

MULGOA
PROGRESS
ASSOCIATION

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The General Manager

Penrith City Council

P.O. Box 60

PENRITH NSW 2751

Dear Sir/Madam

RE: DEVELOPMENT APPLICATION DA 14/0704 – FERNHILL PICNIC RACES

The staging of Picnic Races one day per year for the next five years is an event which would generally be accepted by reasonable people in the community. Most residents would be prepared to tolerate additional traffic, noise and some disruption from the event given that it is for only one day, is held during daylight hours and offers a colourful and enjoyable spectacle for the many thousands of patrons who will attend.

MPA and the community also understand that Council has a statutory obligation to assess all development applications. However, we do feel that this application is literally “the cart before the horse” and should not be considered for approval over five (5) years until the substantive issue of the proposed eastern precinct subdivision and the legal use of the heritage incentive clause are determined by the Courts and other matters referred to below are considered. If it transpires that clause 5.10 (10) of the LEP cannot be used in the manner proposed (which is our firm view) then there is a strong likelihood that the picnic races will not endure for five (5) years given the contingent financial arrangement between the owners and Angas Securities. One conspiracy theory mooted is that the purpose of putting this application in to Council now is that approval for this event over five (5) years will provide a strong foothold that supports and influences Council and Councillors when the anticipated revised subdivision proposals are submitted. We hope this development application is not an influencing factor.

In addition to the above comments we are extremely disappointed and dismayed with Council and the Heritage Council in relation to the indifferent laissez-faire attitude that has been displayed in relation to the white running rail and reported removal of mature specimens of Angophora Floribunda. Council's position to date seems to fly in the face of the Fernhill Probity Plan prepared by the external probity consultant (Ms Kath Roach) and which is displayed on Council's website. The white plastic running rail was erected prior to the first picnic races in 2013 and was erected without development approval. It still has no development approval. It is a temporary structure and failure to remove it is in contravention of the conditions of approval for the 2013 event. Its stark white colour is incongruous with the heritage landscape of Fernhill and can be seen from the front entrance of Cox's Cottage and Mulgoa Road. Notwithstanding numerous written requests to Council from residents for an explanation, there has been no formal response. Similarly, there has been the reported removal of advanced Angophoras without Council approval and there is no evidence to date of which we are aware that Council has provided any formal response. These two examples simply exemplify and reinforce other evidence that the community has received that Council (and Liberal Party State MP) has shown inappropriate bias in favour of the developer.

Bush Fire

The inaugural picnic race event was held on 9 November 2013 which was a very hot day accompanied by north-west winds giving weather conditions not dissimilar to the 2001 bushfires. The presence of Mulgoa Rural Fire Services would be ineffective should similar bushfires occur. MPA was most concerned that day with the weather conditions and particularly with the number of people who were smoking and dropping cigarette butts. However, this was a day of unseasonal hot weather and it is noted that the applicant has wisely put the event back one month. As such, in our opinion, it is highly unlikely that bushfires will represent a significant risk.

Wet Weather

Although the applicant has submitted a detailed bushfire report which ticks one of Council's boxes, MPA considers the report has relatively low importance given the time of year the event will be held. Far more importantly, the application does not address the real danger of rain and wet/damp weather and the potential that such lead up conditions have to degrade the heritage lands of Fernhill. Yet, no detailed report on this matter has been provided nor was it provided in 2013. The event is likely to attract 8-10,000 patrons. The event requires the use of heavy vehicles to bring in a range of equipment: bookies stands, stages, audio, marquees, seating, catering equipment, food and beverages. It also requires other vehicles such as food vans, fire trucks, broadcasting vehicles, vintage cars and horse floats as well as several thousand cars that will be parked on the pastures of Fernhill. If rain falls on or before race day when the cost of organisation has been spent then we believe the owners will proceed with the event because, after all, it is being held to generate revenue and not incur a loss. The degradation and damage to the historic lands of Fernhill will be substantial. It is actually inconceivable that Council could consider giving a blanket approval for five (5) years without having any knowledge whatsoever of the weather conditions that may prevail at the time.

Litter

Under our comments on the bushfire report earlier we referred to cigarette butts being discarded by patrons onto the grounds of Fernhill. Clean Up Australia advise that cigarette butts are the second largest pollution item in Australia and MPA estimates there may be as much as twenty five thousand (25,000) butts discarded over the course of the day. Based on our observations last year many of these will be discarded onto Fernhill land. MPA would like to know what measures Council and the applicant will take to address this serious litter problem.

Pollution

Heavy vehicles and patron cars all have the potential to leak oil, fuel and coolants which can degrade the historic lands, enter the water table and track down to Mulgoa Creek. Again, MPA would like to know what measures Council and the applicant may take to address this pollution problem.

Summary

MPA recommends the following:-

1. Council call for a further report prepared by an appropriately qualified consultant that provides a detailed analysis of potential damage to Fernhill lands as a result of wet weather and sets out stringent measures and recommendations that mitigate against such risk similar to that set out in the bushfire report;
2. Council consider approval of the picnic race event on a year by year basis only and not provide a blanket approval for five (5) years;
3. Council impose a no smoking condition for all patrons to overcome the litter (and bushfire) problem;
4. Council establish what measures can be taken (if any) to mitigate (remediate) against the risks of pollution caused by oil, fuels and coolants.

Yours faithfully



Peter Harvey

PRESIDENT