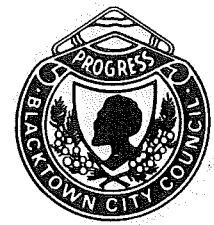


31A

# BLACKTOWN CITY COUNCIL NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION



UNDER THE ENVIRONMENTAL PLANNING AND  
ASSESSMENT ACT, 1979 (SECTION 92)

Page 1 of 3

**APPLICANT**  
BLACKTOWN NURSERY & LANDSCAPE  
SUPPLIES,  
LOT 1 RICHMOND ROAD,  
BLACKTOWN 2148

DETERMINATION No.  
006022

File No.  
DA-87-257

WG:HW:TP:S3D1:B4:

**PROPERTY DESCRIPTION**  
LOT 1, D.P. 27536 RICHMOND ROAD, MARSDEN PARK

**DEVELOPMENT**  
THE EXPANSION OF AN EXISTING RETAIL PLANT NURSERY TO ALLOW THE RETAILING  
OF FERTILISERS, SAND AND SOIL

**DETERMINATION**  
*Pursuant to Section 92 of the Act, the Council advises  
that the Development Application has been determined by:*

- GRANTING OF CONSENT SUBJECT TO THE CONDITIONS ATTACHED  
ON THE FOLLOWING PAGE(S)
- ~~GRANTING OF CONSENT UNCONDITIONALLY~~
- ~~REFUSING CONSENT ON THE GROUNDS SPECIFIED~~

**BY COUNCIL DECISION** Minute D501 O.M. 12th August, 1987  
~~BY DELEGATED AUTHORITY~~

**RIGHT OF APPEAL**  
SECTION 97 OF THE ACT CONFERS ON AN APPLICANT WHO IS DISSATISFIED  
WITH THE DETERMINATION OF A CONSENT AUTHORITY A RIGHT OF APPEAL  
TO THE LAND AND ENVIRONMENT COURT

**NOTE:** This Consent is generally valid for a  
period of 2 years effective from the date of this  
notice, unless specified otherwise by Sections  
93 and 99 of the Act, or by conditions.

P. H. BURNE DEPUTY  
TOWN CLERK

per:

DATE: 21.AUG.1987

Pursuant to Clause 50A of the Environmental Planning and Assessment Regulation, 1980,  
notice of this determination will be published in a newspaper circulating in the area. In accordance with Sec. 104A of the Environmental Planning and Assessment Act, 1979, any person may question the validity of this consent in legal proceedings commenced in the Land and Environment Court within three (3) months of the date of publication of the notice.

*Noted  
25/8/87*

**BLACKTOWN CITY COUNCIL**  
**NOTICE OF DETERMINATION**  
**OF A DEVELOPMENT APPLICATION**

UNDER THE ENVIRONMENTAL PLANNING AND  
ASSESSMENT ACT, 1979 (SECTION 92)

214 DETERMINATION No. 4
0 0 6 0 2 2
File No. DA-87-257

Page 2 of 3

**CONDITIONS/GROUNDSX**

1. Compliance with the requirements of the City Engineer.
2. Compliance with the requirements of the City Health Surveyor and including:
  - A. No approval for advertising signs is given and separate application is to be made and Council's approval obtained prior to the erection of any signs.
  - B. No nuisance or interference with the amenity of the area is to be created by reason of any process or operation on the premises causing the emission of noise, dust, smoke or any polluted discharge whatsoever. NOTE: Amendments to the Noise Control Act, 1975, require Council to investigate complaints where only one person complains.
3. The existing carparking area off Richmond Road is to be upgraded by the provision of the following:
  - A. Separate entry and exit signs to be located on the site with suitable barriers and landscaping being provided between such.
  - B. The existing carparking area is to be constructed of hard standing, all-weather material and shall be maintained to the satisfaction of the Chief Town Planner at all times.
4. A minimum of fifteen (15) off-street carparking spaces are to be provided on site immediately adjacent to the internal driveway. Each space to be a minimum of 2.5m x 5.2m marked, located, sealed with a hard-standing, all-weather material, and maintained to the satisfaction of Council's Chief Town Planner.
5. The required entrance/exit signs are to be clearly visible from both the street and the site at all times.
6. All loading and unloading operations are to take place at all times wholly within the confines of the site.
7. The frontage of the site to Richmond Road is to be satisfactorily landscaped to the satisfaction of the Chief Town Planner. For this purpose a landscaping plan is to be prepared and submitted to Council for the separate approval of the Chief Town Planner within two (2) months of this consent. The required landscaping is to be carried out to Council's satisfaction within three (3) months of this approval and shall be maintained at all times to Council's satisfaction.
8. At no time shall any goods, materials or trade waste be stored over any of the vehicular driveways, carparking areas, landscaping, footpath or in Richmond Road, other than in approved garbage receptacles.
9. This consent does not authorise the sale of garden furniture, hardware or any other items ancillary to a retail plant nursery. Selling of goods is to be restricted to the sale of plants, sand, soil and fertilisers only.

These conditions are imposed for the following reasons:

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments.
- (b) To ensure that no injury is caused to the amenity of the area,
- (c) Council considers that the circumstances of the case are such that it is in the public interest that they be imposed.

P.H. BURNE/ DEPUTY

**TOWN CLERK**

per: 

DATE:

21.AUG.1987

**BLACKTOWN CITY COUNCIL**  
**NOTICE OF DETERMINATION**  
**OF A DEVELOPMENT APPLICATION**

UNDER THE ENVIRONMENTAL PLANNING AND  
ASSESSMENT ACT, 1979 (SECTION 92)

DETERMINATION No. <sup>21A</sup> 006022
File No. DA-87-257

Page 3 of 3

**CONDITIONS/GROUNDSX**

10. This consent does not authorise the erection of any new buildings on the site but permits the use of the area as a retail plant nursery only. Separate development approval is required for any proposed increase in the floorspace of existing buildings or for any new proposed buildings.
11. Compliance with the requirements of Consent No. 1566, issued on 18th July 1972.

P.H. BURNE DEPUTY

**TOWN CLERK**

per: 

DATE:

21.AUG.1987

These conditions are imposed for the following reasons:

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments.
- (b) To ensure that no injury is caused to the amenity of the area,
- (c) Council considers that the circumstances of the case are such that it is in the public interest that they be imposed.

BLACKTOWN CITY COUNCIL

CHIEF TOWN PLANNER'S REPORT NO. 1963 (D)

Application for the Expansion of a Nursery on Richmond Road, Blacktown. Applicant: Blacktown Nurseries Pty. Ltd.

DA-87-257

APPLICATION: The expansion of an existing retail plant nursery to allow the retailing of fertilisers, sand and soil.

LAND: Lot 1, D.P. 27536, Richmond Road, Marsden Park.

ZONE: 1(a) Non Urban, under the provisions of Interim Development Order No. 133. The existing nursery operates under Existing Use Rights.

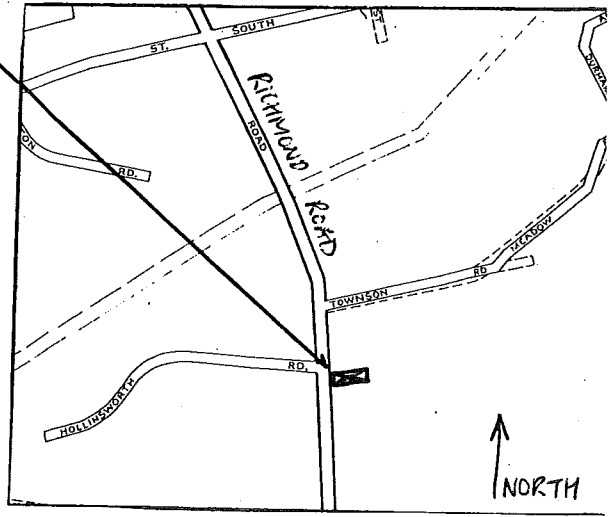
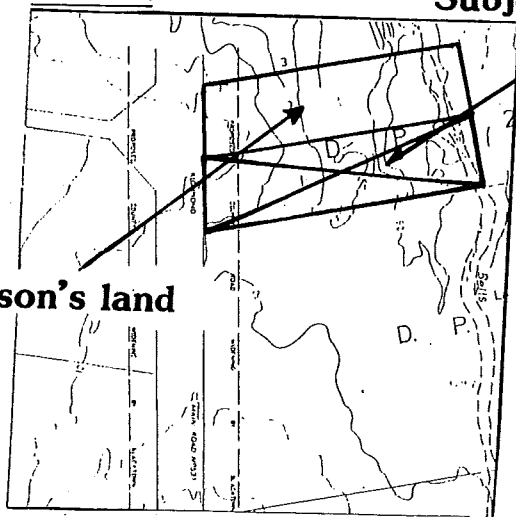
PRECIS OF REPORT:

1. On 18th July, 1972, Council granted its development approval for a nursery on the subject property. The subject property, therefore, has existing use rights as a retail plant nursery.
2. The proposed development does not involve the erection of any new buildings on the premises, however, the proposed use will involve the storage of extra products on the site.
3. The proposed development is permissible as an expansion of an existing non-conforming use.
4. Individual submissions have been received from an adjacent landowner and the tenant of the same land indicating no objection to the proposal but requesting that Council grant a similar approval to the adjacent site. Council, however, does not have the power to do this as the adjacent site does not have "existing use rights" as a retail operation.
5. The proposed activity has actually taken place on the site for some time without evidence of any problems in regard to road safety and the like.
6. A conditional approval of the application is recommended.

LOCATION

**Subject Site**

**Mr Simpson's land**



CHIEF TOWN PLANNER'S REPORT NO.1963(D)

REPORT

(a) The Application and History of the Site

- (i) On 18th July, 1972, Council granted its development approval for a bush/greenhouse to be used as a nursery on the subject site. That consent (No. 1566) required that the land was to be used only for the production and sale of plants. The consent prohibited the sale of hardware, outdoor furniture and other goods associated with garden uses. The consent also restricted the selling of goods from the roadside.
- (ii) It is now proposed to expand the business to allow the retailing of fertilisers, sand and soil. This activity is, in fact, presently being undertaken on the site.
- (iii) In a submission which accompanied the development application the applicant maintains that when he purchased the business some two years ago, sand, soil and fertilisers were being sold in conjunction with the retailing of plants on the site. The application now before Council is a direct result of the site having been inspected by Council's Town Planning Department. The applicant also maintains that, should the business be restricted to selling plants and shrubs only, it could not possibly survive, considering overheads and repayments etc. On this basis the applicant has applied for an expansion of the existing use rights.

(b) Statutory Requirements

- (i) Clause 13 of Interim Development Order (I.D.O.) No. 133, gazetted on 21st October, 1977, restricts the use of land within 300m of a designated road for the purpose of, amongst other traffic generating developments, plant nurseries. The existing development was approved by Council prior to the gazettal of I.D.O. No. 133 and is located within 300 metres of Richmond Road. At the time of development approval in 1972 the use was permissible under the provisions of the Blacktown Planning Scheme. The development therefore operates under "existing use rights" as a retail plant nursery.
- (ii) Pursuant to Part VI of the Environmental Planning and Assessment (E.P. & A.) Regulation, 1980, Council may consider an extension of an "existing use" provided that the extension does not increase by more than 10% the floorspace of the existing buildings or the area of land on which the work is carried out. The 1972 consent issued by Council authorises the use of the whole site for retail plant nursery purposes. The application therefore does not involve an expansion of land area to which the retail plant nursery consent applies and is permissible with Council's consent.

(c) Local Traffic Authority Committee's Comments

- (i) The application was considered by the Local Traffic Authority Committee on 10th June, 1987.

CHIEF TOWN PLANNER'S REPORT NO.1963(D)

- (ii) The Local Traffic Authority Committee raised no objection to the proposal subject to a number of requirements designed to improve the existing facilities provided for the parking of vehicles on the site.

(d) Public Submissions and Comment

- (i) Adjoining landowners were notified of the proposed expansion of retail activity and submissions have been received from Mr. G.M. Simpson, the owner of the adjacent northern allotment, and Mr. E. Baker, who carries out a rural industry business on Mr. Simpson's land. Mr. Simpson's land is shown on Page 1 of the Report.
- (ii) Both Mr. Simpson and Mr. Baker have stated that they have no objection in principle to the proposed activity provided that a similar approval is granted to Baker's Landscaping Supplies which is presently conducted on Mr. Simpson's land.
- (iii) Baker's Landscaping Supplies on Lot 2, D.P. 27536 was approved by Council in May, 1983, as a "rural industry" subject to a requirement that the retailing of products is not permitted on site. As noted, the provisions of I.D.O. No. 133 prohibit development for retail purposes in this location. Council's approval for Mr. Baker's rural industry was granted in 1983 after the gazettal of I.D.O. No. 133 and therefore has taken into consideration the provisions of this instrument.
- (iv) In regard to Mr. Baker's rural industry Council does not have the power under present zoning laws to permit the retailing of landscape products from Mr. Simpson's land. Under the Comprehensive Plan however, it is proposed to delete the 300 metre setback requirement for plant nurseries. Council may then consider an expansion of use of Baker's Landscape Supplies, although consideration must be given to the impact on the locality of having a number of retail type uses located on a main road. A guarantee therefore cannot be given that the expansion of Baker's business will be favoured by Council under the Comprehensive Plan.

(e) Consideration under Section 90 of the E.P. & A. Act

Having regard to the provisions of Section 90 of the E.P. & A. Act, 1979, it is considered that the proposed development is suitable in this location and will operate in a manner so as to not have an adverse impact on the amenity of the area.

(f) General Comments

- (i) The proposed expansion of existing use rights is considered to be a minor expansion of the approved activities on the site and is unlikely to cause any problems in regard to the movement of traffic on Richmond Road or to cause undue disturbance to nearby landowners.

CHIEF TOWN PLANNER'S REPORT NO.1963(D)

- (ii) Given the fact that the proposed activity has already been carried out on the site for some time without evidence of problems being caused, no objection is offered to the proposal subject to a number of conditions designed to improve the appearance of the development and the useability of the carparking facilities on site. It is recommended that the application be approved.

CTP 1963 Application for the Expansion of a Nursery on Richmond Road, Blacktown. Applicant: Blacktown Nurseries Pty. Ltd.

Recommendation

DA-87-257

RESOLVED that

- (a) The application for the expansion of an existing use relating to a retail plant nursery to allow the sale of sand, soil and fertilisers on Lot 1, D.P. 27536, Richmond Road, Marsden Park, be approved subject to the following conditions:
1. Compliance with the requirements of the City Engineer.
  2. Compliance with the requirements of the City Health Surveyor and including:
    - A. No approval for advertising signs is given and separate application is to be made and Council's approval obtained prior to the erection of any signs.
    - B. No nuisance or interference with the amenity of the area is to be created by reason of any process or operation on the premises causing the emission of noise, dust, smoke or any polluted discharge whatsoever. NOTE: Amendments to the Noise Control Act, 1975, require Council to investigate complaints where only one person complains.
  3. The existing carparking area off Richmond Road is to be upgraded by the provision of the following:
    - A. Separate entry and exit signs to be located on the site with suitable barriers and landscaping being provided between such.
    - B. The existing carparking area is to be constructed of hard standing, all-weather material and shall be maintained to the satisfaction of the Chief Town Planner at all times.
  4. A minimum of fifteen (15) off-street carparking spaces are to be provided on site immediately adjacent to the internal driveway. Each space to be a minimum of 2.5m x 5.2m marked, located, sealed with a hard standing, all-weather material, and maintained to the satisfaction of Council's Chief Town Planner.
  5. The required entrance/exit signs are to be clearly visible from both the street and the site at all times.
  6. All loading and unloading operations are to be take place at all times wholly within the confines of the site.
  7. The frontage of the site to Richmond Road is to be satisfactorily landscaped to the satisfaction of the Chief Town Planner. For this purpose a landscaping plan is to be prepared and submitted to Council for the separate approval of the Chief Town Planner within two (2) months of this consent. The required landscaping is to be carried out to Council's satisfaction within three (3) months of this approval and shall be maintained at all times to Council's satisfaction.

CHIEF TOWN PLANNER'S REPORT NO.1963(D)

8. At no time shall any goods, materials, or trade waste be stored over any of the vehicular driveways, car parking areas, landscaping, footpath or in Richmond Road, other than in approved garbage receptacles.
  9. This consent does not authorise the sale of garden furniture, hardware or any other items ancillary to a retail plant nursery. Selling of goods is to be restricted to the sale of plants, sand, soil and fertilisers only.
  10. This consent does not authorise the erection of any new buildings on the site but permits the use of the area as a retail plant nursery only. Separate development approval is required for any proposed increase in the floorspace of existing buildings or for any new proposed buildings.
  11. No nuisance or interference with the amenity of the area is to be created by reason of any process or operation on the premises causing the emission of noise, dust, smoke or any polluted discharge whatsoever. NOTE: Amendments to the Noise Control Act, 1975, require Council to investigate complaints where only one person complains.
  12. Compliance with the requirements of Consent No. 1566, issued on 18th July, 1972.
- (b) Mr. G.M. Simpson be advised of the circumstances of the case which allows Council to consider retailing activities in association with an "existing use" only and of the proposed zoning provisions of the Comprehensive Plan in relation to his property.  
Mr.E.Baker be advised along similiar lines.

  
ACTING CHIEF TOWN PLANNER

27th July, 1987

for meeting of 5th August, 1987

MR. GERSBACH: JW: TP. S7R1(A/B23)G  
2/7.2



