



Hawkesbury City Council

ordinary meeting business paper

date of meeting: 12 August 2008

location: council chambers

time: 5:00 p.m.



mission statement

***“To create opportunities
for a variety of work
and lifestyle choices
in a healthy, natural
environment”***

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SECTION 4 - Reports for Determination

GENERAL MANAGER

Item: 168 **GM - Proposed 2010 Bicentenary Celebrations - (79351)**

Previous Item: MM1, Ordinary (8 April 2008)

REPORT:

At the meeting of Council held on 8 April 2008 a Mayoral Minute in connection with correspondence received from the Chairperson of the Lachlan and Elizabeth Macquarie Bicentenary Celebrations 2010 Committee concerning the proposed 2010 Bicentenary Celebrations was considered. A copy of this Mayoral Minute is included as **Attachment 1** to this report.

Subsequently, the Council resolved as follows:

"That:

1. *Council make representations to the Premier of NSW, the Hon M Iemma, Mr J Trevillian AM, CEO of the Australia Day Council and Deputy Director-General of the Premier's Department and Mr A Smith Deputy Director-General in order to:*
 - a) *Request the NSW Government to unequivocally endorse the Macquarie 2010 Bicentenary Celebration proposals.*
 - b) *Request the NSW Government to fund this most worthy project and establish an appropriate secretariat to administer the project.*
 - c) *Advise that the Macquarie 2010 Celebrations is an opportunity that should not be missed and an historic occasion that should not go unmarked by the Macquarie Towns and their people.*
2. *An amount of \$5,000 be included in Council's 2008/2009 budget to allow Council to provide support as appropriate associated with the planning of Macquarie 2010 Celebrations.*
3. *Ms M Sullivan, MA LLB, Chairperson of the Lachlan and Elizabeth Macquarie Bicentenary Celebrations 2010 Committee be advised of Council's actions in this regard.*
4. *A copy of this Mayoral Minute and details of Council's resolution be forwarded to other "Macquarie Town" councils.*
5. *The three Local State Members of Parliament be requested to support Council's representations in this regard."*

Appropriate representations have been made in accordance with Council's resolution and a response has been received, effectively in the same terms, from Mr A Smith in his capacity as Deputy Director General of the Department of Premier and Cabinet and on behalf of the Premier. This response was as follows:

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I refer to your letter of 17 April 2008 regarding the Macquarie Bicentenary in 2010.

Senior representatives of the Department of Premier and Cabinet (DPC) met with Ms M Sullivan, Chair of the Macquarie 2010 Bicentenary Committee (the Committee) on 5 October 2007 to discuss the proposal submitted by the Committee. Ms Sullivan provided an extensive briefing to DPC on the proposal and the assistance being sought from the NSW Government.

On 19 October 2007, I provided formal advice to Ms Sullivan on the decision taken by Cabinet in relation to the proposed celebrations. I advised Ms Sullivan:

- (1) *Celebrations for the Bicentenary should be staged and managed as community events;*
- (2) *The Committee's request to establish and fund an authority to manage the proposed celebrations had been declined; and*
- (3) *The DPC through the Office of Protocol and Special Events (OPSE) would consult with various community groups to determine if material support for the proposed community celebrations should be provided closer to the event.*

I wrote to Ms Sullivan again on 10 April 2008, confirming that the above decision remains the position of the New South Wales Government.

In my letter of 19 October 2007, I also advised Ms Sullivan that it would be worthwhile for the Committee to contact the Australia Day Council of NSW to discuss the possibility of recognising Governor Macquarie's contribution to Australia as part of Australia Day 2010.

Council may be assured that the DPC will continue to work with the Committee to assist it deliver a community event.

A response from Mr J Trevillian AM has not been received to date but is likely to be in similar terms to the response received from Mr A Smith.

As indicated in the Mayoral Minute the proposed Macquarie 2010 Celebrations have considerable significance for not only this Council's area but also those other councils that encompass the "Macquarie Towns". As such, it would have been desirable for any celebrations undertaken to have been done on an overall coordinated basis rather than on an individual council-by-council basis. Unfortunately, it would appear that Council's representations have not, at this stage, assisted in facilitating such an approach.

Accordingly, it will now be necessary for the Council to consider what action it wishes to take to support any proposed 2010 Celebrations.

In this regard, it is acknowledged that there are a number of community groups interested in participating in and promoting 2010 Celebrations. Whilst the Council does not have sufficient resources to coordinate and/or run these events it may be appropriate for the Council to take a facilitation role in the establishment and functioning of a local community committee to become involved in the coordination of possible 2010 Celebrations activities and/or events.

If this were to be done it would need to be strongly emphasised that it was on the basis of Council playing a facilitation role to enable the community to appropriately celebrate the historical event. In playing this facilitation role Council may also take a participative role but this would only be in relation to events, if any, it actually proposed as part of the celebrations.

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In order to commence this process it is suggested that Council should call a meeting of interested parties with a view to forming a "community committee" to plan and coordinate proposed 2010 Bicentenary Celebrations on the basis suggested above.

Conformance to Strategic Plan

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

"Objective: An informed community working together through strong local and regional connections "

Funding

In accordance with Council's resolution of 8 April 2008, an amount of \$5,000 has been included in the 2008/2009 budget in support of activities associated with the planning of proposed Macquarie 2010 Celebrations.

RECOMMENDATION:

That in association with proposed Macquarie 2010 Celebrations the Council call a meeting of interested parties with a view to forming a "community committee" in accordance with Council's Community Engagement Policy to plan an approach to proposed celebrations on the basis, as outlined in the report in this regard, of the Council taking a facilitation role to enable the community to appropriately celebrate this historic event.

ATTACHMENTS:

AT - 1 Mayoral Minute to Council Meeting held on 8 April 2008

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AT - 1 Mayoral Minute to Council Meeting held on 8 April 2008

Ordinary Meeting Agenda - 12 August 2008

REPORT:

I have received correspondence from, and recently met with, Ms M Sullivan, MA LLB, Chairperson of the Lachlan and Elizabeth Macquarie Bicentenary Celebrations 2010 Committee seeking Council's support in connection with proposals for celebrations in 2010.

It is understood that similar approaches are being made to other "Macquarie Town" councils with a request that representations be made to Mr J Trevillian AM, CEO of the Australia Day Council and Deputy Director-General of the Premier's Department and Mr A Smith Deputy Director-General and also to the Premier of NSW, the Hon M Iemma, in order to:

- a) Request the NSW Government to unequivocally endorse the Macquarie 2010 Bicentenary Celebration proposals;
- b) Request the NSW Government to fund this most worthy project and establish an appropriate secretariat to administer the project;
- c) Advise that the Macquarie 2010 Celebrations is an opportunity that should not be missed and an historic occasion that should not go unmarked by the Macquarie Towns and their people.

The proposed Macquarie 2010 Celebrations obviously not only have significance for this Council's area but also for those other councils that encompass the "Macquarie Towns". As such, it is suggested that any celebrations actually undertaken should be done so as an overall coordinated approach rather than on an individual council-by-council basis.

In an earlier submission to the Premier the Chairperson of the Lachlan and Elizabeth Macquarie Bicentenary Celebrations 2010 Committee made, in part, the following comments:

"The Macquarie 2010 Committee is experiencing a ground swell of interest and support from across metropolitan and regional NSW for a set of events during 2010 to commemorate the 200th Anniversary of the arrival of Governor Major-General Lachlan Macquarie and his wife, Elizabeth Campbell Macquarie, on 1 January 1810.

The bicentenary presents a wonderful opportunity for the whole of the community to reflect on its shared history and the legacy left by the Macquaries. This can be accomplished in many ways including through a series of events during 2010 and can be undertaken as part of our usual New Year (the day Macquarie was sworn in) and Australia Day celebrations.

The Macquarie 2010 Committee is fast gathering a great deal of support for marking this important event in our colonial history. The planning undertaken so far is quite extensive and most of New South Wales' major educational and cultural institutions are involved. Macquarie University is particularly involved as is The University of Western Sydney (the location of Mrs Macquarie's Female Orphanage) which has expressed support for the proposal."

In view of the potential significance of these celebrations it is suggested that Council should lend its support to the Committee by making the representations referred to earlier in this Mayoral Minute.

It is also suggested that an initial amount of \$5,000 should be included within Council's 2008/2009 budget to assist with any contingencies (such as a reception, assistance with external functions and activities, etc.) that may arise as a result of Council's support of these celebrations. Council would then be in a position to assess its involvement in the celebrations and make provision for any additional financial support that may be required as part of the 2009/2010 budget.

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RECOMMENDATION:

That:

- 1) Council make representations to the Premier of NSW, the Hon M Iemma, Mr J Trevillian AM, CEO of the Australia Day Council and Deputy Director-General of the Premier's Department and Mr A Smith Deputy Director-General in order to:
 - a. Request the NSW Government to unequivocally endorse the Macquarie 2010 Bicentenary Celebration proposals;
 - b. Request the NSW Government to fund this most worthy project and establish an appropriate secretariat to administer the project;
 - c. Advise that the Macquarie 2010 Celebrations is an opportunity that should not be missed and an historic occasion that should not go unmarked by the Macquarie Towns and their people.
- 2) An amount of \$5,000 be included in Council's 2008/2009 budget to allow Council to provide support as appropriate associated with the planning of Macquarie 2010 Celebrations.
- 3) M/s M Sullivan, MA LLB, Chairperson of the Lachlan and Elizabeth Macquarie Bicentenary Celebrations 2010 Committee be advised of Council's actions in this regard.
- 4) A copy of this Mayoral Minute and details of Council's resolution be forwarded to other "Macquarie Town" councils.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF MAYORAL MINUTE Oooo

oooO END OF REPORT Oooo

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CITY PLANNING

Item: 169 CP - Construction of premises - Commercial Development - Lot 121 DP 771719, Lot 3 DP 748866, Lot 100 DP 776172, Lot 103 DP 776172, Lot 1 DP 577444, Lot 2 DP 577444, 47 Bells Line of Road, North Richmond - (DA0750/07, 85782, 87967, 95498)

Development Information

Applicant: Urban City Consulting Pty Limited
Applicants Rep: Troy Myers
Owner: Botanica Property Developments Pty Ltd
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Sydney Regional Environmental Plan No. 20 (No. 2) - Hawkesbury Nepean River
State Environmental Planning Policy No. 11 - Traffic Generating Development
State Environmental Planning Policy No. 55 - Remediation of Land
Area: 2640.7m²
Zone: Business General 3(a) under Hawkesbury Local Environmental Plan 1989
Advertising: Not required under Hawkesbury Development Control Plan
Date Received: 5 November 2007

Key Issues:

- ◆ Bulk and Scale
- ◆ Car parking
- ◆ Access
- ◆ Use of Council Carpark for Access
- ◆ Removal of trees
- ◆ Land and Environment Court Appeal - Proceedings No. 10298 of 2008 - Deemed Refusal

Recommendation: Refusal

REPORT:

Introduction

This development application seeks approval for the construction of a retail-commercial development (Supermarket) at 47-53 Bells Line of Road, North Richmond. The development relies on access from Riverview Street via the Council car park.

The purpose of this report is to detail the proposal, the current statutory situation and provide an assessment of the application in accordance with Section 79C (1) of the Environmental Planning and Assessment Act 1979.

The application is being reported to Council as it involves Council Land.

Land and Environment Court Appeal

A Class 1 Appeal has been lodged to the NSW Land and Environment Court (Appeal No 10298 of 2008) under Section 97 of the Environmental Planning and Assessment Act, 1979, as amended against Council's deemed refusal of the development application. A conciliation conference under s34 of the Land and Environment Court Act 1979 is scheduled on-site for 20 August 2008. The conciliation conference will be conducted by a Commissioner of the Court and will include two phases.

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In the first phase the parties will endeavour to agree, resolve or reduce issues. If total agreement is reached at this stage then the Court will be asked to make orders by consent.

If the parties remain at issues at the end of the conciliation stage then the Commissioner can proceed to hear and determine the matter at that point, if the parties wish him to do so.

If, however, either of the parties does not want the matter determined at that point then the Commissioner simply files a report of the conference generally and the matter goes back to the Court for a hearing date to be fixed in due course.

Council's Solicitors have advised that the Council officers attending the conference *"have the appropriate delegations from Council to conciliate and also to make decision at the conclusion of the conciliation phase as to whether or not the Commissioner is to be permitted to hear and determine the matter to finality at that point."*

Background

The subject site has a previous development application No. 0488/04 approved in 2005 for the construction of a mixed use development comprising 32 residential units, 6 shops used for retail/commercial activities, 99 basement car parking spaces and the demolition of existing buildings including the heritage item.

The heritage item has been demolished.

The current Development Application 0750/07 was submitted to Council on 5 November 2007.

The Proposal

The development application seeks approval for the following:

1. Construction of a single storey retail - commercial building comprising a total floor area of 1898.18m². The building is to be occupied by Franklins Supermarket.
2. Provide roof top car parking for 58 vehicles.
3. Remove two trees within Council's car park and undertake necessary works for the construction of vehicle access and manoeuvring within the carpark.

Vehicular access for the development is from the rear, across Council's car park which has access off Riverview Street. The manoeuvring area for service vehicles is also proposed on Council's land. This land is currently used as a pedestrian access way between the subject land and the Bendigo Bank leading to Council's car park adjacent to a commercial development to the south east of the subject land (Coles development). Both the Council car park and service vehicle manoeuvring area are classified as Community Land under the provisions of the Local Government Act.

The building is proposed to be constructed on a 1.5m setback to Bells Line of Road, and a nil setback to all other property boundaries. Main pedestrian entrance to the building is via the Council car park. Vehicular access to the roof top car parking is along the south western boundary of the site. The loading bay is located along the south eastern corner of the building. No direct access, apart from emergency exits, is available from Bells Line of Road.

The proposed building will be constructed of concrete tilt up panels with cement rendering applied to the walls. Aluminium framed glazed windows and entry doors and metal framed awning structure at the entrance are provided.

Description of the Site and Surrounds

The site is within the Business General 3(a) zoned land and is located on the south eastern side of Bells Line of Road near its intersection with Grose Vale Road, North Richmond. The site is rectangular in shape

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having a 60.93m street frontage to Bells Line of Road and a depth of 43.34m with a total land area of 2640.7 sqm.

The site is currently vacant. It is located in the vicinity of old Police Station Building which is a heritage item under Hawkesbury Local Environmental Plan 1989. The surrounding area is characterised by a mixture of residential, commercial and industrial development consisting of single and two storey buildings. A single storey commercial building comprising four shops is being constructed on the adjoining land to the south between the subject site and the old Police Station.

Community Land

Vehicular and pedestrian access for the development is from the rear across the Council's car park. The manoeuvring area for service vehicles also uses Council's car park. The car park is zoned Business General 3(a) and is classified as 'Community' Land under the Local Government Act 1993.

Under the Community Land classification, Council is unable to legally issue any rights of carriageway for access purposes until such time as the land classification is changed from Community to Operational. Council is in the process of preparing a Local Environmental Plan for Hawkesbury Local Government area and the matter of classification of this and other lands is being addressed in the conversion of the current LEP to the Standard Template LEP.

Planning Assessment

1. Section 79C Matters for Consideration

In determination of the application, Council is required to take into consideration the following matters:

- (a) the provisions (where applicable) of:
 - (i) **any Environmental Planning Instrument:**

The following planning instruments apply having regard to the subject application:

- Hawkesbury Local Environmental Plan 1989.
- Sydney Regional Environmental Plan No 20 (No2) - Hawkesbury Nepean River.
- State Environmental Planning Policy No 11 – Traffic Generating Development.
- State Environmental Planning Policy No 55 – Remediation of Land.

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The land is zoned Business General 3(a) under the provisions of HLEP 1989. Clause 9 of HLEP 1989 provides that commercial development constitutes a permissible development within the zone subject to the development being consistent with the zone objectives detailed under Clause 9A.

Clause 9A – Zone Objectives

The zone objectives listed under Clause 9A are detailed as follows:

- (a) *To promote the development and expansion of business activities to meet the optimum employment and social needs of the City of Hawkesbury.*

Comment: The proposed development is considered consistent with this objective.

- a) *To permit non-commercial development within the zone where such development is compatible with the commercial character of the locality.*

Comment: The proposal is not for a non-commercial development.

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(c) *To ensure that there is adequate provision for car parking facilities within the zone.*

Comment: The proposed development does not provide the required on-site car parking under Hawkesbury Development Control Plan. Whilst the site is adjacent to a public car park, off-setting car parking for private developments and use of public car parks is not considered appropriate. This zone objective is considered to be satisfied for reasons indicated later in the report.

(d) *To minimize conflicts between pedestrians and vehicular movement systems within the zone.*

Comment: This zone objective is not satisfied as the proposed development would result in vehicular-pedestrian conflict. The proposed manoeuvring of service vehicles is on the adjoining Council land which is currently used as a pedestrian link between the car park and the adjoining shops to the south east which is likely to cause conflict and may impact on pedestrian safety.

(e) *To 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 separated from the existing old Police Station building, which is an item of heritage significance under Schedule 1 of Hawkesbury Local Environmental Plan 1989, by a commercial and retail development currently under construction. The proposal is considered to have minimal additional impacts on the setting of the heritage item.

Other relevant Clauses applicable to the proposed development

Clause 18 - Provision of water, sewerage etc services

The provisions of Clause 18 require that a site have satisfactory access to water, sewerage and electricity services. It is considered that the site benefits from a range of services. The application fails to provide adequate drainage. Further comments on this matter are provided later in this report.

Clause 22 – Development fronting a main or arterial road

This Clause applies as Bells Line of Road is a main road. This Clause requires Council to have, in addition to the matters specified in Section 79C(1) of the Act, regard to the following principles:

(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.*

Comment: There is little scenic merit of the site and the locality at the moment with the exception of the existing heritage old Police Station building in the vicinity of the site. The proposed building, due to its siting and design and especially due to the development on the adjoining land, is unlikely to further deteriorate 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.*

Comment: Access to the proposed development, for pedestrians and both cars and service vehicles, is off Riverview Street through Council's car park. Whilst the development will increase traffic in the area, it is considered that Bells Line of Road has sufficient capacity to accommodate the additional traffic generated by the proposed development.

(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.*

Comment: The proposed development envisages a building form of 7m to 10m height fronting the main road with front setbacks consistent with the adjacent developments. The height and bulk of the building is considered not to be inconsistent with other developments in the area.

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(d) *Any building should be set back, from the nearest alignment of the main or arterial road, the distance to be determined by Council having regard to:*

- (i) *the nature, scale and function of the building;*
- (ii) *sight distances for drivers;*
- (iii) *minimisation of driver distraction;*
- (iv) *future road alignments.*

Comment: The building is setback between 1.5m and 7m. The proposed setbacks will have minimal impact on sight distance for drivers, driver distraction or any future road alignment.

4) *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: Access to the proposed development is not from Bells Line of Road.

Clause 28 – Development in the vicinity of Heritage Items

This clause requires an assessment of the effect of the proposed development on the heritage significance of the item that is nearby the proposed development. The proposal is in the vicinity of a former Police Station building which is a heritage item and therefore the impact of the development on this building is required to be assessed. This is discussed in the subsequent sections of this report.

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

The provisions of this clause require an assessment of the impact of a development on land situated on soils having acid sulphate characteristics. The site is within an identified acid sulphate locality and is Class 5 Land. An appropriate condition can be included to carry out acid sulphate assessment should the application be approved.

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

Sydney Regional Environmental Planning Policy (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. Given the nature of the proposed development and the minimal environmental impact associated with the proposal, it is considered that the development is consistent with the aims and objectives of the Plan.

State Environmental Planning Policy No 11 – Traffic Generating Development.

This development application was received in November 2007. As such, the provisions of SEPP 11 rather than the SEPP (Infrastructure), which commenced 1 January 2008, apply to this application. In accordance with this policy the application was referred to the Roads and Traffic Authority (RTA) for their consideration. Comments from the RTA were received in a letter dated 15 April 2008 for Council's consideration in determining the application. These comments require the following additional works to be carried out by the RTA both at the intersection of Grose Vale Road and Bells Line of Road and also on the two roads.

"1. *The intersection of Bells Line of Road and Grose Vale Road is currently operating at capacity during various periods throughout the day. Its current layout and the proposed development will only exacerbate the problem and increase congestion at this intersection. The RTA is also aware of the proposal for future land releases in the North Richmond area within the vicinity of this intersection which would further increase congestion. Therefore major intersection works are required to accommodate existing and future traffic flows.*

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- *Upgrading to improve capacity and efficiency in signal operations at the intersection could include:*
 - *Provision of exclusive left turn slip lane from Grose Vale Road into Bells Line of Road.*
 - *Provision of two exclusive right turn bays FROM Grose Vale Road into Bells Line of Road and one designated through lane.*
 - *Increase the two east bound storage capacity in Bells Line of Road.*
 - *Provision of two through westbound lanes in Bells Line of Road including 100m of departure and merge, west of the intersection.*
 - *Acquisition of land for the above works.*

The RTA has also provided additional comments and it's requirements which can be included as conditions of consent should the application be approved.

The current development was not referred to the Local Traffic Committee. The previous development application DA0488/04 for the construction of a mixed use development on the subject land was, however, considered by the Committee at its meeting on 18 May 2005. That development also relied on the Council car park for access. The Committee made several recommendations including the provision that there was to be "*nil net loss of parking spaces within the car park;*"

The current application is inconsistent with the above recommendation as it will result in the loss of one public car parking space within the Council car park. This issue is discussed later in the report.

State Environmental Planning Policy No 55 – Remediation of Land.

The policy requires development to comply with certain standards and that land be investigated if contamination is suspected. There should be an assessment undertaken however this can be covered by a condition of consent.

(ii) Any Draft Environmental Planning Instrument that is or has been placed on exhibition

There are no draft planning instrument which affect the subject land.

(iii) Any Development Control Plan in force under Section 72:

Hawkesbury Development Control Plan 2002

Whilst there is no specific chapter contained in Hawkesbury Development Control Plan 2002 that specifically relates to commercial development, the following is an assessment carried out in accordance with the provisions of this plan.

Car Parking and Access

Car Parking

The proposal provides a total of 1898.16sqm of retail/commercial floor space. Based on Council's requirement of 1 space per 30 sqm of gross floor area (GFA), 64 spaces are required. It is proposed to provide 58 rooftop car parking spaces which leaves a shortfall of 6 car parking spaces.

The Traffic Impact Assessment (TIA) accompanying the application has provided the following reasons in support of the shortfall in the required car parking spaces:

- *The subject development requires 64 car parking spaces whereas the development provides for 58 car parking spaces.*
- *The removal of tree within the car park would allow to create two additional car spaces within the car park and therefore the shortfall as a result of the proposed development would be 4 spaces.*

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- *The TIA argues that the shortfall is considered to be relatively minor in the context of the development as it is considered likely that there will be a high proportion of mixed use trips associated with the customers combining trips to the site with existing trips to the adjoining retail shopping centre and there would be reasonable rationalisation for a minor parking shortfall within the subject site.*
- *The parking demand surveys of the Council car park area undertaken during the peak shopping period indicated that the Council car park is significantly under utilised and there are a minimum of 48 unoccupied car spaces during the peak operation period of the development. The car park therefore has ample capacity to accommodate 4 space parking shortfall associated with this development.*

The objective behind the car parking standards is to ensure adequate off street parking facilities are provided for all vehicles generated by the new development to avoid any impact on existing car parking in the area. In addition car parking standards are designed to control the bulk and scale of the development.

The applicant proposes to provide 58 car parking spaces at the rooftop level. The shortfall in on-site car parking remains at 6 spaces as the two additional car parking spaces referred to in the TIA are on Council land and should not be counted towards reducing the shortfall in on-site car parking for the proposed development. In fact the number of car parking spaces in Council's Car park would reduce by at least one space due to the reconfiguration of car parking spaces along the northern boundary to allow for the vehicular access to the proposed development. The reconfiguration would also reduce the disabled car parking spaces from 2 to 1. As such, there is no net gain in parking spaces on the Council carpark.

In accordance with the Hawkesbury DCP objectives on car parking, new development is to make provision for off-street car parking to cater for the needs of the residents, visitors, employees and service vehicles. The DCP also notes that in determining the provision of on-site car parking, Council will take into account (in part):

- *The size and type of development and its traffic generation*
- *The availability and accessibility of public car parking spaces.*

The development is located immediately adjacent to a public car park. The area around the North Richmond Shopping Village is undergoing changes with the existing properties being redeveloped for more intensive land uses. Whilst there may be some spare capacity available within the public car parks in the locality at the present time, the cumulative impact of off-setting car parking for private developments and increased reliance on public car parking would ultimately result in the shortage of car parking in the area. In addition, accepting the shortfall would set a precedent for other future developments in the area. As previously stated the objective of the car parking control is to control the bulk and scale of the development, the proposal with a shortfall of 6 car parking spaces is considered to be an over development of the site and is not supported.

Access Via Council Car Park and Manoeuvring Area

Vehicular and pedestrian access to the site is proposed to be provided from Riverview Street via the existing Council car park. It is proposed to utilise the existing car park entrance located on Riverview Street which is approximately 8m metres wide at the kerb and reduces to an approximate 6 metre wide aisle within the car park. Access to the rooftop car parking area will be provided via an access ramp located to the southwest side of the building which is connected to the Council car park through a vehicular access driveway. A loading dock is proposed to be provided within the southern corner of the building. Access to the loading area is also via the Council car park with the manoeuvring area for the loading bay located on public (Council) land.

The development application initially proposed Large Rigid Vehicles for deliveries to the supermarket. This required substantial modifications of the car park and an estimated loss of 15 public car parking spaces. Amended plans and traffic report has now been submitted which show a Medium Rigid Vehicle turning template accessing the service bay. A letter has also been submitted from Franklins which states that "Franklins would be able to use 8.8m rigid vehicle".

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The changes to the size of delivery vehicles has reduced the impact on the car park requiring minor works to the car park entry. The loss of public car parking spaces within the car park will now be one space only which is not unreasonable.

Should the application be approved a condition of consent would be required that limits deliveries to the development by Medium Rigid Vehicles.

In regards to the use of adjoining land (Council owned land used for pedestrian link to the shops from the car park) for manoeuvring of service vehicles, it is noted that the manoeuvring areas for private developments are required to be on-site as a general rule as the DCP does not encourage manoeuvring on public roads. The use of adjoining land for manoeuvring of service vehicles is considered to be an over development of the site and contrary to the provisions of the DCP. In addition, it would give rise to heavy vehicle and pedestrian movement conflicts and therefore pedestrian safety is likely to be compromised. Council has consistently required all other developments in the area to provide manoeuvring of service vehicles on site and on that basis the proposed use of public land for manoeuvring is not supported.

Community Consultation

The development application does not require notification under Notification Chapter of Hawkesbury Development Control Plan. However one submission was received on behalf of the owners of ICA property (Development Fund No. 3 Pty Ltd) who own land at No. 6 Riverview Street, North Richmond which comprise Coles Supermarket and associated retail shops. The issues raised in the submission are outlined below and addressed within this report:

- Adverse economic impact.
- Prohibited development as the development relies on access from Council's car park which is Community Land and Council has no power to entertain an application of this type.
- Sterilisation and isolation of Council-owned land.
- Non-compliance with zone objective (b), (c) and (d) of Business General 3(a) zone.
- Inconsistent with Clause 22 of Hawkesbury Local Environmental Plan 1989 - Development Fronting Main or Arterial Road.
- Non-compliance with Hawkesbury Development Control Plan - Part C - Chapter 1 – landscaping.
- Non-compliance with Hawkesbury Development Control Plan - Part C - Chapter 1 - 2 - Car Parking and Access.
- Non-compliance with Hawkesbury Development Control Plan - Part C - Chapter 3 - Signs.
- Traffic impact.
- Insufficient car parking.
- Concerns on use of public land for loading/unloading bays.
- Amenity Impact - noise on adjoining residential area.
- Concern with the removal of trees on public land.
- Overdevelopment of site.

Planning Assessment

Context & Setting

The existing built character of the North Richmond commercial precinct and adjacent industrial and residential land primarily consists of single and two storey development. The proposed development envisages a building form of between 7m to 10m which is acceptable considering other developments in the area.

In regards to street presentation, it is noted that the adjacent development on both sides of Bells Line of Road have formal shop fronts and entries fronting Bells Line of Road. However, the proposal presents the rear of the supermarket to the street with a large expanse of blank wall with no glazing, shopfront or pedestrian entry to the road. The development essentially turns it's back on Bells Line of Road and provides only large signage along the main road. In order to compensate for the lack of formal shop front, the applicant has amended the façade treatment by incorporating different colours, materials and finishes to the Bells Line of Road frontage. In addition, the size of the proposed signage has also been reduced to

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make it less intrusive. Given that North Richmond is developing into a main centre for the locality, it is considered that developments of this type should be required to consider streetscape and design matters appropriately and be expected to provide a more pedestrian friendly façade to the road frontage.

Heritage

The site is located in the vicinity of a heritage item, the old Police Station on 39 Bells Line of Road.

Council's Heritage Advisor provided the following comments on the original proposal:

"The proposed development has the potential to impact adversely on the former Police station and to this effect the proposed new supermarket is of style (form, bulk, colour, siting) that would diminish the setting of the Police Station. Of course the setting has already changed and it will continue to change. Nevertheless I would recommend several design changes including greater setback, to minimise impact."

In response to the above comments the applicant has submitted a Statement of Heritage Impact Assessment. This report concludes that the proposed Franklins development is appropriate in terms of its potential heritage impacts, particularly in light of the existing and emerging character of the area in which it is to be located.

The amended plans and the Statement of Heritage Impact were reviewed by Council's Heritage advisor and provided the following additional comments:

"Taking into account the approved & partly constructed development between this proposed development and the adjoining heritage item (Former Police Station) I feel that the setback as shown on the design proposal drawings would be acceptable, and that the potential impact on the heritage item would be largely screened and therefore low. I would not raise any other concerns."

The subject site is not directly adjoining the heritage item. The siting of the building in its current form is considered to have no significant impacts on the setting of the old Police Station building.

Tree Removal

The large palm trees at the front of the site are to be incorporated into the development and it's landscaping. The proposal is to remove two forest Red Gum trees, one located outside the Bendigo bank within the pedestrian way to the car park and the other within the car park. Both the trees are located on Council land.

The application provided an Arborist Report. The report recommends to remove these trees due to their location within the building envelope including on-site stormwater detention and are unable to be retained.

The Eucalyptus tree near the Bendigo Bank is not a good specimen and could be removed. Whilst the tree located near the proposed car park entry contributes to the landscape quality of the area, the close proximity of the tree to proposed building works is likely to have adverse impacts on the health and integrity of the tree and therefore no objection is raised to its removal subject to planting of replacement trees in the area. A condition of consent requiring replacement trees can be included, should the application be approved.

Suitability of the Site

The subject land is zoned Business General 3(a) under Hawkesbury Local Environmental Plan 1989 which permits commercial and retail development with Council's consent. Due to its location on the main road in close proximity to the intersection with Grose Vale Road, the RTA has not supported access off Bells Line of Road. The development therefore must rely for access on the Council car park.

Council previously granted approval to a mixed use development on the subject land which relied on the Council car park for access (However, it should be noted that Council does not have the power to grant

formal access over Community Land). The commercial component comprised six individual retail tenancies. In regards to service vehicles the maximum size of vehicles required to service the site were small rigid vehicle (7.1m Length) and the RTA also allowed egress of service vehicles onto Bells Line of Road.

However, the proposed development now proposes a supermarket which by nature of its operation requires a specific building footprint, internal and external form, car parking and service vehicle requirements. The proposal requires Medium Rigid Vehicles to service the site. Whilst the use of Council Land for temporary access may be acceptable (Council does not have the power to grant formal access over Community Land), the manoeuvring of service vehicles on Council land would result in significant impacts and loss of amenity for car park users and pedestrians and require the imposition of unnecessary encumbrances on public land. It is acknowledged that the site is zoned for commercial development, however it is considered not to be suitable for the development as proposed.

Construction

The proposed development would result in a short term disruption to the operations of Council's car park.

Economic Impacts

The submission received raises issues in regards to economic effect of the development and that the application does not provide any economic impact assessment with the application. The adjacent development comprises retail shopping including a Coles Supermarket. The use of the site for a Franklins Supermarket will result in a variety and choice of grocery shopping in the area. Further development of the business zoned land for retail/professional purposes is essentially a commercial decision of the proponent. The proposed development is not likely to have a negative economic impact for the community in terms of employment generation and income both during the construction phase and use of the site.

Signage

The proposal includes two signs on the building façade facing Bells Line of Road. These signs will be within a metal frame each having dimensions of 2m x 8m. The actual lettering will have dimensions of approximately be 0.7m X 3m. These signs are proposed to be used as a design feature to mitigate the large expanse of wall area.

The proposed signage is defined as Business Identification Sign under the State Environmental Policy No 64 - Advertising and Signage. Under SEPP No.64 Part 2 Signage Generally,

"A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) that the signage is consistent with the objectives of this Policy as set out in clause 3(1) (a), and*
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1."*

The applicant has provided assessment of the proposed signage in accordance with the criteria contained in Schedule 1 of the policy to demonstrate compliance.

An assessment of the proposed signage has been carried out in accordance with Schedule 1 of SEPP 64 which indicates that the scale of the signage is not considered to be excessive relative to the size and nature of the host building and is not considered to be offensive to the adjacent commercial or industrial zones. The proposed signage allows for effective communication displaying the corporate logos and identifying the building. The signage is therefore considered to be consistent with the provisions of SEPP 64.

(b) The suitability of the site for the development:

The site is suitable for a commercial development, however, the physical constraints are such that it is not considered suitable for development for the purposes of a supermarket.

(c) Any submissions made in accordance with this Act or the Regulations:

One submission was received in relation to this development application and the issues raised in the submission have been discussed previously in this report.

(d) The public interest

For the reason outlined above the proposal is considered not to be in Public interest.

Conclusion

The site is highly constrained due to its frontage to the main road and therefore relies for access on the adjoining Council's car park which is Community land. Fundamental to the development is the reclassification of Council land from Community to Operational, impact on the operations of the public car park, reliance of the development on Council land to offset car parking and for manoeuvring of service vehicles and the shortfall in on-site carparking. For the development to proceed these constraints must be satisfactorily resolved prior to support being obtained.

Given the above matters, the development in its current form is considered to be an over development of the site. It is also considered contrary to the public interest and therefore not supported.

RECOMMENDATION:

That the development application DA0750/07 for the construction of a commercial building to accommodate Franklins Supermarket on Lot 121 DP 771719, Lot 3 DP 748866, Lot 100 DP 776172, Lot 103 DP 776172, Lot 1 DP 577444, Lot 2 DP 577444, 47 Bells Line Of Road North Richmond be refused for the following reasons:

1. There is no appropriate access available to the site as the proposed access to the development is from Council's car park which is Community Land and under the provisions of the Local Government Act 1993 Council has no powers to grant formal access for a private development.
2. The proposal is inconsistent with objectives (d) of the 3(a) (Business General) zone contained in Clause 9A of Hawkesbury Local Environmental Plan 1989 in that the proposal would have an adverse impact on the current use of the Community Land as car park and on the adjoining public lane because its proposed manoeuvring and loading area would unduly impact upon the current car park and adjoining community land and adversely impact on safe pedestrian usage and amenity.
3. The proposal is considered an overdevelopment of the site as it fails to provide on-site car parking in accordance with the requirements of Hawkesbury Development Control Plan Part C - Chapter 2 – "Car Parking and Access".
4. The proposal is considered an overdevelopment of the site as it fails to provide on-site service vehicle areas in accordance with the requirements of Hawkesbury Development Control Plan Part C - Chapter 2 – "Car Parking and Access".
5. The proposal is not considered to be in the public interest having considered the impacts of the development on Community Land.

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ATTACHMENTS:

- AT - 1 Locality Plan**
- AT - 2 Site Context Plan**
- AT - 3 Floor Plan - Ground Floor**
- AT - 4 Floor Plan - First Floor Car Parking**
- AT - 5 Elevations**
- AT - 6 Elevations**
- AT - 7 Landscaping Plan**
- AT - 8 Plan with Turning Paths**

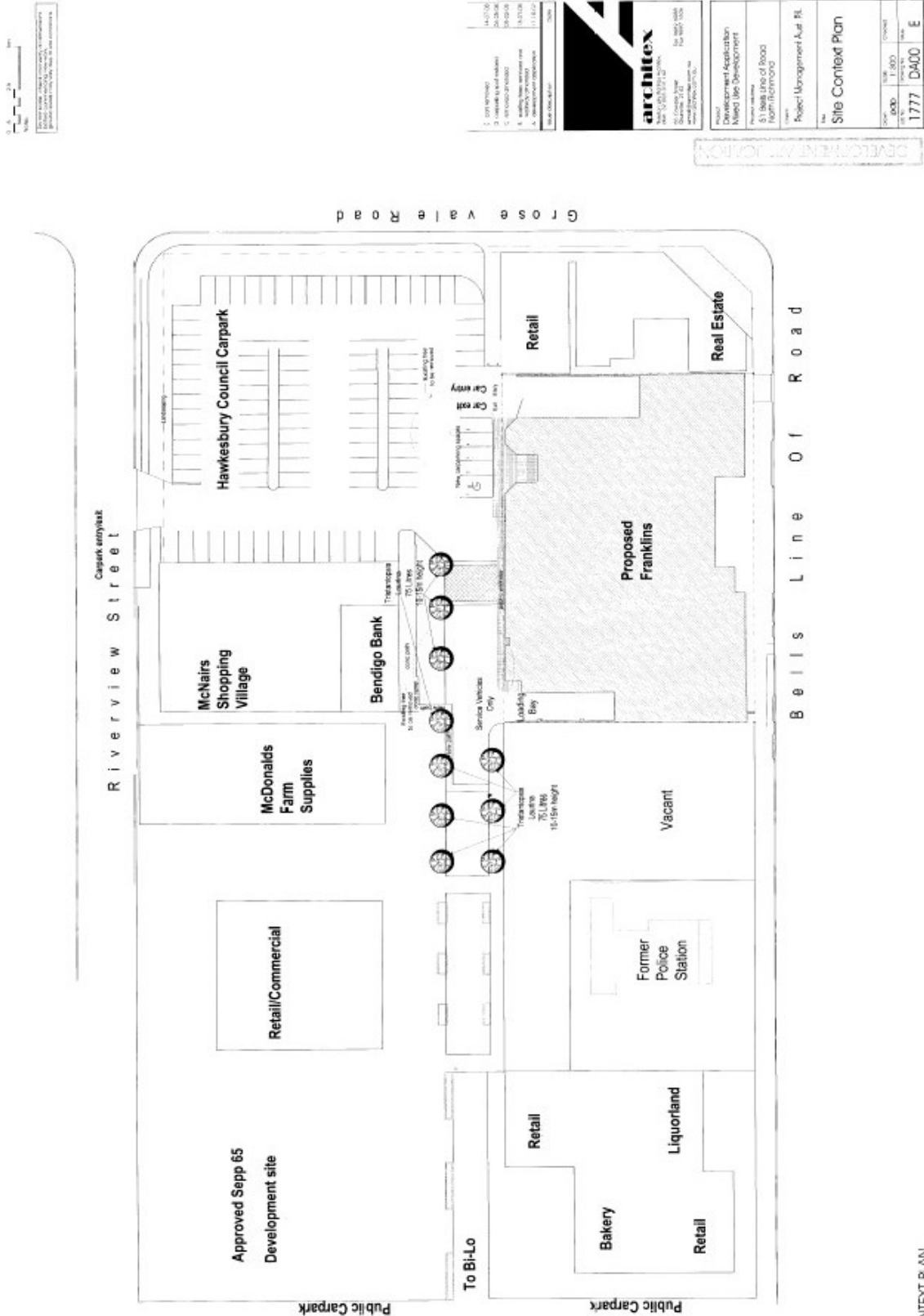
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AT - 2 Site Context Plan



SITE CONTEXT PLAN

DEVELOPMENT APPLICATION

architect

1. 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Meeting Date: 12 August 2008

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Meeting Date: 12 August 2008

Architectural drawing of the first floor level of a building, showing a plan view with various rooms, corridors, and structural elements. The drawing includes a north arrow, a scale bar, and a title block. The title block contains the project name "DEVELOPMENT APPLICATION", the project number "1777", and the date "DA02". The drawing is labeled "level 1 Floor Level" and "Corraling". The drawing shows a large open area with a grid of lines and dimensions. The grid lines are labeled with numbers 1 through 31. The drawing also shows a series of curved lines representing a road or driveway. The drawing is titled "FIRST FLOOR LEVEL" and "BELL'S LINE OF ROAD".

Meeting Date: 12 August 2008

Architectural drawings for the North-East and North-West elevations of a building. The drawings include a scale bar, a north arrow, and a legend. The legend identifies various materials and colors used in the drawings.

LEGEND

- 1. Concrete
- 2. Brick
- 3. Stone
- 4. Wood
- 5. Metal
- 6. Glass
- 7. Paint
- 8. Stucco
- 9. Tile
- 10. Slate
- 11. Shingles
- 12. Asphalt
- 13. Gravel
- 14. Sand
- 15. Soil
- 16. Vegetation
- 17. Fences
- 18. Gates
- 19. Driveways
- 20. Paths
- 21. Landscaping
- 22. Utilities
- 23. Signs
- 24. Other

North-East Elevation - bell's line of road elevation

North-West Elevation

DEVELOPMENT APPLICATION

architect

Development Application

North-West - NORTH EAST - ELEVATIONS

1777 DA04 D

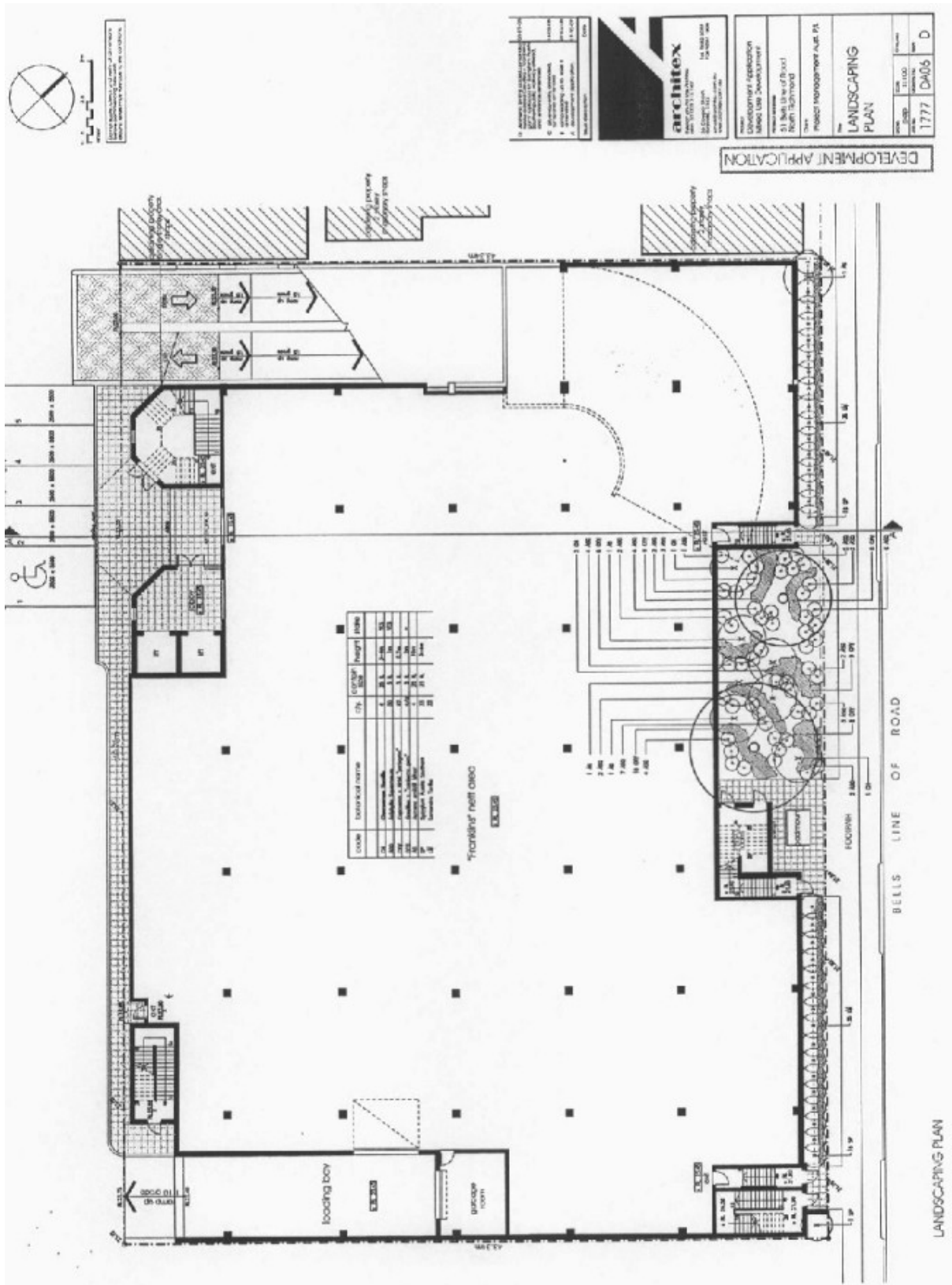
Meeting Date: 12 August 2008

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ORDINARY MEETING

Meeting Date: 12 August 2008

AT - 7 Landscaping Plan



ORDINARY MEETING

Meeting Date: 12 August 2008

AT - 8 Plan with Turning Paths



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ORDINARY MEETING

Meeting Date: 12 August 2008



ordinary
meeting

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