not adversely impact upon passing traffic or surrounding residents located on the opposite side of Windsor Road.

Safety

Would the proposal reduce the safety for any public road?

Would the proposal reduce the safety for pedestrians or bicyclists?

Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?

Comment: - It is considered that the signs will not pose any traffic safety issues.

4.3 Hawkesbury Local Environmental Plan 1989 (LEP 1989)

This section provides discussion regarding the relevant clauses of the Hawkesbury Local Environmental Plan 1989.

Clause 2: Aims, objectives etc

The general aims and objectives (Clause 2) of Hawkesbury Local Environmental Plan 1989 are detailed as follows:

- (a) *to provide the mechanism for the management, orderly and economic development and conservation of land within the City of Hawkesbury,*
- (b) *to provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production,*
- (c) *to protect attractive landscapes and preserve places of natural beauty, including wetlands and waterways,*
- (d) *to conserve and enhance buildings, structures and sites of recognised significance which are part of the heritage of the City of Hawkesbury for future generations, and*
- (e) *to provide opportunities for the provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups within the City.*

Comment: - The proposal involves the redevelopment of an existing commercial property providing a continuation of a similar use (i.e. restaurant). It is considered to be representative of orderly and economic development and is of an appropriate size and location. The site is not affected by a conservation or heritage area, and is not affordable housing development. In my opinion the proposal is consistent with the aims and objectives of the LEP.

Clause 6: Adoption of 1980 Model Provisions

The proposed development is defined as a “*refreshment room*” pursuant to the Environmental Planning and Assessment Model Provisions 1980. The following is provided in Part 2 – definitions:

“*refreshment room* means a restaurant, cafe, tea room, eating house or the like”

Clause 9 – Carrying out of development

The subject site is zoned 3(b) (Business Special) under Hawkesbury Local Environmental Plan 1989. A refreshment room is permissible with development consent within the Business Special zone.

Clause 9A – Zone Objectives

The objectives of the 3(b) (Business Special) zone are described as follows;

- (a) *promote office development to meet the optimum employment and social needs of the City of Hawkesbury,*
- (b) *permit non-commercial development within the zone where such development is compatible with the commercial character of the locality,*
- (c) *ensure that there is adequate provision for car parking facilities within the zone,*
- (d) *minimise conflicts between pedestrians and vehicular movement systems within the zone, and*
- (e) *preserve the historic character of the City of Hawkesbury by protecting heritage items and by encouraging compatible development within and adjoining historic buildings and precincts*

Comment: - The proposed development is compatible with the commercial character of the locality and provides sufficient car parking which has been designed to ensure that vehicle and pedestrian movements do not result in conflicts. Finally the site is not within an area of heritage significance. In my opinion the proposal is consistent with the relevant objectives of the zone.

Clause 18 – Provision of Water, sewerage etc. services

Essential services such as water, sewerage and electricity are currently provided to the existing restaurant building. The site is not located with an area hatched on the map as being located within Clause 18.

Councils Subdivision and Development Engineer has commented that a concept drainage plan (including a review of On-site detention requirements) should be prepared by the Applicant to enable an assessment of pre and post-development flows.

In correspondence dated 28th February 2008, the Applicant has indicated that prior to lodging the development application Council's Development Engineer advised that a drainage concept plan would not be required as essentially there would be no change to the existing drainage system. The Applicant further advises that *"This development will not change the drainage characteristics of the site and the impervious area will only be increased by some 83m² or 0.9% of the total site area. Therefore any suggestion that on-site detention of stormwater may be required is rejected"*.

Following consideration of the above it is my opinion that the development will be required to be connected to the existing drainage system (450mm pipe) and that this matter is capable of being addressed via a condition of consent.

Clause 22 – Development fronting a main or arterial road

Windsor Road and Groves Avenue are defined as main roads and Council must consider the following principles as specified in subclause (1):

- (a) *Development should be of a type compatible with the maintenance and enhancement, as far as is practicable, of the existing scenic character of the locality.*
- (b) *Development should not generate significant additional traffic or create or increase ribbon development directly along a main or arterial road, relative to the capacity and safety of the road.*
- (c) *Any building should be sited and designed to be of an appropriate scale, so as to maintain the character of the area, to minimise disturbance to the landscape, not to intrude into the skyline and to maintain an overall pattern of building development that is consistent with the character of the area.*
- (d) *Any building should be set back, from the nearest alignment of the main or arterial road, the distance to be determined by the Council having regard to:*
 - (i) *the nature, scale and function of the building,*
 - (ii) *the maximisation of sight distances for drivers, including visibility of points of access,*
 - (iii) *the minimisation of distractions to drivers, and*
 - (iv) *any possible need to alter the road alignment in the future.*

Subclause (3) is also relevant as the site has an existing access to Groves Avenue

- (3) *Direct vehicular access from any land to a main or arterial road is prohibited. However, if, in the opinion of the Council, there is no reasonable alternative access to the land from another road, the Council may consent to access to a main or arterial road if such access will be located and designed so as to minimise potential traffic hazards.*

Comment: - The proposed development proposes the continuation of the previous land-use however the proposed building will be of a contemporary design which is considered to be compatible with the existing character of the locality, being located within a mix of retail, commercial, light industrial, motor showrooms and restaurants. The Statement of Environmental Effects identifies a setback of 52metres from the Windsor Road boundary and 36metres from Groves Avenue reflecting a similar bulk and scale with surrounding buildings.

In respect of the issue of direct access I consider the proposal to be satisfactory as it utilises an existing access and does not create any adverse traffic impacts. Further it has been assessed and supported by the Local Traffic Committee (refer **Section 4.4**).

Clause 25 – Development of flood liable land

Clause 25 of Hawkesbury Local Environmental Plan 1989 controls the development of flood liable land. The relevant subclauses are:

- (2) *A building shall not be erected on any land lying at a level lower than 3 metres below the 1-in-100 year flood level for the area in which the land is situated, except as provided by subclauses (4), (6) and (8).*
- (4) *Notwithstanding subclauses (2), (3), (10) and (11), a building that was lawfully situated on any land at 30 June 1997 may, with the consent of the Council, be extended, altered, added to or replaced if the floor level of the building, after the building work has been carried out, is not more than 3 metres below the floor height standard for the land immediately before the commencement day.*
- (5) *The Council shall, in the assessment of a development application, consider the flood liability of access to the land and, if the land is within a floodway, the effect of isolation of the land by flooding, notwithstanding whether other aspects of this clause have been satisfied.*
- (7) *Any part of a building below the 1-in-100 year flood level is to be constructed of flood compatible materials.*

Comment: - According to Council's Subdivision and Development Engineer the natural ground level of the proposed building area would vary between 15.8m AHD to 16.8m AHD (approximately). No levels are provided on the plans submitted and following discussion with the Applicant, advice was provided (28th February 2008) that "*The floor level of the new building will be the same as the existing building and not at 17.3m AHD. This is permissible under clause 25 of Hawkesbury LEP 1989*".

Whilst no floor level has been provided it is obvious from a site inspection that the proposed floor level of the building is likely to be only marginally below the 17.3m AHD level. The land is not within a floodway and will not be greater than 3metres below the 1-in-100year level, therefore after consideration of the matter it is my view that the proposal is permitted under clause 25.

It is recommended however that the finished floor level be confirmed and that any part of the building below the 1-in-100 year flood level is to be constructed of flood compatible materials. These matters are capable of being addressed via conditions of consent.

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

The site has been identified as Class 5 Land on the Acid Sulfate Soils Planning Map. The site is not situated within 500 metres of any adjacent Class 1, 2, 3 or 4 land and the proposed works are not likely to result in the lowering of the watertable below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land. This matter is considered satisfactory.

4.4 Hawkesbury Development Control Plan 2002

This section provides discussion regarding the relevant parts of the Hawkesbury Development Control Plan 2002.

Part A Chapter 1 – Purpose and Aims

The proposed development is considered to be consistent with the general aims and objectives of Hawkesbury Development Control Plan 2002.

Part A Chapter 2 – General Information

It is considered that sufficient information has been submitted to enable a proper assessment of the application.

Part A Chapter 3 – Notification

3.10 of this chapter provides that within a 3(b) zoned a ‘refreshment room’ is not subject to notification or advertisement.

Part C – 1.2 Landscaping

A landscaping plan has been submitted with the application, which provides detail regarding proposed landscaping. It is considered that sufficient information has been submitted to enable a proper assessment of the application.

Part C – 2.1 Car Parking

Part 2.5.2 provides requirements having regard to car parking and access for commercial developments, including freestanding fast food restaurants. A traffic report has been submitted “*Traffic Impact Assessment of KFC Restaurant, Windsor Road, Vineyard*” prepared by Christopher Hallam & Associates Pty Ltd, dated December 2007.

The traffic report provides advice on traffic and parking design issues and aims to assess external traffic implications.

Hawkesbury Development Control Plan 2002 provides that Fast Food Restaurants (free standing) are required to provide:

- 1 space per 6m² of service area or 1 space per 3 seats, whichever is greater
- plus 1 space per 2 employees.

Comment: - The Statement of Environmental Effects provides that the ‘service area’ is approximately 40m² or that the Restaurant will provide a total of 142 seats (80 persons inside 62 outside) and therefore 47.3 spaces for patrons, 4 spaces for staff (8 employees) and 1 space per 30m² (office floorspace 74m²), for a total of 53.8 spaces required. The site plan also shows 1 disabled parking space. The proposal allows for 72 spaces plus 6 for coaches/trailer/trucks and therefore meets the DCP requirements.

The traffic report states that a traffic count was taken during the peak times of 4-7.30pm on Friday 16th November 2007. The report concludes that the site layout is satisfactory and that the car parking spaces provided meet the recommended parking levels of the Council and RTA. It further recommends prohibiting kerbside parking near the site driveway and lane marking at the site entrance.

Local Traffic Committee Assessment (16 January 2008)

The subject application was considered by the Local Traffic Committee (LTC) at its meeting held on 16th January 2008. The Traffic Committee's recommendations (for inclusion in any Consent Conditions) are detailed as follows:

1. *"The internal access arrangements for the drive through facility be amended to avoid potential vehicle conflicts with the exit point and improve the vehicle manoeuvring access to the entrance of the drive through facility.*
2. *The recommendations contained in the report by Christopher Hallam and Associates in respect to:*
 - a) *Prohibiting kerb side parking near the site driveway to assist the free flow of both southbound and northbound traffic in Groves Avenue, subject to RTA approval.*
 - b) *Line marking at the entrance involving a central dividing line and two (2) exit lanes marked for left and right turns.*
 - c) *Directional line marking and signage is to be provided to reduce the potential conflict between vehicles entering the site to utilise the fast food outlet and those entering the other restaurant on the adjoining property. Give way line marking and signage is to be provided at the exit to the drive through to avoid conflict with vehicles using the site.*
3. *A Traffic Guidance Scheme prepared in accordance with AS1742-3 2002 by an appropriately qualified person shall be submitted to Council. Where the works affect Roads and Traffic Authority controlled roads, the traffic guidance scheme is to be approved by the Roads and Traffic Authority before submission to Council."*

Comment: - In response to the issues raised by the LTC the Applicant submitted amended plans (25th January 2008) incorporating the following matters:

- *Extension/enlargement of the median strips on the entry and exit of the drive through. This will further discourage "U" turns in these locations.*
- *Drive through directional signage changed near the Groves Avenue entry and one additional double sided sign near McDonalds.*
- *Truck turning movements have now been confined to Lot 2 DP 737483. Please note that deliveries will be made out of opening hours, so there will be no conflict with cars.*

The amended plans have been reviewed by Council's Subdivision and Development Engineer who recommends the inclusion of the following condition:

"A plan showing suitable line marking and signage to incorporate following;

- (a) Signage/line marking to direct traffic to the entrance of the drive-through via the second entrance and around the front of the restaurant,
- (b) Give way signage and line marking at the exit of the drive-through. Signage to indicate that a right hand turn only is permissible when exiting,
- (c) Line marking at the entrance driveway including a central dividing line and 2 exit lanes marked for left and right turns".

Having reviewed the matter it would appear that this condition has been addressed by condition 2 of the LTC recommendation. Regardless I have included it in the conditions of development consent for completeness and do not consider that it would necessarily create a conflict in conditions. I consider that the proposal satisfies the car parking section of the DCP.

Part C – 3 Signs

The stated overall aims associated with signage for this section include to

‘permit adequate business identification and advertising to identify the nature of the business conducted on the premises’

Further the objectives include allowing signs that add to the character of the streetscape, and complement the architectural style and use of the building, avoid visual clutter through the proliferation of signs, consider the amenity of the area and the visual quality of the public domain.

Comment: - Following my assessment I contacted the Applicant to discuss the proposed Pylon sign on the Groves Avenue frontage and the KFC logo signs. The DCP states that Pylon signs up to 6 metres are generally acceptable; however the Pylon (S01) is 8.5 metres in height and the KFC logo signs appear to protrude above the roof line of the building. In response the Applicant has provided the following supporting comments.

“2. Pole Sign at Groves Avenue Entrance

The 8.5m high pole sign is a standard fibreglass module provided by KFC. I am instructed that the cost to manufacture a smaller version at 6m would be some four times the cost of installing the standard module.

In relation to the DCP, it is my submission that although not in compliance with the height rule, the sign does in fact meet the aim of clause 3.2 and does not offend any of the objectives of the clause. As advised there are a number of signs in the immediate vicinity which are in excess of 10 metres. These are located along Windsor Road and in my submission the Groves Avenue pylon sign is within the same viewshed of the Windsor Road signs, being only 100 metres from Windsor Road.

3. KFC Logos on Building

As discussed, the building elevation plans show a 2400 x 2400mm illuminated KFC logo on both side elevations of the building. The top of these logos sit just above the parapet of the building (approx 300mm) and you have raised concern that this may be contrary to the Hawkesbury DCP. From my reading of the DCP these would not be prohibited as they are “not erected on or above the parapet”. The closest description in the DCP would appear to be a flush wall sign and these can project by up to 300mm. The logos are also integrated in to the building design as required by the objectives”.

I have also observed that the signs on the adjoining McDonalds restaurant project above the parapet (see photo below). The signage was part of a recent remodelling approved by Council on 21 February 2007 (DA0048/07).

Having considered the Applicants comments and given the nature of the proposed development and scale of surrounding signs associated with existing land-uses, the height of the pylon sign is not inconsistent with the locality and can be supported. I also consider that the KFC logo signs erected on the parapet to be acceptable and not contrary to the provisions of the DCP. I consider that the proposal satisfies the sign section of the DCP.

Part C – 4 Soil Erosion and Sediment Control

This section aims to control run-off from the site, use erosion control measures to prevent on-site damage and maintain erosion and control measures. It is recommended that standard conditions be imposed as part of Construction Certificate documentation. I consider that the proposal satisfies this section of the DCP.

5 Statutory Assessment

This section provides an assessment of the proposal against the relevant matters for consideration pursuant to Section 79C(1) of the Environmental Planning and Assessment Act 1979.

Section 79C(1)(a)(i) – The provisions of any environmental planning instrument

The proposal is permissible with the consent of Council and complies with the relevant provisions of Hawkesbury Local Environmental Plan 1989 as outlined in this Report. It is considered that the application is satisfactory in this regard.

Section 79C(1)(a)(ii) – The provisions of any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved)

There is no draft Plan applicable.

Section 79C(1)(a)(iii) – The provisions of any development control plan

A comprehensive assessment of the proposal in terms of compliance with Hawkesbury Development Control Plan 2002 has been undertaken and it is considered that the application is satisfactory in this regard.

Section 79C(1)(a)(iiia) – any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F

There is no planning agreement applicable.

Section 79C(1)(a)(iv) – Any matters prescribed by the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

Pursuant to clause 92 of the Environmental Planning and Assessment Regulation 2000 all demolition work will be carried out in accordance with the provisions of AS2601-2001 - The Demolition of Structures. It is considered that the application is satisfactory in this regard.

Section 79C(1)(b) – The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Natural Environmental Impact

The proposal is for demolition of an existing building and construction of a new contemporary restaurant building. The site is developed with surrounding on-site parking areas and existing landscaping. Apart from the loss of two (2) trees the majority of the landscaped areas will be retained and consequently there are no negative impacts on the natural environment.

Built Environmental Impact

The proposal involves the construction of a restaurant premises within an area containing like commercial, retail and light industrial uses. Externally the building will be of a comparable scale and bulk to surrounding developments, with a level of articulation provided by building materials and signage detail.

Following the assessment it is my opinion that the proposal will have a positive impact upon the existing and future character of the locality.

Social and Economic Impact

The site is located at the intersection of two main roads within a commercial/retail area that provides a range of service businesses. Adjacent the site to the north is an existing McDonald's fast-food restaurant. The site is also surrounded by a variety of bulky goods retail premises. While a rural/residential area is located to the north of Windsor Road, the impacts upon any residential uses are considered minimal due to the physical separation created by this Road. Impacts upon the surrounding uses will be minimised by implementing measures recommended in the accompanying traffic report. The location of the site within a business precinct makes it ideal for the use.

The proposed restaurant will replace an existing restaurant and is considered to provide an injection of activity into the area during the evening hours. In my opinion the proposal is consistent with the aims of the Hawkesbury LEP 1989 and DCP and will provide a positive outcome through the redevelopment of the site.

Having regard to the above it is considered that the proposed restaurant will provide positive social and economic impacts by providing a facility that allows for social interaction for local residents and local employment opportunities within the locality.

Section 79C(1)(c) – The suitability of the site for the development

As stated previously, the site is located on a main road in an area that forms part of the business, industrial and retail use zone for Hawkesbury. It is a redevelopment of an existing restaurant and aims to continue that use.

It is my view that issues such as traffic and internal manoeuvring have been adequately addressed via consent conditions. Having regard to the issues discussed previously in this Report it is my opinion that the site is suitable for this type of development.

Section 79C(1)(d) – Any submissions made in accordance with this Act or the regulations

The development application did not require notification in accordance with Council Policy and consequently no submission have been received.

Section 79C(1)(e) – The public interest

The preceding assessment clearly demonstrates that the proposal has positive benefits and is therefore in the public interest.

6 Conclusion

The proposal, to demolish the existing single storey building and construct a new building, that contains a KFC restaurant, administrative offices, and a staff training room and associated signs, demonstrates satisfactory compliance with the provisions of the Sydney Regional Plan No.20, Hawkesbury Local Environmental Plan 1989, Hawkesbury Development Control Plan 2002 and other relevant policies.

7 Recommendation

The application to demolish an existing restaurant building and construct a new restaurant building, that contains a KFC restaurant, administrative offices, and a staff training facilities, modified parking layout and associated signs, at Lot 2 DP 737483, No. 246 Windsor Road, Vineyard be granted Consent subject to the following conditions of consent.

General

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate construction certificate.
3. The approved use shall not commence until all conditions of this Development Consent have been complied with.
4. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
5. The development shall comply with the provisions of the Building Code of Australia at all times.
6. The accredited certifier shall provide copies of all Part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 relevant to this development to Hawkesbury City Council within 7 (seven) days of issuing the certificate. A registration fee applies.



7. Where Hawkesbury City Council is the sewer authority for this development, inspection for compliance certification for internal and external sewer drainage shall be requested and approved prior to covering any pipe. An inspection fee applies.
8. The development shall also incorporate the amendments made in red to the approved plans, specifications or documentation submitted.
9. All vegetative debris (including felled trees) resulting from the approved clearing of the site for construction, is to be chipped or mulched. Tree trunks are to be recovered for posts, firewood or other appropriate use. No vegetative material is to be disposed of by burning. The internal movement within the site are to be in accordance with the approved stamped plan as amended in red.
10. All food premises are to comply with Hawkesbury City Council's Food Premises Fit Out Code.
11. Any area used for storage of food or food appliances/equipment is to comply with the relevant section of Hawkesbury City Council's Food Premises Fit Out Code including Section 7.0 - Storerooms.
12. The internal vehicle movements within the site are to be in accordance with the approved stamped plan as amended in red and shall also incorporate the following;
 - a) Signage/line marking to direct traffic to the entrance of the drive-through via the second entrance and around the front of the restaurant,
 - b) Give way signage and line marking at the exit of the drive-through. Signage to indicate that a right hand turn only is permissible when exiting,
 - c) Line marking at the entrance driveway including a central dividing line and 2 exit lanes marked for left and right turns.
13. In accordance with the resolution of the Local Traffic Committee, the recommendations contained in the report by Christopher Hallam and Associates are to be incorporated, namely:
 - a) Prohibiting kerb side parking near the site driveway to assist the free flow of both southbound and northbound traffic in Groves Avenue, subject to RTA approval.
 - b) Line marking at the entrance involving a central dividing line and two (2) exit lanes marked for left and right turns.
 - c) Directional line marking and signage is to be provided to reduce the potential conflict between vehicles entering the site to utilise the fast food outlet and those entering the other restaurant on the adjoining property. Give way line marking and signage is to be provided at the exit to the drive through to avoid conflict with vehicles using the site.

Prior to issue of Construction Certificate

14. An Environmental Management and Rehabilitation Plan for the development site shall be prepared by an appropriately qualified person. The Plan shall address (without being limited to) the clearing of vegetation, lopping and removal of trees, earthworks, erosion control, site rehabilitation and landscaping.

All site works shall be carried out in accordance with the Plan. Implementation of the Plan shall be supervised by an appropriately qualified person.

15. Pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979* and Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time), a contribution of \$14,000 shall be paid to Hawkesbury City Council.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time).

The contribution is to be paid prior to the issue of the construction certificate and copies of receipts(s) confirming that the contribution has been fully paid are to be provided to the certifying authority.

16. A Traffic Guidance Scheme prepared in accordance with AS 1742-3 (1996) by an appropriately qualified person shall be submitted to Council. Where the works affect Roads and Traffic Authority controlled roads, the Traffic Management Plan is to be approved by the Roads and Traffic Authority before submission to Council.

Prior to Commencement of Works

17. All traffic management devices shall be installed and maintained in accordance with the approved traffic guidance scheme.
18. A waste management plan shall be submitted to and approved by Council. The plan shall address any builder's waste and waste generated during the day to day operation of the development. Particular attention shall be paid to type and quantity of waste, recycling, reuse, storage and disposal.
19. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction. The enclosed warning sign shall be affixed to the sediment fence/erosion control device.
20. A copy of receipt of payment of Long Service Levy shall be provided to the Principal Certifying Authority prior to any works commencing on site. Payments can be made at Long Service Corporation offices or most Councils.
21. The applicant shall advise Council of the name, address and contact number of the principal certifier, in accordance with Section 81A 2(b) of the *Environmental Planning and Assessment Act, 1979*.

22. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.
23. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
24. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - (a) Unauthorised access to the site is prohibited.
 - (b) The owner of the site.
 - (c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
 - (d) The name and contact number of the Principal Certifying Authority.
25. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to any works commencing on site.

During Construction

26. The site shall be secured to prevent the depositing of any unauthorised material.
27. Dust control measures, eg vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
28. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
29. All trucks entering or leaving the site shall have their trays suitably covered to prevent spillage from the truck onto the road.
30. Off-street car parking spaces, together with access driveways and turning areas, shall be constructed, paved, line marked, signposted and maintained, as shown on the approved plan.
31. Disabled parking shall be provided in accordance with AS2890.1-1993.
32. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.



33. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am - 6pm and on Saturdays between 8am - 4pm.
34. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - (a) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
 - (b) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
 - (c) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
35. At all times during demolition, a competent person shall directly supervise work. It is the responsibility of the person to ensure that:
 - (a) Adjoining owners are given 24 (twenty four) hours notice, in writing, prior to commencing demolition.
 - (b) Utility services within the structure not required to be maintained during the demolition work shall be properly disconnected and sealed before any demolition commences.
 - (c) The site shall be secured at all times against the unauthorised entry of persons or vehicles.
 - (d) Safe access and egress from adjoining buildings is to be maintained at all times for the duration of the demolition work.
 - (e) Precautions are taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site are maintained, particularly in the event of sudden and severe weather changes.
 - (f) The structure and all components shall be maintained in a stable and safe condition at all stages of the demolition work.
 - (g) Demolition activity shall not cause damage to or adversely affect the structural integrity of adjoining buildings
 - (h) Removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable State legislation and with any relevant recommendations published by the National Occupational Health and Safety Commission (Worksafe Australia).

- (i) All work shall be carried out in accordance with AS2601 and the Work Plan submitted with the development application.
 - (j) Unless otherwise permitted by Council, the structure is to be demolished in reverse order of construction, being progressive and having regard to the type of construction, to enable the maximum separation and recycling of demolished materials to take place.
 - (k) No material is to be burnt on site.
36. Mandatory inspections shall be carried out and Compliance Certificates issued only by Council or an accredited certifier for the following components or construction:
- Note: Structural Engineer's Certificates, Drainage Diagrams and Wet Area Installation Certificates are NOT acceptable unless they are from an accredited person.**
- (a) foundations;
 - (b) internal sewer or stormwater lines prior to covering;
 - (c) steel reinforcement prior to pouring concrete;
 - (d) external sewer or stormwater lines, prior to backfilling;
 - (e) framework, after the installation of all plumbing, drainage and electrical fixtures, and after the external cladding and roof covering has been fixed prior to fixing of internal linings and insulation;
 - (f) prior to occupation of the building;
 - (f) on completion of the works;
37. The footings shall be piered or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value.
38. Council records indicate that the building site is at a level of approximately 16 metres AHD. All materials used in the construction below the level of 17.3 metres AHD shall be capable of withstanding prolonged immersion in water without swelling or deteriorating.
39. All roofwater shall be drained to the street gutter. Where a ferrule has been provided in the kerb, such drainage shall be connected to it. Drainage across the footpath shall be 100mm sewer grade pipe.
40. Any sewer or stormwater main or manhole affected by the development, shall be repaired or altered in level as so directed at the applicant's expense.



41. The floor of the internal WC shall be graded and drained to an approved floor waste.
42. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
43. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.
44. Arrangements are to be made for the provision of common drainage and the disposal of storm water from the site.
45. Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with the approved plan and Hawkesbury Development Control Plan chapter on Soil Erosion and Sedimentation.
46. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan Appendix B Civil Works Specification, Part II, Table 1.1.
47. Directional vehicle movements as shown on the approved stamped plan including the amendments in red are to be marked on the pavement.
48. The existing trees on site that are to be retained to be suitably protected during the construction stage in accordance with the relevant Australian Standard or where on standard exists an Industry standard.
49. The floors are to be covered with a durable, non-toxic, impervious surface, graded to trapped floor waste outlets, and connected to an approved drainage installation. The floor covering is to be free of protrusions or gaps.
50. Where used, floor tiles are to be epoxy grouted.
51. All wall/floor junctions in the food preparation and storage area(s), including any prefabricated low temperature room wall and floor, shall be coved. The coving is to be a minimum radius of 25mm using a smooth impervious material of a light colour. Where walls and floors are tiled, the coving is to be of a tile type. "Stick on" coving is not permitted.
52. The premises is to be fitted with adequate hand washing facilities for the preparation of food. Hand washing basins are required in addition to other basins and sinks in any toilet and in any food preparation area. Where separate additional food preparation areas are provided, an additional hand washing basin is needed. Hand washing basins are required:
 - (a) To be fitted with hand's free taps such as knee or foot operated devices;
 - (b) With hot and cold running potable water;

- (c) With a common spout delivering water of a least 40° centigrade.
 - (d) To be easily accessible at all times.
53. A slop sink should be installed so that mop water does not contaminate the kitchen sinks. Mop water and water used for washing garbage receptacles must not be disposed of using a storm water drainage inlet.
54. The area used for storage of garbage receptacles is to be graded to a drain connected to the sewer, constructed with a surface that is easily cleaned, and shall have a supply of water under pressure available within the enclosure, Any stormwater or rain water entering the garbage area should be adequately directed away from this drain.
55. The inaccessible cavities formed between the low temperature room and the ceiling, and the low temperature room and a wall are to be made vermin proof, and are to comply with Section 9.0 of Hawkesbury City Council's Food Premises Fit Out Code.

Prior to Occupational Certificate

56. Compliance with all conditions of this development consent.
57. A Certificate from a telecommunications carrier confirming that provision has been made for services to the development shall be submitted to the Principal Certifying Authority.
58. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
59. Written clearance from Integral Energy shall be submitted to the Principal Certifying Authority.
60. A Trade Waste Agreement must be entered into with the Hawkesbury City Council for the discharge of trade waste to Council's sewer.
61. The following Fire Safety Measures shall be provided and installed in the building/property by a suitably qualified person and a Certificate of Installation shall be provided to the owner/agent:

Fire Blanket

FSM1i Installation

Compliance with the following, as appropriate:

1. Manufactured in accordance with AS3504.
2. Installed near proximity of hazard (kitchen area, sleep area, etc)

FSM1m Maintenance

1. Visual, locality, acceptable standard of dispenser and fire blanket (not damaged).

Portable Fire Extinguishers

FSM2i Installation

Compliance with:

1. Performance requirements and deemed-to-satisfy provisions of Section E of the BCA.
2. AS 2444 "Portable Fire Extinguishers and Fire Blankets - Selections and Locations".
3. AS 1841 "Portable Fire Extinguishers".
4. AS 1850 "Portable Fire Extinguisher - Classification Rating and Performance Testing."
5. AS 4265 "Wheeled Fire Extinguishers".

FSM2m Maintenance

Compliance with the following, as appropriate:

1. AS 1851.1 "Maintenance of Fire Protection Equipment, Portable Fire Extinguishers and Fire Blankets".
2. AS/NZS 1851.13 "Maintenance of Fire Protection Equipment - Wheeled Fire Extinguishers".

Exit Signs

FSM5i Installation

Compliance with the following, as appropriate:

1. Performance requirements and deemed-to-satisfy provisions including NSW State variations of Sections E and G of the BCA.
2. AS/NZS 2293.1 "Emergency Evacuation Lighting for Buildings - System Design, Installation and Operation".
3. AS/NZS 2293.3 "Emergency Evacuation Lighting for Buildings - Emergency Luminaries and Exit Signs".

FSM5m Maintenance

Compliance with:

1. AS/NZS 2293.2 "Emergency Evacuation Lighting for Buildings - Inspection and Maintenance.

Emergency Lighting

FSM6i Installation

Compliance with the following, as appropriate:

1. Performance requirements and deemed-to-satisfy provisions including NSW State variations of Sections E and G of the BCA.
2. AS/NZS 2293.1 "Emergency Evacuation Lighting for Buildings - System Design, Installation and Operation".
3. AS/NZS 2293.3 "Emergency Evacuation Lighting for Buildings - Emergency Luminaires and Exit Signs".

FSM6m Maintenance

Compliance with:

1. AS/NZS 2293.2 "Emergency Evacuation Lighting for Buildings - Inspection and Maintenance.
62. Prior to occupation of the development, a grease trap of an appropriate size shall be installed on the drainage line at a location approved by the Manager of Regulatory Services. Alternatively, details of an existing trap are to be supplied to Council prior to occupation of the development.

Use of Site

63. No internal or external alterations shall be carried out without prior approval of Council.
64. All fire safety equipment and fixtures shall be regularly serviced and maintained. The owner or their agent shall certify annually that each of the fire safety measures specified in this statement has:
 - (a) been assessed by a properly qualified person, and
 - (b) found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued.
65. Any part of the building to be used for food preparation shall be registered with Council as Food Premises.
66. The development shall be conducted in such a manner that the LA(eq) noise levels, measured at any point in accordance with the NSW EPA's Industrial Noise Policy (2000), do not exceed 5dB(A) LA(eq) above background noise levels with respect to noise amenity of residential dwellings.
67. No advertising signs or structures shall be erected, displayed or affixed on any building or land without prior approval.



68. No advertising signs or structures shall be displayed on the footpaths, pedestrianways, roadways or on any land other than the approved development site.
69. The development shall be limited to the area shown on the submitted plans.
70. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
71. Operating hours shall be limited to 10am to 12 midnight Mondays to Sunday.
72. Any external lighting shall be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.
73. All vehicles being loaded or unloaded shall stand entirely within the property;
74. All vehicles shall be driven in a forward direction at all times when entering and leaving the premises.
75. All waste materials shall be regularly removed from the property.
76. A supply of soap and single use paper hand towels should be fitted to the wall in an appropriate and durable dispenser adjacent to any hand washing basin.
77. Food preparation and storage areas are to be adequately protected from flies, insects, and vermin. Windows are to be screened, and doorways are to be provided with self closing doors.
78. A portable thermometer accurate to $\pm 1^{\circ}\text{C}$ is to be available at the premises at all times for the purposes of checking cold and hot foods for compliance temperatures.
79. Potentially hazardous foods should be stored below 5°C , or above 60°C at all times in accordance with The Food Act 2003.
80. The refrigeration equipment and all associated fittings are to be installed in such a manner that it is capable of operating without causing a noise or vibration nuisance for adjoining property holders.
81. The operations of the development shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood in respect to noise, vibration, odour, dust, wastewater, waste products or otherwise.