

SCANNED

BERRIMA RESIDENTS ASSOCIATION Inc

Secretary: P.O. Box 7061 Berrima NSW 2577 Tel/Fax: (02) 4877 1508

Mark Pepping
Strategic Planning
Wingecarribee Shire Council
P.O. Box 141
Moss Vale, NSW 2577

WINGECARRIBEE SHIRE COUNCIL	
Classification:	MAILING
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File No.	1603/5 5901
16 JAN 2013	
OFFICER	15 January 2013
M. Pepping	
P. Marshall	

To CM, PH: 1 & Mark

16/1/13

21

COPY SENT

Dear Mark,

Re Berrima Diesel, Schedule 1 Planning Proposal

We understand that Council's planning department is presently preparing a Report (to come before Council on 13 February 2013) regarding the use of Schedule 1 ("Additional Permitted Uses") of the 2010 Wingecarribee Shire LEP, as an alternative to a spot rezoning of the Berrima Diesel land from rural to industrial. In other words, the permitted uses would be expanded for this particular piece of land to include "motor vehicle repair station", but the land would still be zoned E3. Whilst this is not strictly speaking a rezoning, its effect is the same, and it would be permanent and attach to the land not just Berrima Diesel. In view of the highly sensitive location of the land, could we please make a presentation to Council when it comes before them on 13 February?

We wish to make the following detailed points against the Schedule 1 Proposal:

(1) Berrima Landscape Conservation Area (DCP)

This Proposal to utilise Schedule 1 treats Berrima and its surrounds like any other town or village in the Shire. In fact, Berrima is of State and National importance as an extremely rare surviving Colonial Georgian village, with its rural bushland surrounds being part of its high heritage significance. The village attracts vast numbers of tourists because of its heritage integrity and these bring far more prosperity to the Shire than Berrima Diesel. If Berrima Diesel were to relocate, the economic benefits to the Shire would remain intact, and are likely to grow, because it has greater scope for future expansion in another (industrial) location. On the other hand, Berrima and its surrounds cannot be relocated, and this inappropriate development and extremely bad planning precedent would mark another step in the erosion of Berrima's heritage integrity.

The rural surrounds of the village, particularly the major approaches, have high heritage significance, as noted in the 1979 National Trust Study which led to Berrima's protection and the current Development Control Plan (DCP) applying to the Berrima Landscape Conservation Area.

To be more specific, the Berrima Landscape Conservation Area (Berrima LCA) is listed as Item No. C1843 in Schedule 5 of the Wingecarribee Local Environment Plan (LEP). The Rural Lands DCP, Section 8 (Heritage and Landscape Conservation) deals specifically and in great detail with the Berrima LCA. In fact, it devotes 32 of the DCP's 184 pages just to the Berrima LCA. In addition, there are three pages of general provisions applying to this and other Landscape Conservation Areas. Clause 8.2 of the DCP's general heritage protection provisions states:

"Council is committed to ensuring that all future development [*inter alia*] within conservation areas is appropriate with regard to the following objectives:

- (a) Preserve and protect buildings, areas and vistas [*emphasis added*] of heritage and cultural value."

This, together with the other four general objectives, makes clear that an industrial use is inappropriate in such a sensitive location within the conservation area, at the entrance and on a major approach to the village.

If mere vegetation screening is presumed adequate to address these objectives, then there will be no controls applicable at all in the conservation area, as vegetation screening could be claimed for all other applications for Schedule 1 additional permitted uses, or applications for rezoning. This would be a widely applicable and a bad precedent.

It should also be noted that the land is directly adjacent to a listed heritage item on the corner of the Old Hume Highway and Raglan Street (Item No.1239), which under Clause A8.4.2 of the Rural Lands DCP requires any development on adjoining land to be referred to Council's Heritage Advisor. In addition, Clause A8.6.4 (a) states:

"No building is to be erected that, in the opinion of Council will be visually prominent when viewed from [*inter alia*] its approaches or any listed items".

The unauthorised buildings used by Berrima Diesel on the adjoining land are within prominent view of the heritage item, further evidence of the high degree of non-compliance of the business.

In addition to the general provisions in the Rural Lands DCP, the DCP contains specific objectives and controls applying uniquely to the Berrima LCA. Clause 8.6.2 states the objectives [*inter alia*] as being to:

- (b) Retain the rural ambience arising from the natural landscape surrounding the village with minimal number of buildings visible from the main approaches to Berrima.
- (d) To minimise the population pressures on the village by retaining the undeveloped nature of the Berrima Landscape Conservation Area and **strictly enforcing its protective zoning** [*emphasis added*].

Extending the permitted uses under Schedule 1 to include an industrial use on a major approach to the village, within the Berrima LCA, at the entrance to the village, is not strictly enforcing the protective zoning. It is a direct contradiction to the protective zoning.

We ask that these considerations be included in the Report to Council.

It should be noted that this Proposal is also contrary to the assurance given to the Berrima Residents Association by Council on 27 August 2009, copy attached, that the land between Berrima and New Berrima would remain protected under the new LEP.

(2) No Use as Vehicle Repair Station Prior to Berrima Diesel

A large part of Berrima Diesel's campaign is based on eliciting sympathy, by portraying that they have relied on Council's 1990 letter as permission to continue operating its business.

The 1990 letter from Council giving permission to Berrima Diesel to operate a motor vehicle repair business from that site was in response to a letter of request for such use from Berrima Diesel. In that letter Berrima Diesel stated [*inter alia*]:

"This workshop has been in existing use formerly by R Krahenbuhl for 12 years and subsequently by myself for 8 years."

The error that Council Town Planner made at the time, was in not checking the veracity of this assertion. Thus, in the current Land and Environment Court case, Council's "Statement of Facts and Contentions" states:

"Other than the above Leimroth letter, there is no information on the Council file (PF 5580-1) as to what searches were undertaken or what information was used to conclude that the premises were an "existing use"

Council's website ("News") on 20 December 2012 continues to entrench the Leimroth assertion as fact, by stating in para 3:

According to information obtained by Council, the land in question was first used for the purposes of Commercial Motor Vehicle Repairs some time after 1970. The use has further been intensified since that time as the business has expanded.

The Berrima Residents Association has 3 statutory declarations which state that there was no workshop business at all on the land prior to its use as a business by Berrima Diesel. Copies of the statutory declarations are attached. Berrima Diesel has been portrayed in the print media and social networking pages as the victim of an incompetent and unjust Council bureaucracy. To the contrary, Berrima Diesel could be seen as the author of its own current predicament (regarding relocation , see (3) below).

We ask that the contrary evidence contained in the statutory declarations be included in the Report to go before Council on 13 February 2013.

(3) Council's Order Is Not For Closure, But Relocation

As stated above, a large part of Berrima Diesel's campaign to stay on the site is based on eliciting sympathy. To this end Berrima Diesel has frequently claimed in the public forum that it is being forced by Council to "close" and that jobs will be lost, when in fact the order from Council merely states that it "must cease the use of the subject premises as a vehicle repair station". Council is not closing the business, but merely saying it cannot be conducted at that location.

Being a "destination" business it draws its customers from the Sydney basin and beyond, not from vehicles which happen to pass by. A relocation to the nearby industrial estate would not deprive the business of established customers nor accumulated goodwill.

This Schedule 1 planning proposal, as with the proposal for rezoning, permanently attaches to the land and if allowed would provide the current owners with a windfall gain when the land is sold.

Berrima Diesel has enjoyed rent free business premises and reduced Council rates (to the disadvantage of the Shire's general community) for 30 years. In addition, the owners chose not to comply with mandatory water quality and chemical disposal controls and, in doing so, avoided those additional costs. Other vehicle repair stations have not had these substantial financial benefits over 30 years.

It is inappropriate and inequitable that Council should further reward and privilege Berrima Diesel by allowing their business as a "Permitted Use". This would make permanent that which should not have been allowed in the first place.

We ask that these considerations be included in the Report to Council.

(4) The Current (Illegal) Business Is Well Beyond Any Permission Given In 1990

The business as it now exists, and which the Schedule 1 proposal would perpetuate, and allow for expansion, is not the one-man backyard business considered in 1990 when Council issued its letter.

Originally, the owner went out to customers, or collected fuel injectors, repaired them and returned them to the customers (see attached Statutory Declarations).

This has now expanded into a truly industrial scale business with a \$2million annual turnover. It employs 11 to 14 people, entails the high revving of motors, which can be heard by several neighbours, and the frequent comings and goings of motor vehicles.

Wingecarribee Council has not been notified of, nor has it given approval for, either the extensive building works associated with the business or the recent large commercial signage on the Highway.

Sydney Catchment Authority has obviously given no approval for water and waste effluent treatment and discharge, as indicated by Council's Statement of Facts and Contentions in the current Land and Environment Court case:

The sealed area around the workshops appears to fall to the north west with storm water, water from the washing of vehicles and potentially [sic] pollutants used in servicing operations making their way along a drainage depression in the north west of the land, which then makes its way to what is known as a "blue line" water course on Council GIS which in turn drains to the Wingecarribee River about 700 metres to the North east.

No information has been provided to show whether to demonstrate that the use of the premises as " vehicle repair station" is having a Neutral or Beneficial Effect on water quality as is required pursuant to State Environmental Planning Authority(Sydney Drinking Water Catchment) 2011.

The fact that Berrima Diesel constructed a large 4 bay garage, among other things, without planning approval, suggests that they were very likely aware of the limited nature of their "permission" and the inevitable refusal of any DA. The business now far exceeds the level contemplated by Council in 1990 and should not be sanctioned and perpetuated at this sensitive location within Berrima's rural protected surrounds. While massive expansion of a business is normally commendable, that is not so in this location.

We ask that this consideration be included in the Report to Council.

(5) Objectives of E3 Zone "Environmental Management" (LEP)

Any Schedule 1 *Additional permitted uses* must still have regard to the objectives of the zoning. These objectives are of particular relevance in this case:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To encourage the retention of the remaining evidence of significant historic and social values expressed in existing landscape and land use patterns.
- To minimise the proliferation of buildings and other structures in these sensitive landscape areas.

- To provide for a restricted range of development and land use activities that provide for rural settlement, sustainable agriculture, other types of economic and employment development, recreation and community amenity in identified drinking water catchment areas.
- To protect significant agricultural resources (soil, water and vegetation) in recognition of their value to Wingecarribee's longer term economic sustainability.

With regard to the first objective in particular, it is hard to see how allowing an industrial use will "protect, manage and restore" the Berrima Landscape Conservation Area. In fact, it is obvious that it does the opposite.

This is an especially protected landscape surrounding a Colonial Georgian rural village of very high heritage significance. Allowing the new permitted use of "motor vehicle repair station" violates each of the objectives of the E3 zone specified in the LEP.

It should be noted that the list of uses "Prohibited" in the E3 zone is headed by the ambit category of "Industries".

We ask that these considerations be included in the Report.

(6) Department of Planning Restricts Use of Schedule 1 to Exceptional Cases

By way of final comment, we note that the NSW Department of Planning and Infrastructure's LEP Practice Note regarding Schedule 1 Additional Permitted Uses states:

Schedule 1 should only be used in exceptional circumstances

For reasons of clarity, land use permissibility should preferably be controlled by the zones and the Land Use Table.

Where this is not possible and the intended outcome is adequately justified by council, the use of Schedule 1 may be acceptable.

Additional listings in the LEP Schedule 1 should be minimised and should only proceed where council can demonstrate that there is no other acceptable solution to progress the matter.

Is this planning proposal:

1. To save Berrima Diesel its relocation expenses ?
2. To allow Council to save face in the light of a disinformation campaign that has been conducted in the local press and the social networking pages ?
3. To ensure good town planning outcomes ?
4. Or some other reason ?

The Berrima Residents Association is struggling to understand why Council is so determined to legitimize this business in the current location. We note that Schedule 1 should only be used in *exceptional circumstances*, and, further, that the *intended outcome is adequately justified by Council*.

Council would need to explain the *exceptional circumstances* here. Council would also need to justify the *intended outcome* of one or more motor vehicle repair stations on the acreage within this

highly protected conservation area, when there is an *[other acceptable solution]* i.e. alternative legal locations close by.

We ask that this consideration be included in the report to Council.

Request for Meeting

In view of the importance of this matter to the heritage significance of Berrima, could we please meet with you and Mr. Phil Marshall, Deputy General Manager, prior to the finalization of the Report to Council ?

Your sincerely,



Mary Cawood

(President, Berrima Residents Association)

cc. Councillor Juliet Arkwright, Mayor,
Councillor Larry Whipper, Deputy Mayor
Councillor Holly Campbell
Councillor Jim Clark
Councillor Duncan Gair
Councillor Graham McLaughlin
Councillor Ian Scandrett
Councillor Garry Turland
Councillor John Uliana
Mr. Jason Gordon, General Manager
Mr. Phil Marshall, Deputy General Manager
Mr. Peter Kabaila, WSC Heritage Advisor
Meredith McIntyre, NSW Department of Planning, Southern Region
NSW Heritage Council
Hon. Pru Goward, M.P.
Sydney Catchment Authority



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Email: wscmail@wsc.nsw.gov.au
DX 4961 Bowral

Telephone (02) 4868 0888
Facsimile (02) 4869 1203

ABN 49 546 344 354

Our Reference 1603/5; 5900/3
Contact: Mark Pepping

27 August 2009

Secretary
Berrima Residents Association Inc
PO Box 61
BERRIMA NSW 2577 .

Dear Clive

Continued separation of Berrima and New Berrima

I refer to the Association's letter dated 19 August 2009 seeking assurances from Council for the long term strategy of conserving the rural bushland separating the villages of Berrima and New Berrima.

As you are aware, Council recently adopted its new LEP 2009. Amongst other things, the LEP implements the Council's Wingecarribee Our Future Strategic 2002. The objective of maintaining the existing town and village settlement of the Shire as well as the 'green belts' was a major element of the Strategic Plan. To this end, in adopting the Wingecarribee Our Future Strategic Plan 2009, Council resolved to amend Objective 2(c) to re-enforce this position. The amended Objective now reads as follows:

"to encourage the efficient use of urban land to provide for in-fill development, minimising the spread of urban areas into rural and native vegetation environments, thereby increasing the accessibility of the population to urban facilities and services and preserving the green rural landscapes between and around the Shire's towns and villages."

In addition, it is noted that the land between Berrima and New Berrima is zoned E3 Environmental Management and E2 Environmental Conservation, both zones reflecting the environmental significance of the area in question.

I trust this advice addresses your enquiries.

If you have any further questions regarding this matter, please contact me

Yours faithfully,

Mark Pepping
Manager Strategic Planning

Statutory Declaration
OATHS ACT 1900, NSW, NINTH SCHEDULE

I, Ann Lidstone, of Raglan Street, Berrima, New South Wales, do hereby solemnly declare and affirm that I have resided with my husband Nicholas Lidstone at the above address since 1968. We were neighbours of Robert and Jenny Krahenbuhl from the time they purchased the land adjacent to ours in 1972 and shortly thereafter constructed their home. We remained neighbours and friends throughout their occupation of the land, until they rented their house to Reinhard and Barbara Leimroth in the early 1980's. Mr and Mrs Leimroth purchased the house and land in 1984. Throughout the period of occupation by Robert and Jenny Krahenbuhl our families visited each other's homes regularly, our children played together and we were all familiar with the layout and use of each other's land and buildings. Prior to Robert and Jenny Krahenbuhl's ownership of the land, the land was owned by Alfred George Vincent, but the land had no structures on it. My solicitor has informed me that Mr Vincent's occupation was noted on the title as "shearer".

To the best of my knowledge, during the period of occupation and ownership of the land by Robert and Jenny Krahenbuhl, Robert worked as an electrician at the Medway colliery. No business was conducted as such from the land, and there was no electrical workshop, or any other form of workshop, used as a commercial business. The shed constructed by Robert Krahenbuhl and subsequently used by Mr and Mrs Leimroth to initially conduct their business, Berrima Diesel, was during the time of occupation by Robert and Jenny Krahenbuhl, used to store and repair Robert's traction steam engine. This was a hobby of his and was not a business.

Shortly after Mr and Mrs Leimroth purchased their property, they informed us that they were starting a small business servicing diesel injectors, but that they would collect the fuel injectors from their customers, repair them and return them to the customers. They stated to us that they would not be servicing vehicles on-site at their property. Over the years, however, they have in fact built up an on-site vehicle tuning and service business, which has now expanded, with multiple buildings, constructed by themselves, to include a 4 bay repair station, which apparently employs a body of workers. Ownership of the business was recently transferred to their son, Andrew.

The tuning of the vehicles involves revving the engines at an extremely high pitch of sound, which can be heard from inside our home. I have been informed by other neighbours that they also can hear the revving of the motors.

{the facts to be stated according to the declarant knowledge, belief, or information, severally}

And I make this solemn declaration, as to the matter (or matters) aforesaid, according to the law in this behalf made and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Declared at: Moss Vale on 9th January 2013
[place] [date]

Ann Lidstone
[signature of declarant]

in the presence of an authorised witness, who states:

I, Lynne Connor, a JP 132159
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: [* please cross out any text that does not apply]

1. *I saw the face of the person ~~OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and~~
2. *I have known the person for at least 12 months ~~OR *I have confirmed the person's identity using an identification document and the document I relied on was~~ drivers licence
(describe identification document relied on)

Connor 9th January 2013
[signature of authorised witness] [date]

Statutory Declaration

OATHS ACT 1900, NSW, NINTH SCHEDULE

I, Jamie Lidstone, of Unit JS-41225, Jaya Lofts & Towers, Rockwell Centre, Makati City, Manila, Philippines, do hereby solemnly declare and affirm that I resided with my parents Nicholas and Ann Lidstone at Raglan Street Berrima from the time of my birth in 1969 to 1987. We were neighbours of Robert and Jenny Krahenbuhl from the time they purchased the land adjacent to ours in 1972 and shortly thereafter constructed their home. Throughout the period of occupation by Robert and Jenny Krahenbuhl our families visited each other's homes regularly, as children we played with their children and we were all familiar with the layout and use of each other's land and buildings.

We remained neighbours and friends throughout their occupation of the land, until they moved to the Snowy Mountains and rented, to the best of my knowledge, their house to Reinhard and Barbara Leimroth in the early 1980's. Mr and Mrs Leimroth purchased the house and land in 1984.

As I grew up I was aware that Robert Krahenbuhl worked as an "offsite" electrician. To my knowledge, no business was conducted as such from their premises and there was no electrical workshop, or any other form of workshop, used for commercial business. The only sheds or workshops, to my knowledge, were used to store electrical supplies, various tools, and even some chickens and other farm animals. I never saw any onsite work conducted in these sheds. I assume due to 'electrician's' work needing to be done on location. These are the same sheds, initially constructed by Robert Krahenbuhl, that were subsequently used by Mr and Mrs Leimroth to initially conduct their business, and then re-built and extended.

Over the years the expansion has included new structures including the installation of a 'Dynamometer used for the tuning of the vehicles. The process involves taking trucks and cars through a entire engine performance procedure that emanates a high pitched sound, which can be heard from inside our home. I have been informed by other neighbours that they also can hear the revving of the motors.

[the facts to be stated according to the declarant's knowledge, belief, or information, severally]

And I make this solemn declaration, as to the matter (or matters) aforesaid, according to the law in this behalf made and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Declared at: Mascot
[place]

on 7th Jan 2013
[date]

[signature of declarant]

AUST PASSPORT NO
E3027413

in the presence of an authorised witness, who states:

YVONNE JOY BARKER, a JP NO 199767
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it. [* please cross out any text that does not apply]

1. *I saw the face of the person OR *I did not see the face of the person because the person

PAUL JP

Statutory Declaration
OATHS ACT 1900, NSW, NINTH SCHEDULE

I, Nicholas Lidstone, of Raglan Street, Berrima, New South Wales, do hereby solemnly declare and affirm that I have resided with my wife Ann Lidstone at the above address since 1968. We were neighbours of Robert and Jenny Krahenbuhl from the time they purchased the land adjacent to ours in 1972 and shortly thereafter constructed their home. We remained neighbours and friends throughout their occupation of the land, until they rented their house to Reinhard and Barbara Leimroth in the early 1980's. Mr and Mrs Leimroth purchased the house and land in 1984. Throughout the period of occupation by Robert and Jenny Krahenbuhl our families visited each other's homes regularly, our children played together and we were all familiar with the layout and use of each other's land and buildings. Prior to Robert and Jenny Krahenbuhl's ownership of the land, the land was owned by Alfred George Vincent, but the land had no structures on it. My solicitor has informed me that Mr Vincent's occupation was noted on the title as "shearer".

To the best of my knowledge, during the period of occupation and ownership of the land by Robert and Jenny Krahenbuhl, Robert worked as an electrician at the Medway colliery. No business was conducted as such from the land, and there was no electrical workshop, or any other form of workshop, used as a commercial business. The shed constructed by Robert Krahenbuhl and subsequently used by Mr and Mrs Leimroth to initially conduct their business, Berrima Diesel, was, during the time of occupation by Robert and Jenny Krahenbuhl, used to store and repair Robert's traction steam engine. This was a hobby of his and was not a business.

Shortly after Mr and Mrs Leimroth purchased their property, they informed us that they were starting a small business servicing diesel injectors, but that they would collect the fuel injectors from their customers, repair them and return them to the customers. They stated to us that they would not be servicing vehicles on-site at their property. Over the years, however, they have in fact built up an on-site vehicle tuning and service business, which has now expanded, with multiple buildings, constructed by themselves, to include a 4 bay repair station, which apparently employs a body of workers. Ownership of the business was recently transferred to their son, Andrew.

The tuning of the vehicles involves revving the engines at an extremely high pitch of sound, which can be heard from inside our home. I have been informed by other neighbours that they also can hear the revving of the motors.

[the facts to be stated according to the declarant knowledge, belief, or information, severally]

And I make this solemn declaration, as to the matter (or matters) aforesaid, according to the law in this behalf made and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Declared at: Moss Vale on 9th January 2013
[place] [date]

N. Widdow

[signature of declarant]

in the presence of an authorised witness, who states:

I. Lynne Connor

[name of authorised witness]

a

JP 132159

[qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person

who made it: [** please cross out any text that does not apply*]

1. ~~"I saw the face of the person OR "I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering,~~
and

~~"I have known the person for at least 12 months OR "I have confirmed the person identity using an identification document and the document I relied on~~

Drivers Licence

[describe identification document relied on]

Connor 9th January 2013

[signature of authorised witness] [date]

EXECUTIVE SUMMARY

(1) Berrima Landscape Conservation Area (DCP)

As an extremely rare Georgian Colonial village, Berrima brings significant tourism and economic benefits to local business and the Shire generally. Berrima Diesel's land lies within the Berrima Landscape Conservation Area, which is expressly protected by Council's planning laws. To place an industrial area on a major approach and near the entrance to the village is contrary to the objectives of the planning laws, and a particularly bad precedent which will jeopardize Berrima's continuing attraction as a tourist destination.

(2) No Use as Vehicle Repair Station Prior to Berrima Diesel

A large part of Berrima Diesel's campaign to stay where they are in the E3 zone is based on eliciting sympathy, by portraying that they have relied on Council's 1990 letter as permission to continue operating its business. However, Council's 1990 letter relied on the information given by Berrima Diesel that there was an "existing use" in the form of a workshop business. This was not true (see Statutory Declarations).

(3) Council's Order Is Not For Closure, But Relocation

Council is not closing the business, but merely saying it cannot be conducted at that location. Being a "destination" business it draws its customers from all over the Sydney basin and beyond, not from vehicles which happen to pass by. Relocation nearby to the industrial estate would not deprive the business of established customers nor goodwill.

(4) The Current (Illegal) Business Is Well Beyond Any Permission Given In 1990

Berrima Diesel was a one-man backyard business in 1990 when Council issued its letter. This has now expanded into a truly industrial scale business with a \$2million annual turnover. The company employs 11 to 14 people, entails the high revving of motors, which can be heard by several neighbours, and the frequent comings and goings of motor vehicles. No approvals were sought for the extensive building works constructed on site since 1990.

(5) Objectives of E3 Zone "Environmental Management" (LEP)

Allowing a new permitted use of "motor vehicle repair station" violates each of the objectives of the E3 zone specified in the LEP. Council's legal obligation to "protect, manage and restore" the Berrima Landscape Conservation Area will not be met by this change. It does the opposite.

(6) Department of Planning Restricts Use of Schedule 1 to Exceptional Cases

NSW Department of Planning's Practice Note states:

Schedule 1 should only be used in exceptional circumstances

For reasons of clarity land use permissibility should preferably be controlled by the zones and the Land Use Table. Where this is not possible and the intended outcome is adequately justified by Council, the use of Schedule 1 may be acceptable. Additional listings in the LEP Schedule 1 should be minimized and should only proceed where Council can demonstrate that there is no other acceptable solution to progress the matter.

Is this planning proposal:

1. To save Berrima Diesel its relocation expenses ?
2. To allow Council to save face in the light of a disinformation campaign that has been conducted in the local press and the social networking pages ?
3. To ensure good town planning outcomes ?
4. Or some other reason ?

Council needs to explain the *exceptional circumstances(?)* and justify the *intended outcome* (vehicle repair station/s in the conservation area) when there is an *[other] acceptable solution* (alternative legal locations close by).



Southern Highlands Branch
Chairperson, Mhairi Clark
PO Box 491, Bowral NSW 2576

Juliet Arkwright,
Mayor
Wingecarribee Shire Council
P.O. Box 141
Moss Vale, NSW 2577

29th January 2013

Dear Juliet,

Re: Berrima Diesel Planning Proposal

We have become aware of a DA regarding a change in land use (from Environmental to Industrial) recently submitted to Council by Berrima Diesel to further expand their business operations. We understand this proposal would require special planning approval under the NSW Dept of Planning's Schedule 1: covering 'Exceptional Circumstances', which do not appear to apply in this case.

The Southern Highlands Branch of the National Trust of NSW, the Trust's largest branch by membership numbers, has always maintained that the entire of Berrima is one of the few remaining examples in New South Wales of a Colonial Georgian village and as such, deserves special attention to retain its unique character. It is widely acknowledged as one of this Shire's major tourist attractions and brings measurable financial benefits to many local businesses and the area in general.

We consider the style of the current Berrima Diesel business, together with its associated engine noise, to be completely out of character with the peaceful aesthetics of the village and its surrounds and any expansion will further impact on the historic and rural nature of the area.

Any proposed new development or expansion of an existing industrial business located within the Berrima Landscape Conservation Area could potentially impinge on the rural setting of the village. Therefore this application requires the highest degree of scrutiny by Council's Heritage Working Group and their recommendations regarding Berrima Diesel's application should be paramount in Council's deliberations.

In summary we believe that Council has a duty of care to protect the unique character of Berrima village by maintaining its peaceful, rural bushland setting.

Yours sincerely, -

Mhairi Clark
Mhairi Clark
Chairman Southern Highlands Branch
National Trust of Australia (NSW)

WINGECARRIBEE SHIRE COUNCIL	
Classification:	MAILIN
Doc. No.	
File No.	1603/5 5901
29 JAN 2013 5653/2	
PN 702300	
OFFICER	ACTION INT
Leesa S	
Mayer	
Phil M.	

Copy Sent

The National Trust is a community charity working to protect our environment and cultural heritage

To Mhairi Clark
On 30/1/13
CJ

cc.

- Jason Gordon - General Manager
- Phil Marshall - Deputy General Manager
- Councillor - Larry Whipper, Deputy Mayor
- Councillor - Holly Campbell
- Councillor - Jim Clark
- Councillor - Duncan Gair
- Councillor - Graham McLaughlin
- Councillor - Ian Scandrett
- Councillor - Garry Turland
- Councillor - John Uliana

PN1038600

Janie Lemann.

12/2/13

General Manager of W.S.C.
Mr. Jason Gordon.
Elizabeth St. Mess Vale

WINGECARRIE SHIRE COUNCIL		
Classification:	MAILIN	
Doc. No.		
File No.	PN 1038600	
11 FEB 2013		
OFFICER	ACTION	INFO
Les P		✓

Dear Sir,

re: Berrima Diesel.

I live close by to Berrima Diesel & walk on drive past it daily. Each time I wonder how could it be that such a business be permitted to operate in this strictly residential zone area of the 'Heritage' Village of Berrima.

Lately there has been much talk & publicity about Berrima Diesel's requests to have their property rezoned for Industrial use (ie spot on schedule 1 rezoning)

Surely this cannot be permitted in such location, not only is the property located ^{on} the main Southern approach to the village, it would inevitably set

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a precedent & the spread of spot rezoning applications could begin. This would open up a 'Pandora's Box'!

I understand the company is hotly resisting any form of closure. Surely they are not being asked to close the business altogether but to relocate to an industrial zoned area, for this purpose, fortunately not more than $1\frac{1}{2}$ kilometres away from their existing property there is abundant abundant industrially zoned land stretching from New Berrima almost through to Moss Vale. Surely this would be a perfect solution & one that would not in any way affect the business ~~in any way~~ eg. the existing customers from interstate & locally could still come easily access to Berrima & make use of the pubs, restaurants, shops & hotels etc. And, I can't see where they would lose any customers.

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To close I can only say that
I'm dead' against any form of
land zoning in this area & believe
that Berrine Diesel, if it wants
to stay in business, be re-located
as described above.

Yours Sincerely,
Janie Lemann
2644 Nicholson St
Berrine 2577