



Hawkesbury City Council

attachment 1 to item 8

Planning Proposal
541, 545 and 547 Windsor Road and
389 Old Hawkesbury Road, Vineyard

date of meeting: 5 February 2013
location: council chambers
time: 6:30 p.m.

PLANNING PROPOSAL

**Proposed Amendment to Schedule 1 Additional
Permitted Uses of Hawkesbury Local
Environmental Plan 2012**

**389 Old Hawkesbury Road and 541, 545 and 547
Windsor Road, Vineyard**



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Executive Summary

This Planning Proposal has been prepared by Hawkesbury City Council (Council) in accordance with s.55 of the *Environmental Planning and Assessment Act, 1979* (the Act) and having regard to the NSW Department of Planning's '*A guide to preparing local environmental plans*' July 2009 (Department Guidelines).

The primary objective of the planning proposal is to specify certain land uses as additional permitted land uses in Schedule 1 Additional permitted uses (Schedule 1) of the yet to be gazetted Hawkesbury Local Environmental Plan 2012 (HLEP 2012) to allow a range of small scale light industrial, ancillary retail, repair and service business activities on the subject land with Council consent.

The subject site is bounded by Windsor Road, Chapman Road and Old Hawkesbury Road, Vineyard. The site forms part of the proposed Vineyard Precinct in the North West Growth Centre (NWGC). Currently the site is zoned Rural Living under Hawkesbury Local Environmental Plan 1989 (HLEP 1989) and the corresponding new zone under HLEP 2012 is RU4 Primary Production Small Lots.

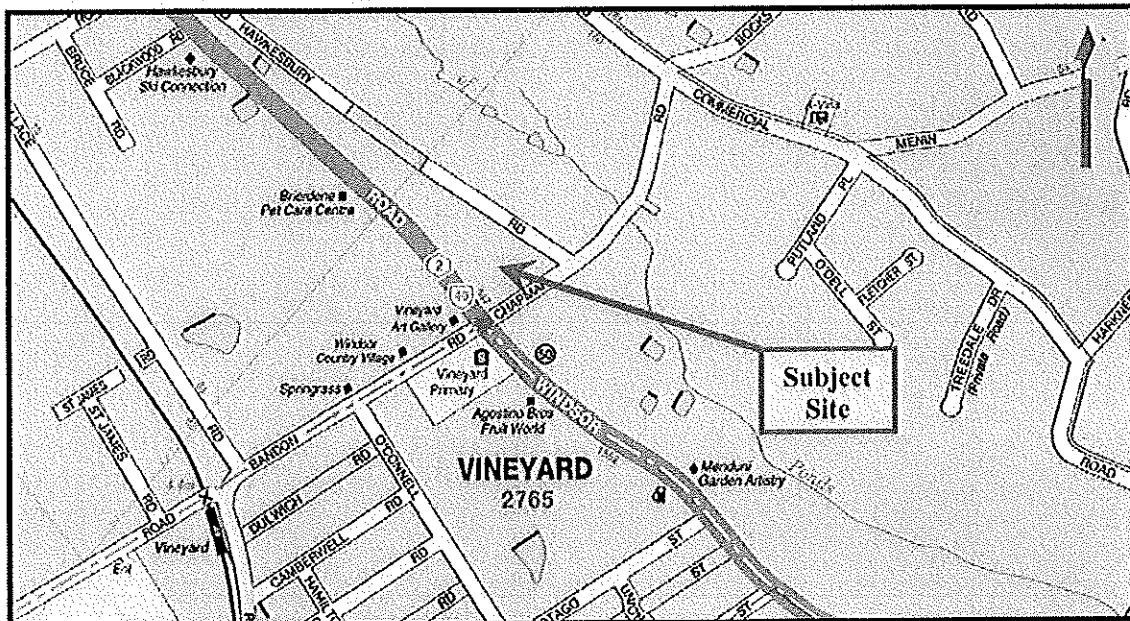
The future redevelopment of the site with the integration of new compatible land uses and the existing land uses will not only facilitate an orderly and economic development on the land but also assist in improving local economic and business activities and achieving the employment target for Hawkesbury Local Government Area (LGA) identified by the draft North West Subregional Strategy (NWSS).

This document consists of two chapters. Whilst Chapter 1 provides background information to the planning proposal, Chapter 2 explains the planning proposal.

Chapter 1 - Background Information

1.1 Subject Site and Location

The subject site is located on the northern side of the signalised intersection of Windsor Road and Chapman Road, Vineyard. It is within the Vineyard Precinct of the NWGC area and is approximately 800m to the north-east of the Vineyard Railway Station (see Figure 1).



Source: Universal Publishers Pty Ltd ("Universal Publishers")

Figure 1: Location of the Subject Site

The site is bounded by Windsor Road to the south-west, Chapman Road to the south-east, Old Hawkesbury Road to the north-east, and Lot 52 DP 593354, 379 Old Hawkesbury Road to the north-west (see Figure 2).

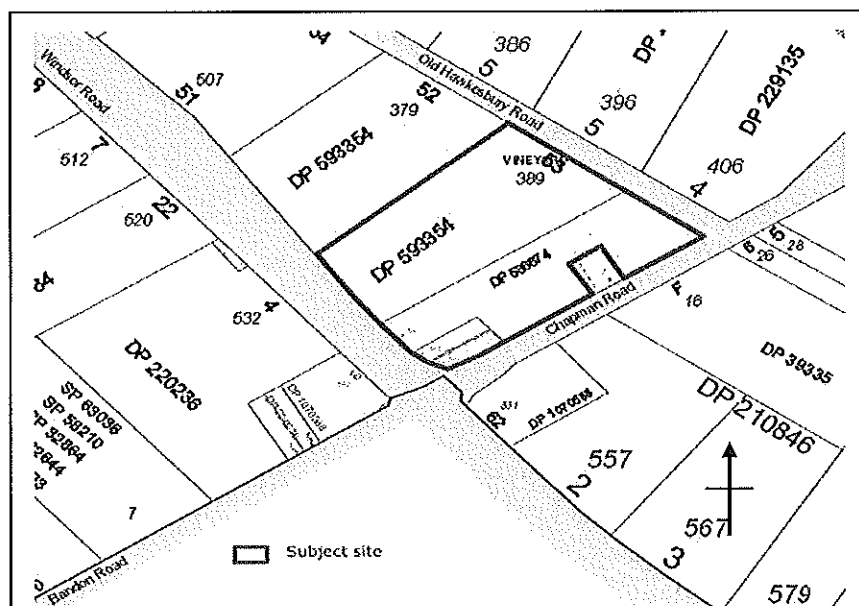


Figure 2: Subject Site

The total site area is approximately 3.44ha and consists of the following five (5) allotments zoned Rural Living

Property Description	Street Address	Area
Lot 53 DP 593354	389 Old Hawkesbury Road (Note this property was previously known as 533 Windsor Road)	1.877ha
Lot 5 DP 536674	541 Windsor Road	1.289ha
Lot 10 DP 1080426	545 Windsor Road	871.9m ²
Lot 11 DP 1080426	547 Windsor Road	837.5m ²

The site has a frontage to Windsor Road, a classified road, of approximately 145m and average depth of approximately 230m. The site is generally flat with a gentle slope in a northerly-easterly direction.

1.2 Past and Current Uses of the Site

The site has a long history of approvals for a range of land uses since pre 1951. These include general machine shop for building timber and storage, builder's hardware store, roofing supply and repair shop, storage shed, bee apiary, honey processing and packaging, sawmill, production of bee boxes, pallets and associated timber products and refreshment room.

Over the last sixty years the site has been used for many uses including a shop and dwelling, warehousing, wholesaling, manufacturing of building components such as architraves, small joineries, mouldings, folding garden lattice sheets, hardwood slabs,

structural softwood and hardwood timber planks. In the early 1980s' the site had been used for other uses such as a newsagency, gardenware, equipment hire service and saw sharpening and maintenance. Also part of a building fronting Windsor Road had been occupied as a refreshment room, this closed in March 2006.

Currently, a building containing a saw mill and woodwork and carpentry areas with access to Chapman Road occupies Lot 53 DP 593354. A trailer hire business, Vineyard Hardware, sawmill, single dwelling house and open space occupy Lot 5 DP 536674, outdoor storage of trailers and parking area occupy Lots 10 and 11 DP 1080426.

1.3 Surrounding Context

The surrounding area is predominantly characterised by 2 hectare allotments zoned Rural Living under HLEP 1989. The site is surrounded by a number of land uses. These include Vineyard Public School, childcare centre, retirement village (Windsor Country Village), Pilequip Australia engineering firm specialising in piling and foundation engineering equipment, materials and accessories, construction crane hiring and storage and pet supplies and sheds.

1.4 Previous Planning Proposal for the Site

In December 2010 Council received a planning proposal from PGH Environmental Planning, acting on behalf of Vineyard Hardware Pty Ltd and Henry Bros Saws Pty Ltd, to rezone the subject land from Rural Living to part B1 Neighbourhood Centre and part IN2 Light Industrial under the then draft HLEP 2009 in order to allow a range of small scale retail/business and light industrial activities on the site (see Attachment 1).

On 12 July 2011 Council considered a report on the matter and resolved as follows:

"That the matter be deferred to allow the applicant to confer with adjoining property owners and the Department of Planning with a view to considering a planning proposal for a larger area in the location" (see Attachment 2).

Given Council's resolution and in order to enable Council to consider any future planning proposals within or in the vicinity of the NWGC in the broader planning context advice was sought from the DP & I. On 18 August 2011 Council received a response from DP & I (dated 16 July 2011) advising that they would not support any rezoning of land in a precinct ahead of precinct planning and until the Vineyard Precinct is released and rezoned (see Attachment 3).

On 7 October 2011 Council Officers met with the applicant and the owner of the land to discuss DP & I's advice and explore possible alternatives to address the current land use issues on the land. The inclusion of certain non-confirming land uses as additional permitted uses in Schedule 1 of the then draft HLEP 2011 was considered to be the only mechanism available for Council to address this matter.

On 13 October 2011 Council sought advice on this alternative approach from the DP & I. DP & I subsequently advised that the proposed approach, with no negative impacts or impediments on the future precinct planning was considered to be appropriate and added that appropriate provisions were to be included in the planning proposal to

ensure that it will not impede future Vineyard precinct planning process (see Attachment 4).

On 27 March 2012 Council considered a further report on this matter and resolved to prepare and forward a revised planning proposal to allow certain additional uses on the land to the Minister for Planning and Infrastructure seeking a Gateway Determination (see Attachment 5).

1.5 Description of the Current Proposal

The planning proposal seeks to amend the Schedule 1 of the yet to be gazetted HLEP 2012 to include the following land uses as additional permitted uses that may be permitted with development consent on the subject land.

- A sawmill, timberyard and associated parking not exceeding 10,000m² land area.
- General industry uses and industrial retail premises being saw manufacturing, repairs and sales and associated parking not exceeding 3,000m² land area and a gross floor area of industrial retail premises not greater than 150m².
- Hardware and building supplies, a trailer hire business and associated parking not exceeding 5,000m² land area and the gross floor areas of the trailer hire premises and building hardware store not exceeding 325m² and 250m² respectively (see Figure 3).

The planning proposal will provide certainty for the continued and improved usage of certain approved non confirming land uses including some general industrial uses that are operating over the last sixty years or more under existing use rights. It will also allow the continued operation of the current trailer hire business occupying part of the hardware store on the land and serving the surrounding rural living areas, as an additional permitted use to legitimise its current operation. The inclusion of proposed land uses in Schedule 1 would enable an orderly and economic development on the land.

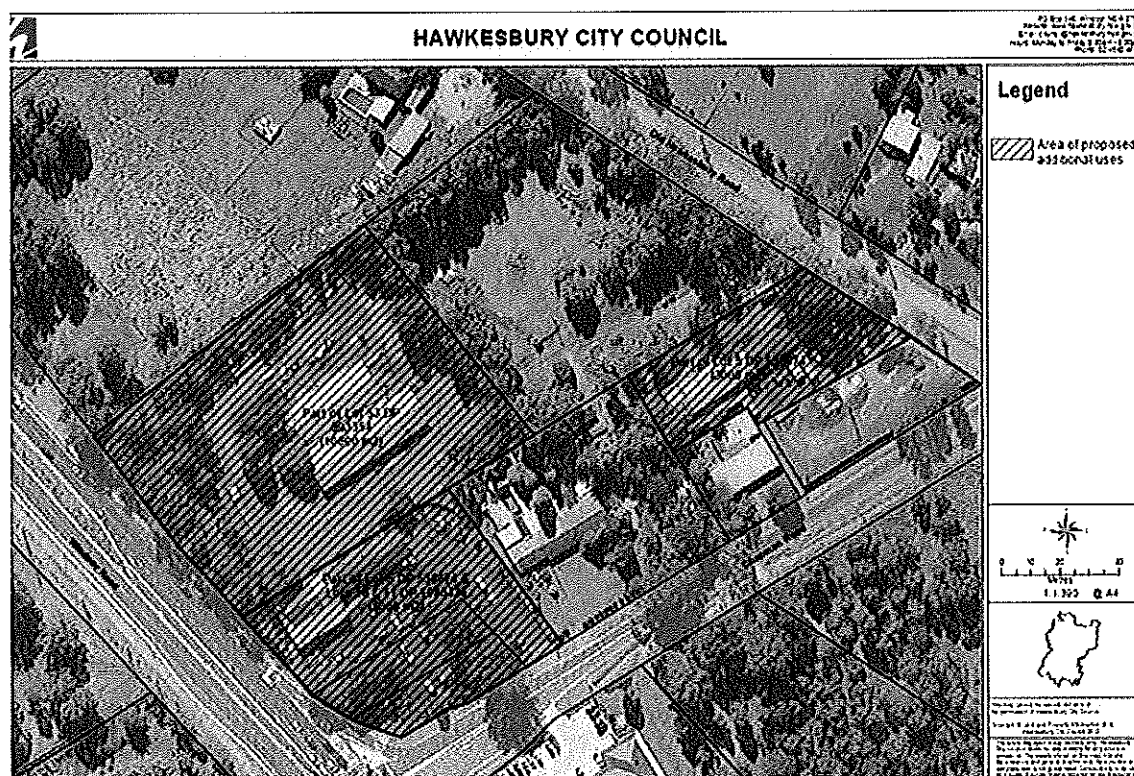


Figure 3: Land areas of proposed additional uses

1.6 Justification for the Planning Proposal

The justifications for the planning proposal can be summarised as follows:

- The site has a long history of approvals and use of the land primarily for a range of light industrial – manufacturing, ancillary retail and repair services since pre 1951.
- The subject site's strategic location with relatively easy access to the regional transport network and the public transport system and in close proximity to the future residential precinct in the NWGC.
- The opportunity to continuously serve as an industrial employment land in the Hawkesbury LGA and further strengthen the established Mulgrave/Vineyard industrial area.
- Provision of a range of light industrial and ancillary retail, repair and service businesses to facilitate improved economic and business activities within Hawkesbury LGA.
- Adequate infrastructure exists to accommodate the proposed additional development.
- Future orderly and economic development on the land.
- Improved amenity in the locality.

- The potential to create employment opportunities within the NWGC which will accommodate 70,000 new dwellings for approximately 200,000 people.
- The ability to assist in achieving the 3,000 new jobs target for Hawkesbury Local Government Area by 2031 and thereby supporting the implementation of the Metropolitan Plan, NWSS and Hawkesbury Employment Land Strategy (HELS).

Chapter 2: The Planning Proposal

Part 1 - Objectives and Intended Outcomes

The primary objective of the planning proposal is to specify certain land uses on the subject land as additional permitted development that may be carried out with development consent under HLEP 2012.

The intended outcomes of the planning proposal are to formalise certain land uses that have been operating on the site for many years and to allow redevelopment of the site for a range of small scale industrial ancillary retail, repair and local service business purposes.

Part 2 - Explanation of Provisions

Schedule 1 in conjunction with Clause 2.5 Additional permitted uses for particular land of HLEP 2012 makes provision for carrying out development on particular land with or without Council's consent. The planning proposal seeks to utilise this provision to list the proposed non-confirming land uses as additional permitted uses on the land with Council's consent.

In order to ensure that these uses will not impede the future Vineyard precinct planning process, conditions limiting land, gross floor areas and the life of consent are also included into Schedule 1 as shown in Table 1 below:

Lot Description	Address	Additional Permitted Use	Conditions
Lot 53, DP 593354	389 Old Hawkesbury Road, Vineyard	Saw mill, timber yard and associated parking	Total land area not to exceed 10,000m ²
Lot 5, DP 536674	541 Windsor Road, Vineyard	Saw manufacturing, repairs and sales, industrial retail premises, other compatible light industrial uses and associated parking	Total land area not to exceed 3,000m ² and the gross floor area of the industrial retail premises not to exceed 150m ²
Lot 5, DP 536674 and Lots 10 & 11, DP 1080426	541 – 547 Windsor Road, Vineyard	Hardware and building supplies, trailer hire business and associated parking	Total land area not to exceed 5,000m ² , gross floor areas of the trailer hire premises and building hardware store are not to exceed 325m ² and 250m ² respectively Development applications for these uses are to be submitted within 2 years from the gazettal of this planning proposal.

			Consent for new development lapses upon the finalisation of Vineyard precinct planning process
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Part 3 Justification

Section A – Need for the planning proposal

1. Is the Planning Proposal a result of any strategic study or report?

This planning proposal is not a result of any strategic study or report.

The NWSS provides direction for local councils in preparing Local Environmental Plans (LEP). A general direction is to provide sufficient zoned and serviced employment land to meet the employment capacity targets within their local government areas. Protecting Employment Lands is also a key direction of the strategy. The NWSS acknowledges that the Mulgrave/Vineyard industrial area is a well established industrial area comprising a mix of industrial uses such as manufacturing, automotive servicing, and automotive sales as well as bulky goods retailing. The industrial area has good access to Windsor Road and is also located within close proximity to the NWGC. It also points out that adjoining areas are predominantly rural and are unlikely to be developed further within the life of the strategy due to flooding and flood evacuation constraints.

The NWSS set a target of 3,000 new jobs for the Hawkesbury Local Government Area by 2031, and Council is required to plan for sufficient land and infrastructure to achieve this target.

The HELS has been prepared in line with the NWSS and provides a planning framework for employment precincts (industrial, commercial, retail) and locations for a range of employment types to support and enhance the economic competitiveness of the Hawkesbury region. The HELS 2008 states that vacant industrial employment land is often unserviced, with threshold costs limiting development, or has poor access to key transport routes. It recommends servicing these properties to unlock existing supply and investigate additional industrial land supply to address future employment growth.

Given the above circumstances, the site's location within the NWGC, sufficient existing infrastructure (e.g. water and power), easy access to Windsor Road which in turn provides access to both the M7 and M2 Motorways, and the site's proximity to Vineyard Railway Station the planning proposal it is considered necessary to continue and increase local employment opportunities and assist in achieving the Hawkesbury LGA's employment target identified by the NWSS.

2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The proposed amendment to Schedule 1 of HLEP 2012 to allow additional uses on the subject land is considered to be the best option to achieve the objectives and intended outcomes.

The other alternative is to rezone the land to permit the desired development of the land. However the DP & I have advised Council by its letter dated 16/07/2011 that it would not support any rezoning of land within the Vineyard Precinct until the precinct is released and rezoned under the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP). Subsequent advice received from the DP & I indicated that the use of Schedule 1 of HLEP 2012 is considered to be the appropriate mechanism to permit the proposed uses on the subject land.

3. Will the net community benefit outweigh the cost of implementing and administering the planning proposal?

The planning proposal will provide various net community benefits, including:

- The continued and improved use of the land for industrial and ancillary uses to facilitate increased local job opportunities within a reasonable walking distance from the surrounding residential population, future residential population within the NWGC and the Vineyard Railway Station.
 - Improved local business opportunities and economic activities within the Hawkesbury LGA.
- to deliver a new 25-year Metropolitan Plan for Sydney 2036 (the Metro Plan). The Metro Plan identifies a number of key objectives and actions to guide the growth of Sydney
- Improved access to locally manufactured industrial products, repairs and services.
 - Improved amenity in the area.

Section B - Relationship to Strategic Planning Framework

4. Is the Planning Proposal consistent with the objectives and actions contained with the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Metropolitan Plan for Sydney 2036

The Sydney Metropolitan Strategy – City of Cities: A Plan for Sydney's Future (the Metro Strategy) was released in 2005 to support growth while balancing social and environmental impacts over 25 years. The Metro Strategy has now been updated and integrated with the Metropolitan Transport Plan towards greater sustainability, affordability, liveability and equity for generations to come. The planning proposal is consistent with the following key objectives of the Metro Plan:

E.1 To ensure adequate land supply for economic activity, investment and jobs in the right locations.

Redevelopment of the land for a range of industrial and ancillary retail purposes will facilitate improved economic activity, investment and job generation within the NWGC on a site that is within close proximity to Vineyard Railway Station and that has easy access to Windsor Road which in turn provides access to regional transport network via the M7 and M2 Motorways.

Redevelopment of the site will also assist in achieving the NWSS employment targets for the Hawkesbury and the subregion.

E.3 To provide employment lands to support the economy's freight and industry needs.

Employment lands accommodate traditional industrial activities such as heavy industry and light industry, repair and service businesses and utilities as well as freight terminals and support services. The subject site has been used for light industry – manufacturing, repair and ancillary retail services for many years under existing use rights. The proposal seeking to list these uses as additional permitted uses in Schedule 1 to allow their continued and increased use on the land and secure the land as industrial employment land to support the local economy and industry is consistent with this objective.

Draft North West Subregional Strategy

The planning proposal is consistent with the following actions contained in the NWSS.

A.1.1.2 To provide suitable commercial sites and employment lands in strategic areas.

This key action requires North West councils to prepare Principal LEPs which provide sufficient zoned and serviced commercial and employment land to meet the employment capacity targets.

The Metro Plan has established a revised target of 145,000 new jobs within the planned North West Subregion over the next 25 years and the NWSS contain a 3,000 new jobs target for Hawkesbury LGA. Accordingly, Council is required to plan for sufficient land and infrastructure to achieve this target.

Given certain site constraints such as the lack of infrastructure, flooding and flood evacuation difficulties restricting development of industrial employment land in the area, the planning proposal seeking to list certain existing industrial and ancillary uses and new compatible land uses as additional permitted uses on the land to ensure the retention of the land for industrial employment purposes and provide increased local employment opportunities in the area is consistent with the NWSS.

5. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

The Hawkesbury Community Strategic Plan 2010 – 2030 (CSP) is based on five broad interrelated themes:

- Looking after people and place
- Caring for our environment
- Linking the Hawkesbury
- Supporting business and local jobs
- Shaping our future together

Each theme consists of a range of directions, strategies, goals and measures. The planning proposal is consistent with the following directions, strategies, goals and measures of the "Supporting business and local jobs" theme.

Directions

- *Plan for a range of industries that build on the strengths of the Hawkesbury to stimulate investment and employment in the region.*
- *Offer an increased choice and number of local jobs and training opportunities to meet the needs of Hawkesbury residents and to reduce their travel times.*

Strategies

- *Implement Employment Lands Strategy.*

Goals

- *At least 3,000 additional jobs are created to retain the percentage of local employment.*

Measures

- Number of local jobs.
- Reduced travel time to work.
- Variety of employment opportunities broadened.
- Growth and sustainability of new and existing industries.
- Increased economic activity and health of local businesses.

6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal is consistent with the applicable State Environmental Planning Policies (SEPPs) as summarised in the following table.

SEPP	Comment
SEPP 1 – Development Standards	The planning proposal does not include provisions that contradict or hinder the application of the SEPP.
SEPP 55 – Remediation of Land	It is proposed that where required contamination investigations will be undertaken in accordance with the provisions of SEPP 55 prior to any future development application being submitted.
SEPP 64 – Advertising and Signage	The planning proposal does not include provisions that contradict or hinder the application of the SEPP.
SEPP (Exempt and Complying)	The planning proposal does not include

Development Codes) 2008	provisions that contradict or hinder the application of the SEPP.
SREP No. 20 Hawkesbury – Nepean River (No. 2 – 1997)	The aim of SREP No 20 (No. 2 – 1997) is 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. This requires consideration of the impacts of the development on the environment, the feasibility of alternatives and consideration of specific matters such as environmentally sensitive areas, water quality, water quantity, flora and fauna, riverine scenic quality, agriculture, and metropolitan strategy. It is considered that the planning proposal achieves satisfactory compliance with the provisions of SREP No 20 (No. 2 – 1997).

7. Is the planning proposal consistent with application S.117 Directions?

Direction 1.1 Business and Industrial Zones

The objectives of this direction are to:

- (a) *encourage employment growth in suitable locations,*
- (b) *protect employment land in business and industrial zones, and*
- (c) *support the viability of identified strategic centres.*

The planning proposal seeks to amend Schedule 1 of HLEP2012 to list certain land uses as additional permitted land uses on the subject land. This will enable an economic and orderly development on the subject land with future redevelopment of the land for a range of light industrial - manufacturing, ancillary retail services, repair and service businesses in close proximity to the proposed residential precinct within the NWGC. It will enable certain employment opportunities for the future population within the NWGC and the existing local community. It is therefore considered that the planning proposal is generally consistent with this direction.

Direction 1.2 Rural Zones

The objective of this direction is:

to protect the agricultural production value of existing rural land.

The planning proposal is inconsistent with part of this Direction. However, the Direction does permit an inconsistency under certain circumstances. Given that the land currently has no agricultural value (and is most unlikely that it will ever be used for agricultural purposes given the existing land uses rights since the 1950s) and the proposal is consistent with the HELS, it is considered that the inconsistency with the Direction is acceptable.

Direction 3.4 Integrated Land Use and Transport

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) *improving access to housing, jobs and services by walking, cycling and public transport,*
- (b) *increasing the choice of available transport and reducing dependence on cars,*
- (c) *reducing travel demand including the number of trips generated by development and the distances travelled, especially by car,*
- (d) *supporting the efficient and viable operation of public transport services, and*
- (e) *providing for the efficient movement of freight.*

The DP & I's guidelines *Integrated Landuse and Transport* seeks to improve the integration of land use and transport planning. The planning proposal will enable the protection of the existing development and will provide additional employment opportunities close proximity to the proposed residential within the NWGC with future redevelopment of the site for a range of light industrial, ancillary retail and repair services. It is considered that the planning proposal is generally consistent with this Direction.

Direction 4.1 Acid Sulphate Soils

The objective of this direction is to:

- (a) *avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.*

This direction requires consideration of the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of DP&I. The subject site is identified as "Class 5" (less constrained) on the Acid Sulphate Soils Map held by Council. Given many of the proposed additional uses in the planning proposal have occupied the site for many years, the provisions contained in HLEP 2012 relating to Class 5 land and the nature of the planning proposal it is considered that a detailed consideration of the Department of Planning and Infrastructure's Acid Sulfate Soils Planning Guidelines is not required at this stage. The DP&I will consider this as part of their "gateway" determination and if required can request further information/consideration of this matter.

Direction 4.3 Flood Prone Land

The objectives of this direction are:

- (a) *to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and*

- (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

The proposal is inconsistent with this Direction. The majority of the site proposed to be rezoned is below the 1:100 year flood level. In accordance with the Floodplain Development Manual 2005, Council engaged Bewsher Consulting Pty Ltd to prepare a Flood Risk Management Study and Plan for the Hawkesbury River within the Hawkesbury LGA in June 2010, and this project is expected to be completed in 2013. Council will be able to assess any future development on the land against the Hawkesbury Flood Risk Management Plan to ensure effective development and management of the land with minimal impact of flooding on individual owners and occupiers of flood prone property and reduction in private and public losses resulting from major floods.

Direction 4.4 Planning for Bushfire Protection

The objectives of this direction are:

- (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and*
- (b) to encourage sound management of bush fire prone areas.*

The subject area is identified as bush fire prone land with a mix of Vegetation Categories 1 and 2 and Vegetation Buffer land. Accordingly, Council is required to consult with the Commissioner of the NSW Rural Fire Service (RFS) following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in accordance with section 57 of the Act, and take into account any comments so made.

Direction 6.1 Approval and Referral Requirements

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

The planning proposal is consistent with the terms of this direction, as it does not include any provisions requiring the concurrence, consultation or referral of development applications to a Minister or public authority or referral of a Minister or public authority and also does not identify development as designated development.

Direction 6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessary restrictive site specific planning controls.

As per the advice received from the DP & I dated 15 November 2011 a condition requiring the cessation of the operation of the proposed additional uses on the land upon the finalisation of Vineyard precinct planning process has been included to ensure that the proposed uses do not impede the future Vineyard precinct planning process. A requirement specifying maximum permissible land areas and gross floor areas for certain additional uses has also been proposed to minimise any adverse impediments on the future precinct planning process. It is therefore considered that the inconsistency with this Direction is acceptable.

Direction 7.1 Implementation of the Metropolitan Strategy

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the *Metropolitan Strategy*.

The Metro Plan and NWSS were released by the then Department of Planning in December 2005 and December 2007, respectively. These documents outline the broad vision for the future planning of Sydney and the North West subregion to 2031.

The NWSS translates objectives of the Metropolitan Strategy to the local level, with the economy and employment identified as a key component.

The NWSS identifies the existing Mulgrave and Vineyard industrial area as being located, just outside of the growth area but recognises that this area is well established, comprising a mix of industrial uses, such as manufacturing, automotive servicing and automotive sales as was faulty good retailing. It also notes that the area surrounding it is flood prone and may not be suitable for further light industrial activities.

As stated previously, the site is located within the NWGC and ultimately will form part of Vineyard Precinct. Consequently it is considered that the use of the site in the manner proposed is not inconsistent with the aim of the strategy in terms of job creation.

Section C - Environmental, Social & Economic Impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

In accordance with the Biodiversity Protection Map of HLEP 2012, the site contains areas of remnant vegetation mainly along the north-western, north-eastern and south-western boundaries and middle of the site. However a large area of the site is free of any significant stand of vegetation. Given the presence of significant trees on the site, any future development would require preparation of a flora and fauna report in accordance with Section 5A of the Act. This will enable Council to determine the likely impact of the future development of the site on the existing vegetation.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Bushfire prone land

The subject area is identified as bush fire prone land with a mix of Vegetation Categories 1 and 2 and Vegetation Buffer land. Accordingly, Council is required to consult with the RFS following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in accordance with section 57 of the Act, and take into account any comments so made.

Flood prone land

The subject land is a flood prone land. In accordance with the Floodplain Development Manual 2005, Council engaged Bewsher Consulting Pty Ltd to prepare a Flood Risk Management Study and Plan for the Hawkesbury River within the Hawkesbury LGA in

June 2010, and this project is expected to be completed in 2013. Council will be able to assess any future development on the land against the Hawkesbury Flood Risk Management Plan to ensure effective development and management of the land with minimal impact of flooding on individual owners and occupiers of flood prone property and reduction in private and public losses resulting from major floods.

Traffic and Access

The site is located on the signalised intersection of Windsor Road/Chapman Road and has three street frontages hence access to and from the site is not considered to be a significant issue. Currently the site is accessed via Chapman Road and Old Hawkesbury Road. Windsor Road is a Classified Road and generally the Roads and Maritime Service (RMS) does not allow access from this road. The original planning proposal received from the applicant suggests that the access to and from the site be restricted to Chapman Road and Old Hawkesbury Road. Also the site has reasonably good access to the M2 and M7 Motorways which provide easy and convenient access to Sydney and its environs.

It is considered that the traffic generated by the current operation of the site and that generated by possible future redevelopment of the site will not generate significant traffic volumes and hence it is forecast future impacts on existing traffic movements in the area will be acceptable. However this will require detailed consideration at future development application stage whereby Council can assess the impact of additional traffic movements caused by further development of the site.

The size of the site should provide opportunity for vehicles to enter and leave the site in forward direction as well as the provision of appropriate on site parking.

Site Contamination

The site has been used for residential, commercial and industrial since pre 1951.

Within respect to Clause 6 (1) of *State Environmental Planning Policy No 55 - Remediation of Land* it is considered that given there was no adequate information or evidence on the use of the subject site before 1950s' there may be a potential that the site may be contaminated however, at present this has not been investigated in detail by the proponent or by Council.

Subject to further investigation it is considered that if the land is contaminated Council will be able to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the proposed additional permitted uses or if the land requires remediation to be made suitable for the proposed uses the land will be so remediated before the land is used for the respective purpose. It is submitted that these investigations can be dealt with at Development Application stage for any subsequent development of the land.

Heritage

The property contains no heritage items listed in HLEP 2012 or by the NSW Heritage Office.

10. How has the Planning Proposal adequately addressed any social and economic effects?

Social effects

The planning proposal would enable improved access to locally manufactured certain industrial retail products, repair services and jobs within a reasonable walking distance from the future residential precinct within the NWGC and the surrounding local residential population.

Under the NWSS, 3,000 jobs are to be accommodated in the Hawkesbury LGA by 2031. The future redevelopment of the site would facilitate in achieving this employment target by increasing local job opportunities.

Economic effects

The planning proposal capitalises on the existing infrastructure and enables economical use of the land and increased local economic and business activities to sustain economic viability of the area. The potential job opportunities in close proximity to the planned residential precinct within the NWGC would enable the retention of incomes and expenditure in the area.

Section D- State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

It is considered the subject site has ready access to the required public infrastructure including water, sewerage, electricity, and telecommunication. The future development of the site as a result of the planning proposal will not require an extension or augmentation of this infrastructure. The site is located approximately 800m from the Vineyard Railway Station.

12. What are the views of State and Commonwealth public authorities in accordance with the gateway determination?

Consultation on the planning proposal will be undertaken with those public authorities nominated in the gateway determination. Any proposed variations to the planning proposal identified in the submission received would be addressed following consultation and if any changes were made to the proposal the revised planning proposal will be submitted to the Minister for Planning & Infrastructure for a revised gateway determination.

Part 4 - Community Consultation

The DP& I's "A guide to preparing local environmental plans" outlines the consultation required for different types of planning proposals with the guideline stating that the exhibition period for this type of proposal should be 14 days.

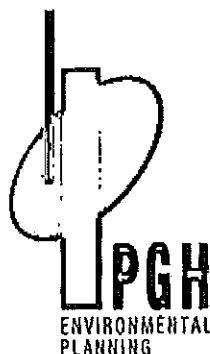
Attachments

1. Planning Proposal from PGH Environmental Planning
2. Council report and resolution dated 12 July 2011
3. DP & I advice dated 16 July 2011
4. DP & I advice dated 14 November 2011
5. Council report and resolution dated 27 March 2012

Attachment 1

Planning Proposal from PGH Environmental Planning





PLANNING PROPOSAL

(REZONING)

Lot 53 DP 592354, Lot 4 and Lot 5 DP 536674
and
Lots 10 and 11 DP 1080426

Nos. 533 - 547 Windsor Road (cnr Chapman Road),
Vineyard NSW

Report: Planning Proposal (Rezoning)
Lot 53 DP 593354, Lot 4 and Lot 5 DP 536674 and
Lot 10 and Lot 11 DP 1080426
Nos. 533 – 547 Windsor Road (cnr Chapman Road),
Vineyard NSW

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Report No:	PP 07-0246
Prepared by:	Patrick Hurley
Version	Final
Date:	20 th December 2010

December 2010

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APPENDIX 2 – ZONING LAND USE TABLES (RU4, B1 & IN2) – DRAFT LEP 2009

1 Introduction

This Statement of Environmental Effects Report (the "Report") has been prepared by PGH Environmental Planning, on behalf of Vineyard Hardware Pty Ltd and Henry Bros Saws Pty Ltd (the "client"). The Report describes the existing site and locality, and outlines the justification for the rezoning.

The subject site (the "site") is known as Lot 53 DP 593354, Lot 4 and Lot 5 DP 536674 and Lot 10 and Lot 11 DP 1080426, Nos.533-547 Windsor Road (corner Chapman Road), Vineyard extending through to Old Hawkesbury Road. It has a combined area of 3.41 hectares.

The land is presently zoned Rural Living ('RL') under Hawkesbury Local Environmental Plan 1989 ('LEP 1989') and is proposed to be zoned RU4 Rural Small Holdings under Hawkesbury draft Local Environmental Plan 2009 (the 'draft LEP 2009').

The client's family businesses have been operating from the site continuously since the late 1950's (formally confirmed by Council on various occasions but initially in October 1980) initially as Henry Bros Pty Ltd and/or Vineyard Hardware Pty Ltd and more recently as Henry Bros Saws Pty Ltd.

The site presently contains eleven (11) main buildings containing a range of business activities, both commercial and industrial (sawmill, carpentry, manufacture and maintenance of industrial saws and knives, storage and sale of hardware products) as well as a brick veneer residence and a small block of four (4) residential units and associated carports and sheds.

Whilst there is a residential component, our investigations conclude that the proposed RU4 Rural Small Holdings zone does not reflect the historical commercial/industrial use of the site. If the RU4 zoning is endorsed these activities will be inconsistent with the intent of this zone and could only operate under the existing use rights provisions of the Environmental Planning and Assessment Act, 1979 and Regulation.

The client seeks the support of Hawkesbury City Council to rezone the site from Rural Living (proposed RU4 Rural Small Holdings) to a part B1 Neighbourhood Centre and part IN2 light Industrial which would allow a range of small scale retail commercial and light industrial activities generally consistent with present day activities.

This Planning proposal will involve a review and assessment of a number of issues (in no particular order), including:

- Bushfire;
- Vegetation;
- Traffic;
- Contamination;
- Flooding; and
- Services.

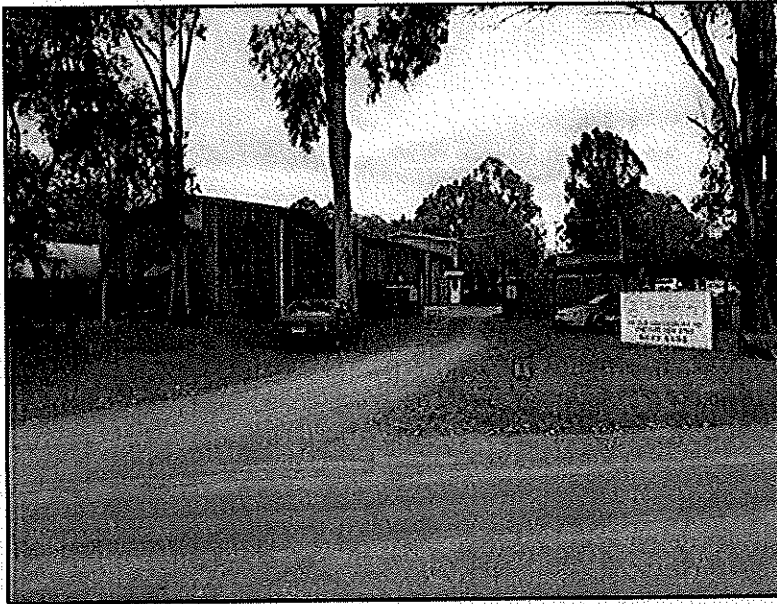


Plate 1

View southwest from Old Hawkesbury Road of the entrance to Henry Bros Saws on Lot 5.

Photo shows the Industrial factory building, access driveway and parking area.

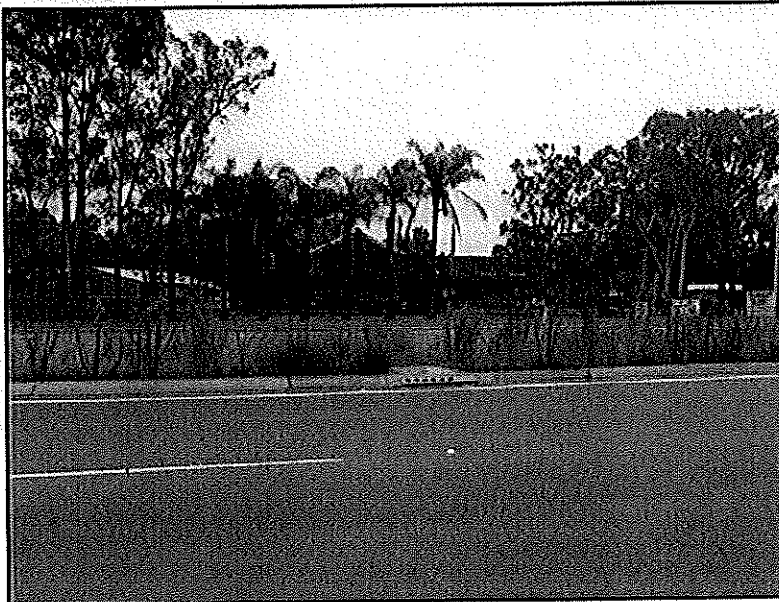


Plate 2

View northeast from Windsor Road.

Photo shows the former Vineyard Hardware and Restaurant Building (Lot 5) with the associated parking area (Lots 10 & 11) to the right of the photo.

The partly obscured Industrial building to the left (Lot 53) contains a sawmill and woodwork/joinery factory.

2 Site and Locality

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

2.1 Site Location

The site is situated on the north-western corner of the Windsor Road and Chapman Road intersection, Vineyard and extends north-eastward through to Old Hawkesbury Road, Vineyard (refer Figure 1).

2.2 Site Description

The site is an irregular shaped parcel with a frontage of approximately 145metres to Windsor Road and depth of up to approximately 225metres. The site extends through to Old Hawkesbury Rd to the north-east where it has a frontage of approximately 181metres. It has a total area of 3.41hectares. The site consists of five (5) allotments of land as follows (refer Figure 2).

Table 1 – Lot description and Details

Street Address	Property	Area
No.533 Windsor Road	Lot 53 DP 593354	1.878ha
No.541 Windsor Road	Lot 4 DP 536674	1003m ²
	Lot 5 DP 536674	1.264ha
No.545 Windsor Road	Lot 10 DP 1080426	871.9m ²
No.547 Windsor Road	Lot 11 DP 1080426	837.5m ²

2.3 Existing Development

The site contains a number of commercial/industrial buildings and sheds, brick veneer residence and residential units and associated parking and driveways and external storage areas. The driveways and parking areas are unsealed with the exception of the car park area located in the southern corner of the site adjacent to the Windsor Road and Chapman Road intersection. The following land uses are presently on the site.

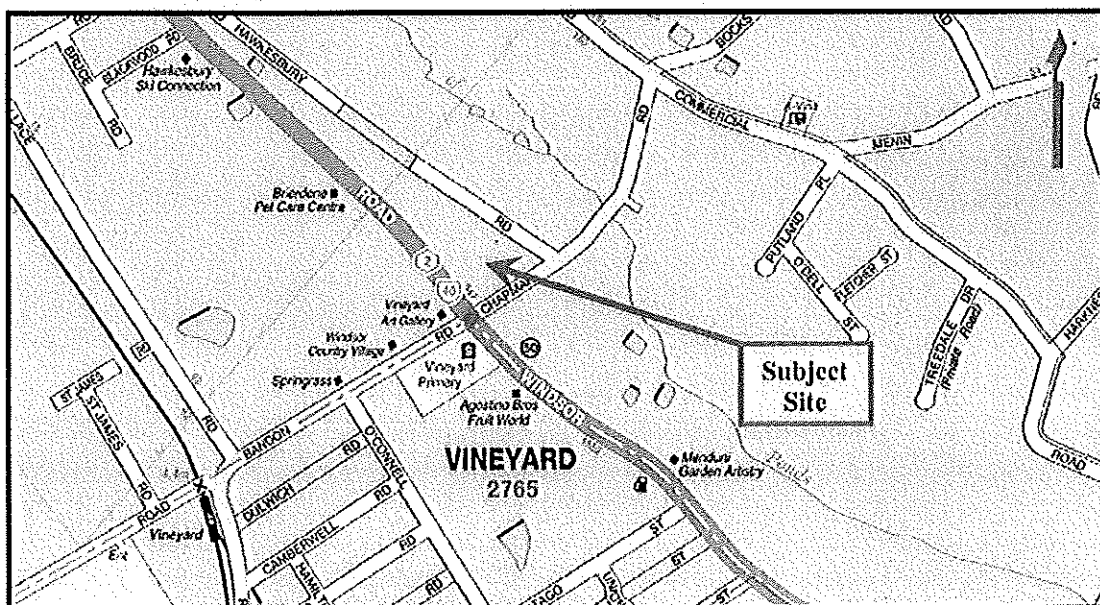
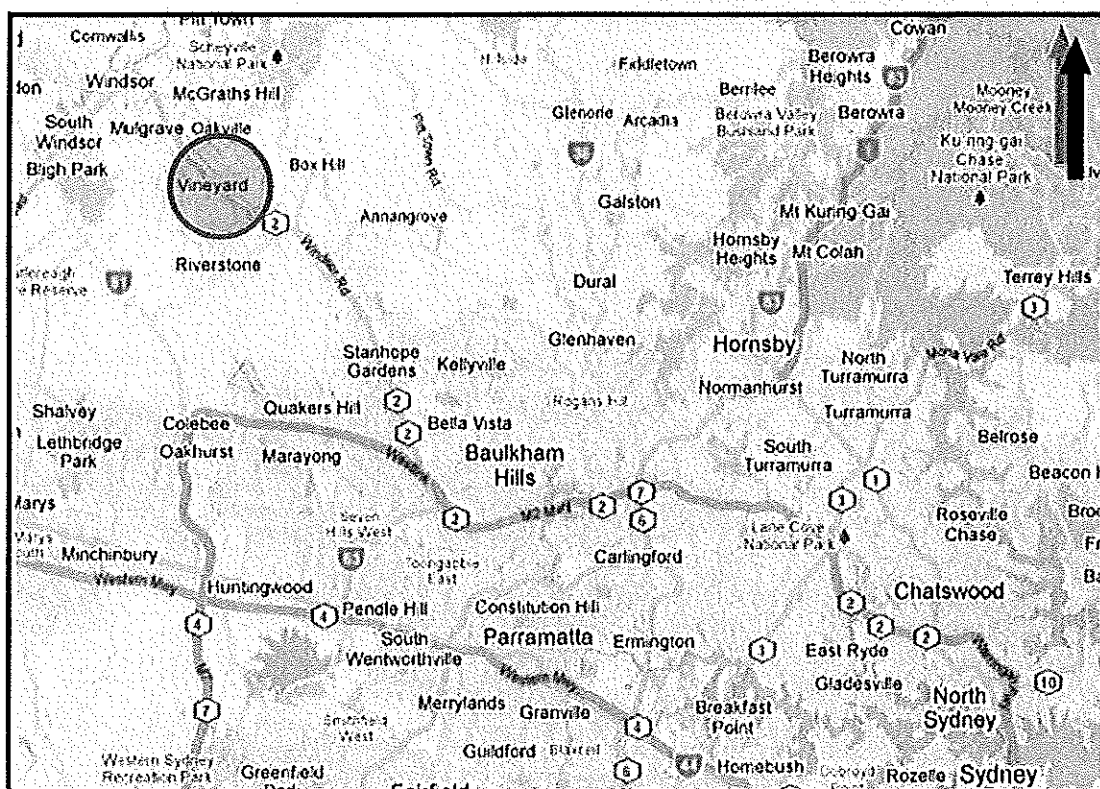


Figure 1 – Locality Map

Proposed Rezoning
Lot 53 DP 593354, Lot 4 and Lot 5 DP 536674
and Lot 10 and Lot 11 DP 1080426
Nos.533-547 Windsor Road (corner Chapman Road), Vineyard



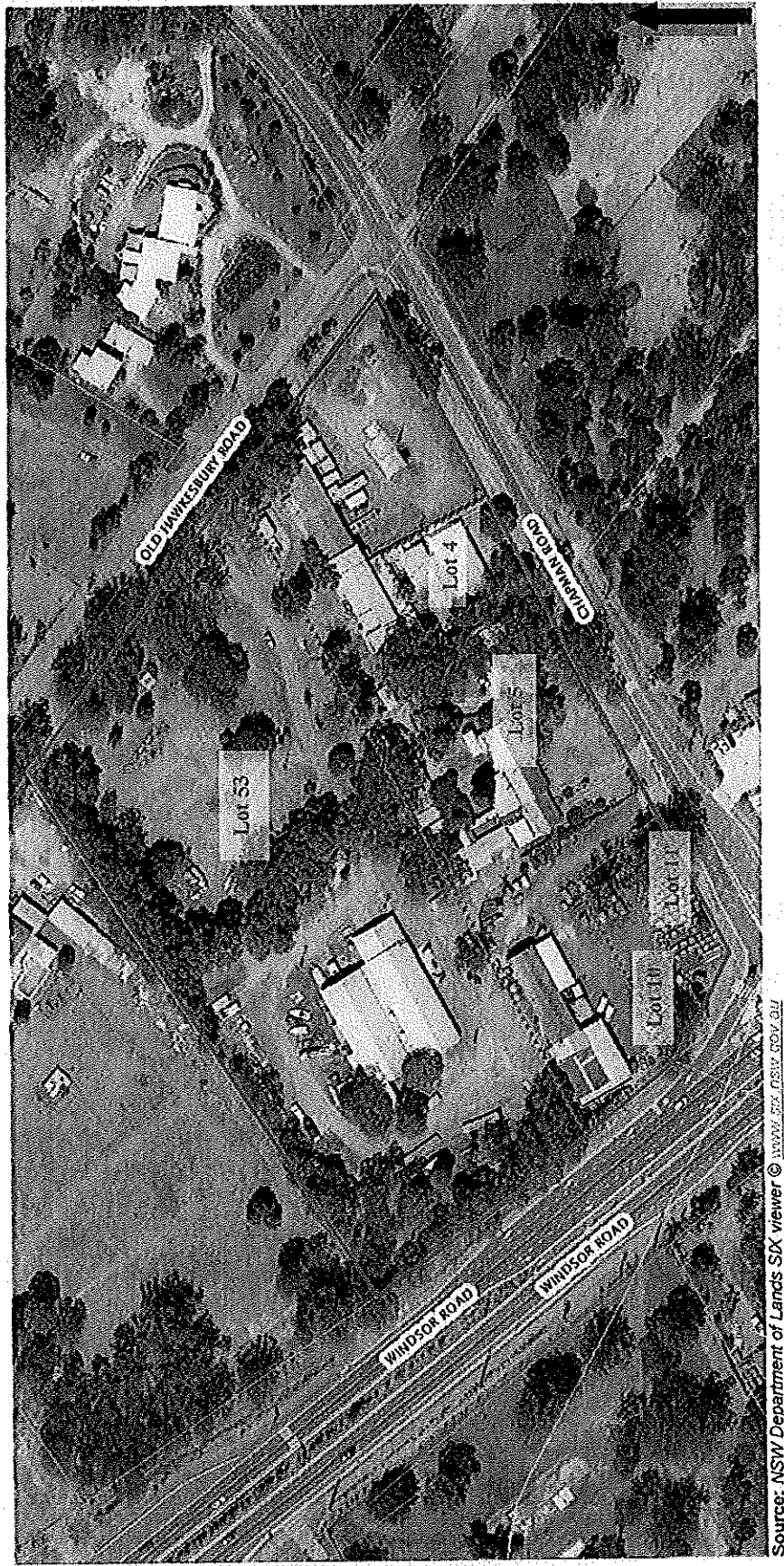


Figure 2 – Site Plan

Not to Scale

Proposed Rezoning
Lot 53 DP 593354, Lot 4 and Lot 5 DP 536674 and Lot 10 and Lot 11 DP 1080426
Nos.533-547 Windsor Road (corner Chapman Road), Vineyard



Table 2 – Lot Description and Land Uses as at December 2010

Lot	Description
Lot 53 DP 593354	Industrial Building (saw mill, woodwork and carpentry) plus associated garages, parking areas (unsealed).
Lot 4 DP 536674	Residential Flat Building containing four (4) units plus associated on-site parking, car ports, and open space.
Lot 5 DP 536674	Commercial building (trailer hire), industrial building (Vineyard Hardware), industrial building (saw mill), brick veneer residence (with associated, garages and pergolas and open space).
Lot 10 DP 1080426	Vacant - sealed car park and storage of trailers.
Lot 11 DP 1080426	Vacant - sealed car park and storage of trailers.

2.4 Surrounding land uses

The site is bounded by Old Hawkesbury Rd to the north, Windsor Road to the south and Chapman Road to the east. To the west is a rural/residential property with its address to Old Hawkesbury Road.

Surrounding land uses include Vineyard Public School, Child Care Centre, Retirement Village (Windsor Country Village), Engineering firm (Pilequip Australia¹) specialising in piling and foundation engineering equipment, materials and accessories, Construction Crane hiring and storage, and general retail (pet supplies, sheds). Refer Figure 3.

2.5 Character of Locality

The site is located within an historical rural business precinct that has been established along Windsor Road stretching from Mulgrave, eastwards through to Box Hill within the adjoining Hills Shire Council. These various businesses have traditionally serviced the surrounding rural-residential areas of Mulgrave, Pitt Town, Vineyard and Box Hill.

¹ <http://www.pilequip.com.au/>

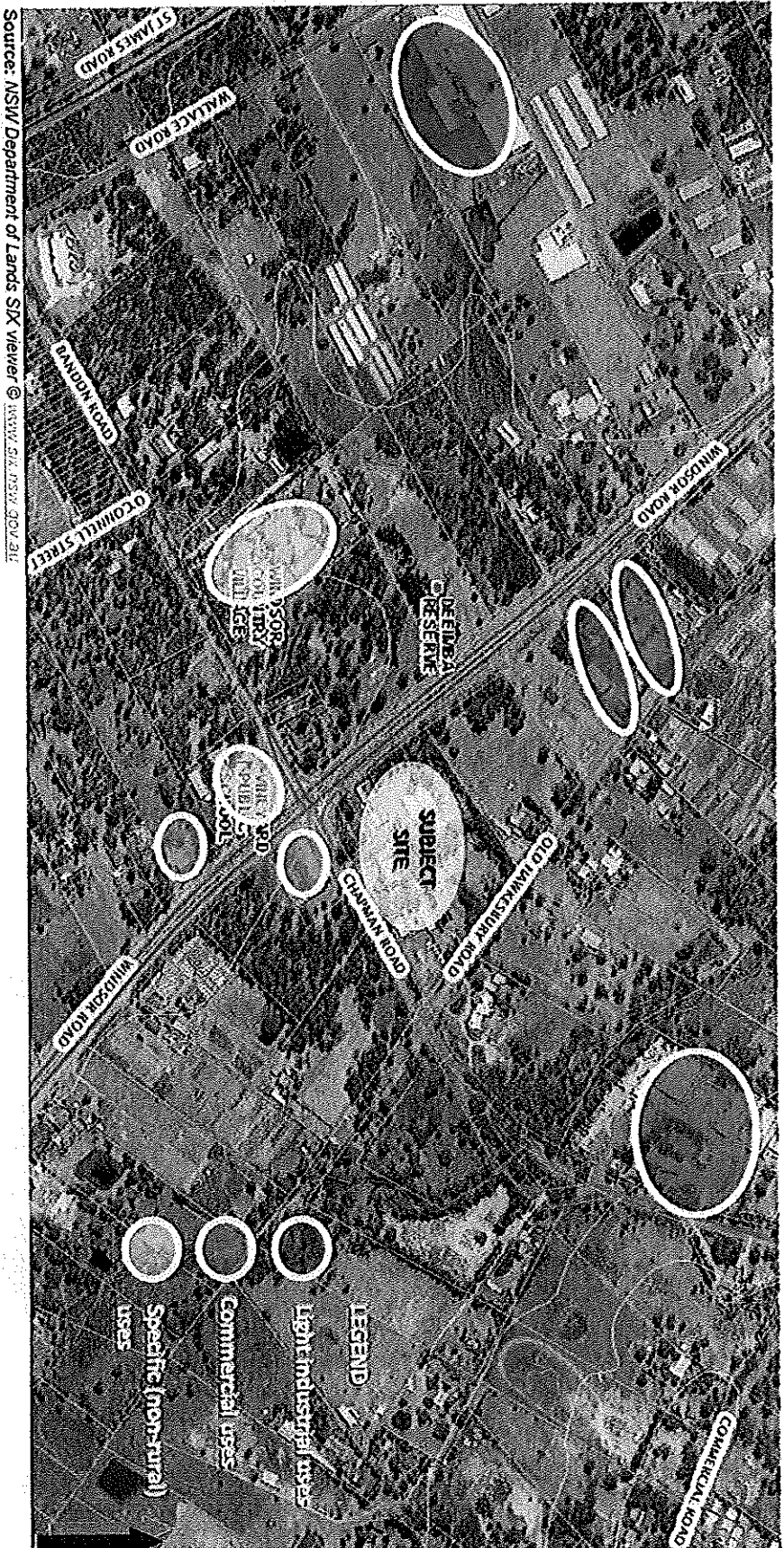


Figure 3 – Existing and Surrounding Land Uses

Not to Scale

Proposed Rezoning
 Lot 53 DP 593354, Lot 4 and Lot 5 DP 536674 and Lot 10 and Lot 11 DP 1080426
 Nos.533-547 Windsor Road (corner Chapman Road), Vineyard

2.6 Topography

The land experiences a slight fall of 1.5% between Windsor Road and Old Hawkesbury Road. The land level sits at RL18.5m AHD at its southernmost corner (Intersection of Windsor Road and Chapman Road) and RL15m AHD at its north-eastern corner (Intersection of Chapman Road and Old Hawkesbury Road).

2.7 Vegetation

The site is largely cleared with stands of trees located on the boundaries and through the centre of the site. The vegetation on site is a mix of native and exotic species interspersed between the various buildings and structures.

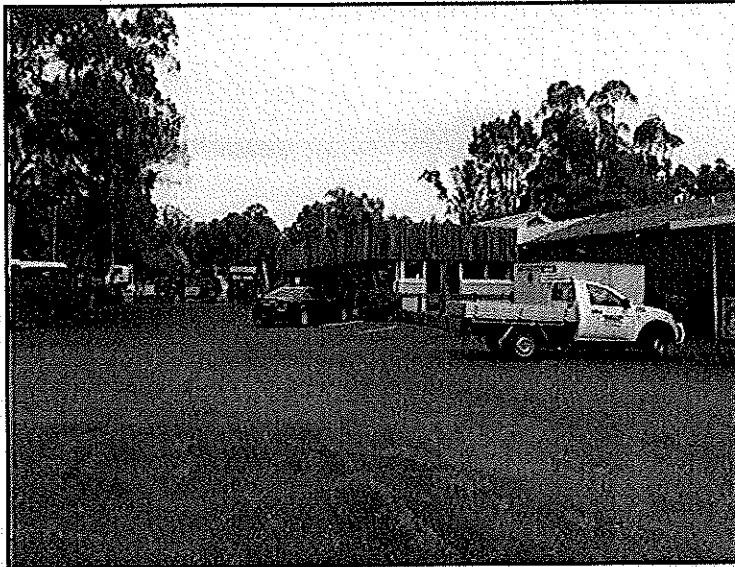


Plate 3

View towards Windsor Road of the western parking area of lot 5 showing the industrial shed (green) used by Vineyard hardware and former restaurant building fronting Windsor Road.

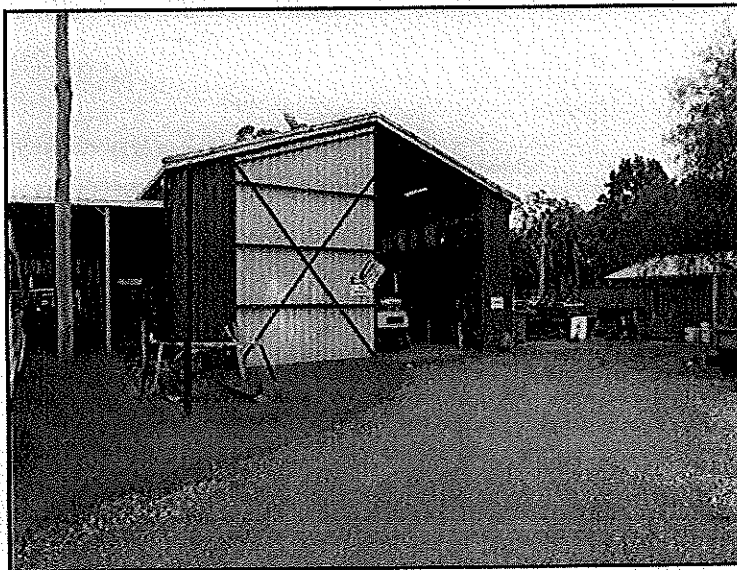


Plate 4

View of the eastern end of the industrial shed (and associated storage area) that adjoins the former restaurant building on Lot 5.

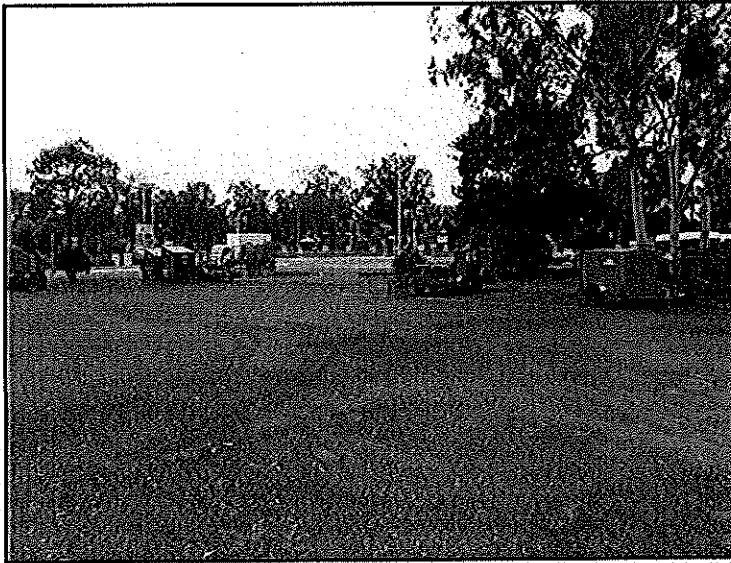


Plate 5

View south from parking area (Lots 10 & 11) towards Windsor Road and Chapman Road intersection.



Plate 6

View from Chapman Road of the existing residence located on Lot 5.

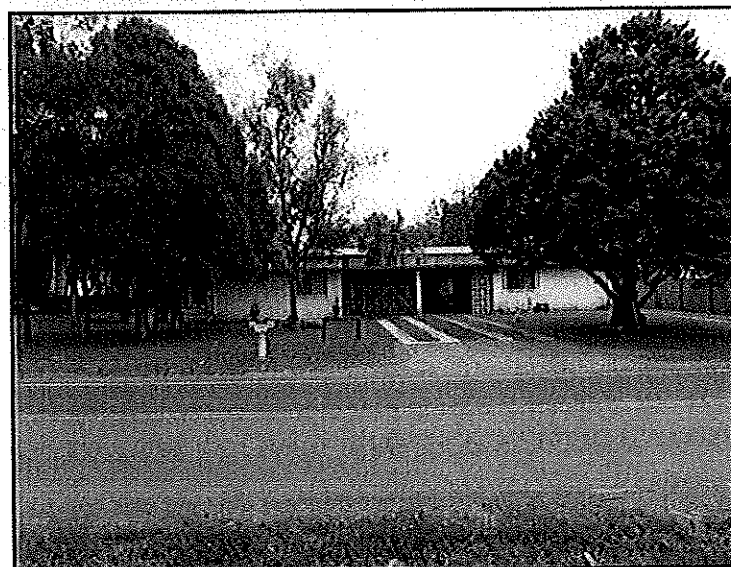


Plate 7

View from Chapman Road of the existing residential flats located on Lot 4.

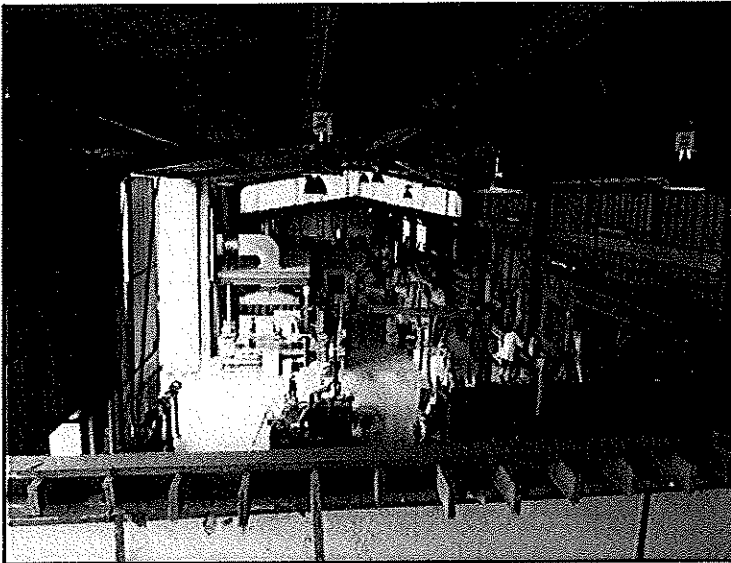


Plate 8

Internal view of building occupied by Henry Brothers Saws that fronts Old Hawkesbury Road.



Plate 9

Internal view of building occupied by Henry Brothers Saws.



Plate 10

View from the Henry Brothers Saws building of north-western area of Lot 5 and the adjoining Lot 53 fronting Old Hawkesbury Road.

The boundary between the two lots generally follows the edge of the gravel driveway.

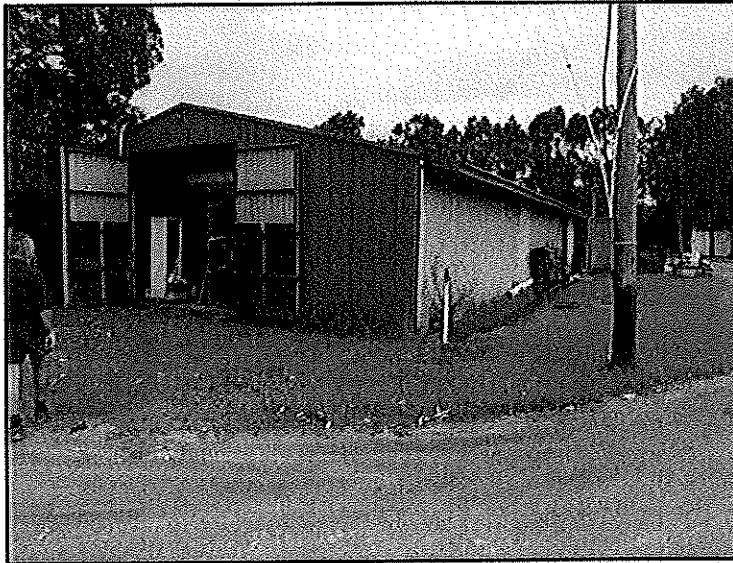


Plate 11

View of existing Industrial building located on Lot 53 towards the Windsor Road frontage.

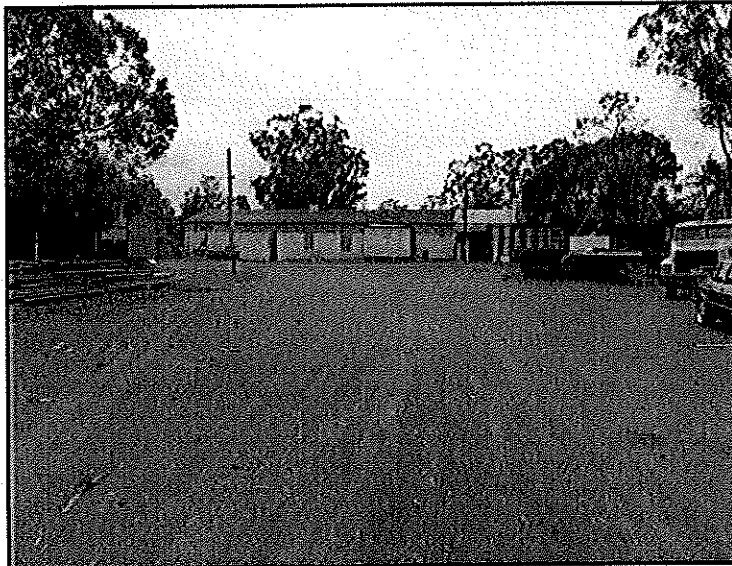


Plate 12

View south-east from the parking and driveway area adjoining Windsor Road looking towards the Industrial and former Restaurant building located on Lot 5.

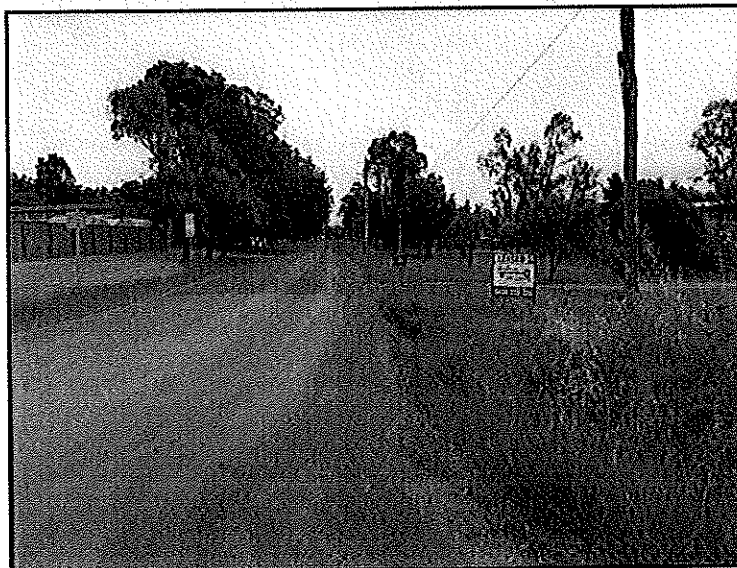


Plate 13

View from Chapman Road looking north-west along Old Hawkesbury Road.

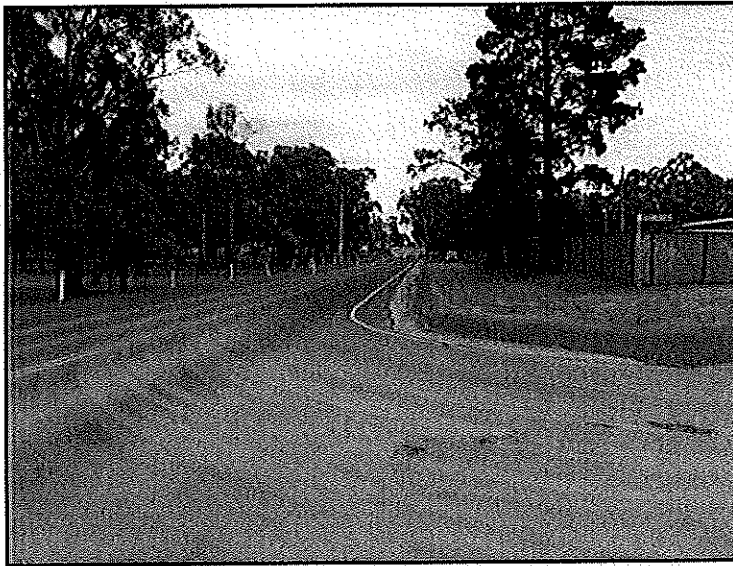


Plate 14

View from Old Hawkesbury Road/Chapman Road intersection looking southwest towards Windsor Road.

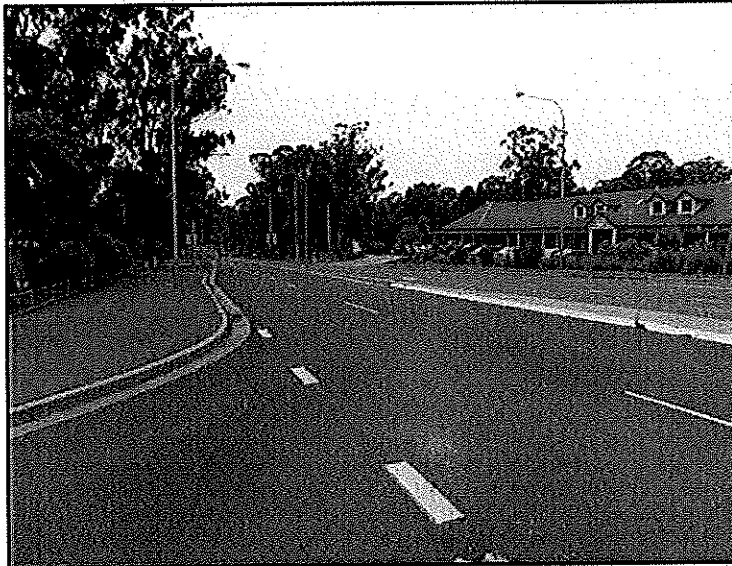


Plate 15

View from Windsor Road/Chapman Road intersection looking northeast along Chapman Road.

The building to the right is a Child Care Centre.

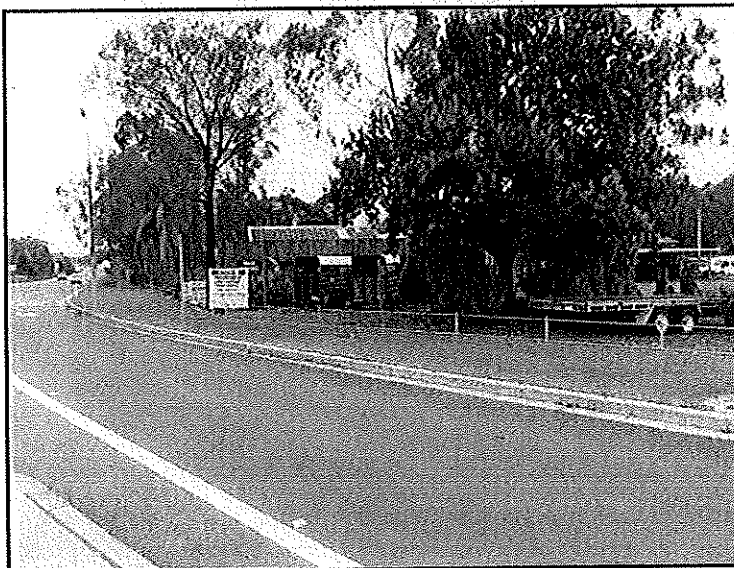


Plate 16

View from Windsor Road/Chapman Road intersection looking northwest along Windsor Road.

The site (Lots 10 and 11) is to the right of the photo.

3 Site History

The site has a detailed history of approvals that have been previously documented by Council from pre-1951. Approved uses have included a shop and dwelling; general machinery and timber and hardware store; roofing supplies; storage sheds; residential flats; residence, carports; and swimming pool (refer Appendix 1).

The following chronology has been provided by the client to assist Council in understanding the depth and involvement of the various business activities on the site over the past 50 years.

In April 1957 F.E and S.A Henry relocated Henry Bros & Co Pty Ltd (*'Henry Brothers'*); which was a roofing and building company from Wentworthville to No.541 Windsor Road Vineyard. At the time there were two (2) existing buildings, the first was the original residence/general store and post office built in the 1920's, however in 1970, the then Department of Main Roads required that it be demolished to allow for the widening of Windsor Road. The second building was the disused 'Rivoli Theatre' which was used for the roofing and building operations.

In June 1968 approval was given for the hardware and Vineyard Hardware Pty Ltd (*'Vineyard Hardware'*) was thus created. Both Henry Brothers and Vineyard Hardware operated from the site and in October 1968 a storage/warehouse building was approved and built on Lot 5, fronting Old Hawkesbury Road. This building was used to store hardware products and roofing materials for Vineyard Hardware and Henry Brothers.

In 1971 approval was given to extend on the existing hardware store for a warehousing/storage facility and to expand the shop itself, approval was also granted to extend the warehouse building located at the Old Hawkesbury Road frontage of Lot 5. Around this time the hardware business was growing at a rapid pace and the demand for specialised products; in particular timber products, was increasing. Henry Brothers started manufacturing short run mouldings and some small joinery items which in turn would be sold back to Vineyard Hardware.

In the mid 1970's the Whitlam government of the day banned certain building products which rendered Henry Brothers unworkable as a roofing company. Henry Brothers turned in the direction of timber products to support not only itself, but the growing needs and demands of Vineyard Hardware and the current market requirements. A portable sawmill was built and located beside the rear warehouse building on Old Hawkesbury Road. This mill was used to increase manufacturing capacity to include the production of mouldings and architraves, folding garden lattice sheets and small joinery items; these of which were sold wholesale back to Vineyard Hardware and other hardware and garden suppliers.

The late 1970's saw Vineyard Hardware purchase the block of land beside it known as Lot 53 Windsor Road. In 1979 approval was granted for a bee apiary and auxiliary works to be established on this lot, which included the processing and packaging of the honey as well as the production of bee boxes, pallets and associated timber products required as necessary for the business to operate. The growth of Vineyard Hardware brought about the necessity to use this equipment for production of structural hardwood and timber fencing products due to increases in supply and demand. Further to the use of this equipment for timber products, the growth and direction of Vineyard Hardware has also seen the utilisation of the steam generated boiler equipment to make products such as steam bent trotting shafts, a limited number of chair backs and balustrade railing.

In the mid 1980's, the honey processing business wound down to a hobby sized farm only. In the meantime the equipment from the auxiliary works was utilised by the sawmill registered to Vineyard Hardware on Lot 53, which increased a growing product range to include hardwood slabs, structural softwood and hardwood timber planks for the production of hardware products such as pick, axe and shovel handles which were then produced in the factory at the rear of Lot 5 for resale in the hardware industry. Other products this factory produced included timber gates, timber fence panels and portable timber garden sheds.

During the early 1980's Vineyard Hardware expanded its services to include Vineyard Newsagency, Vineyard Gardenware, Vineyard Hire Service; hire of equipment such as wheelbarrows, cement mixers, ladders, scaffolding, portable sheds, power tools, selected specialty hand tools; and a saw sharpening service.

Due to the vast range of timber products being produced over the entire site, a need for in-house maintenance of saw blades arose. Equipment was purchased and a small sawshop was established in the factory located at the rear of Lot 5. This sawshop provided the necessary saw sharpening maintenance for Vineyard Hardware and the timber production side of business. At the same time the saw sharpening started to take on contract work from other timber mills and hardware stores within the Sydney Metropolitan area.

During the late 1980's the marketplace for the timber products manufacturing declined rapidly, however the saw sharpening side of the business was rapidly increasing. Henry Brothers continued to expand in the saw maintenance industry and commenced production of saw blades

In 1998 Henry Bros Saws Pty Ltd (*'Henry Brothers Saws'*) was established and took over the saw business from Henry Brothers, which still maintained timber production although at a lesser scale.

Over the next few years Henry Brothers Saws grew in size and industry demand increased. As the expansion of Henry Brothers Saws went into different markets the need for retail to meet the requirements of the ever growing client base emerged.

Today the capacity to produce and service a large variety of saws and knives has made Henry Brothers Saws one of the largest manufacturer, retailer, wholesaler, importer, exporter and mail order business of saw blades and related tooling. Part of this business includes the supply of specialised hardware products and services to other hardware stores, including Bunning's Hardware and commercial businesses.

In 2001 the hardware building fronting Windsor Road was outfitted as a family restaurant. However not all of this building area was required and Vineyard Hardware's remaining stock was moved to the rear of the building where it maintained operations dealing in hardware and timber products.

In early March of 2006 the restaurant business failed and ceased to operate. In late 2006 the premises was re-let to a trailer hire business. This trailer hire business is currently in the process of being relocated to alternative premises outside of the Hawkesbury Local Government Area. Vineyard Hardware maintains a presence in the rear of the building on Lot 5 and on the adjoining Lot 53.

4 Zoning – Site and Immediate Surrounds

The site and surrounding area is affected by Hawkesbury Local Environmental Plan 1989 ('LEP 1989'). The site is on the intersection of Windsor Road, Bandon Road/Chapman Road. The land diagonally opposite forms the boundary between the Hawkesbury City and Blacktown City Council Local Government Areas, consequently the land to the south is affected by Blacktown Local Environmental Plan 1988 ('LEP1988').

The site and surrounding area is presently zoned Rural Living ("RL") under Hawkesbury Local Environmental Plan 1989. Council has exhibited draft LEP 2009 which proposes that the site and surrounding area be zoned RU4 Rural Small Holdings (refer Figure 4).

5 Environmental Issues

A review of the site has identified the following issues for consideration:

- Bushfire;
- Vegetation (Ecological);
- Traffic;
- Contamination;
- Flooding; and
- Services.

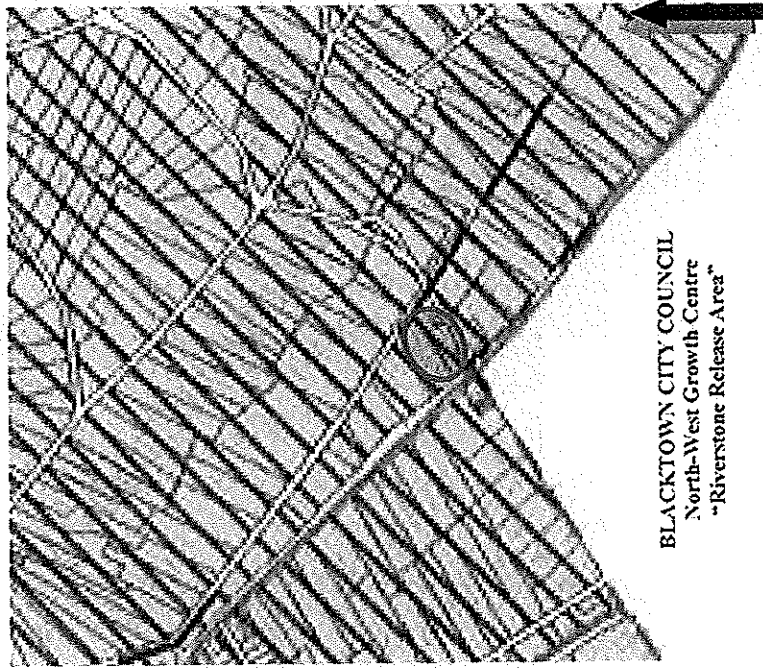
5.1 Bushfire

The site is identified as being bush fire prone and is affected by a mix of Category 1, Category 2 and Vegetation Buffer land.

Any future development will need to have regard to the provisions of the Planning for Bushfire Protection (PfBP) 2006 document and relevant legislation under both the Environmental Planning and Assessment Act 1979 and Rural Fires Act 1997.

Development proposals will need to comply with the performance criteria in respect of Asset Protection Zones, Access, Services, and Emergency and evacuation planning however any such assessment can ordinarily be addressed at the development application stage and is not considered to be an issue that would prevent the zoning amendment from proceeding.

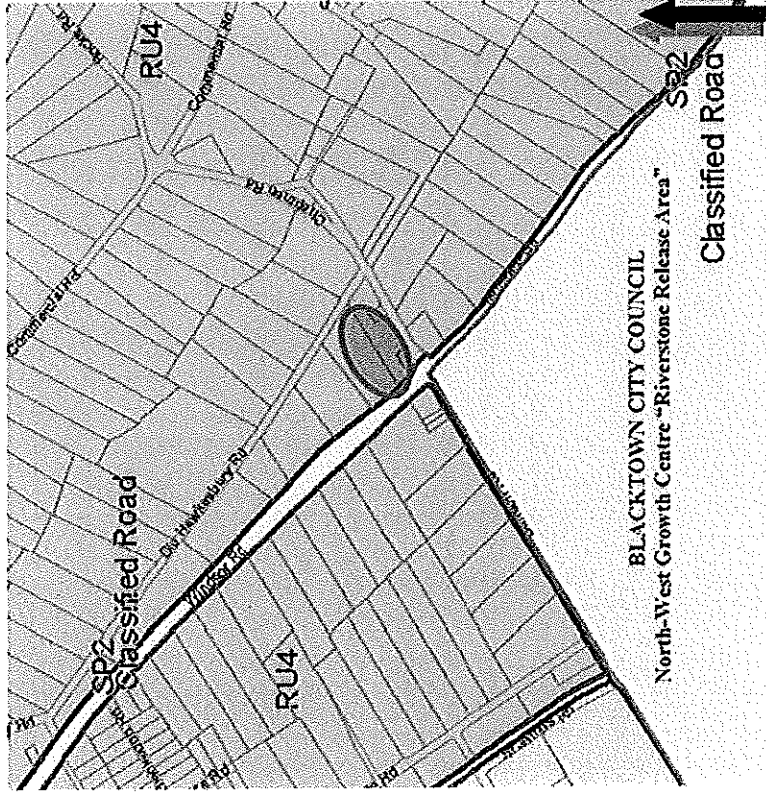
EXISTING ZONING



Rural Living (RL)

Source: LEP 1989 - Sheet 3

DRAFT EXHIBITED ZONING



RU4 Rural Small Holdings

Source: Draft LEP 2009 - LZN Sheet 16

Figure 4 – Existing Zoning & Draft Exhibited Zoning

Proposed Rezoning
Lot 53 DP 593354, Lot 4 and Lot 5 DP 536674
and Lot 10 and Lot 11 DP 1080426
Nos.533-547 Windsor Road (corner Chapman Road), Vineyard

Not to Scale



5.2 Vegetation

The site contains a mix of native and exotic species throughout the site however there are substantial areas of disturbed and un-vegetated land.

It is noted that the Biodiversity Protection Map accompanying the draft LEP 2009 identifies the site as containing mapped areas of *significant vegetation* on the Biodiversity Protection Map². In this regard the attached aerial photograph clearly shows that lot 53 (No.533 Windsor Road) is partly developed (large shed and car park area) with pockets of remnant vegetation. In contrast the Biodiversity Protection Maps identifies this land as being affected by *significant vegetation* over where the parking area currently is. We have previously questioned the accuracy of this mapping in correspondence to Council³.

In our opinion the map is not accurate; however any assessment of this matter can ordinarily be addressed at the development application stage and is not considered to be an issue that would prevent the zoning amendment from proceeding.

5.3 Traffic

The site has three street frontages. Windsor Road is a dual carriageway arterial road and there is no existing access from this road. All current access is via Chapman Road and Old Hawkesbury Road and it is proposed that access to the site be restricted to Chapman Road and Old Hawkesbury Road.

There is adequate area for on-site parking and manoeuvring and the site has good vehicular access and clear sight lines on both approaches along Chapman Road and Old Hawkesbury Road to accommodate future development.

The intersection of Windsor Road and Chapman Road is signalised making the site suitable and capable of accommodating a range of activities and traffic generating developments with minimal impact upon the surrounding residential properties.

² draft LEP 2009, Sheet BDP_016

³ Submission in response to draft LEP 2009, dated 14th April 2010.

5.4 Contamination

Based upon the history and variety of land uses if an application were to be made to convert any of the commercial and industrial uses to residential type activities a preliminary hazard analysis would be required. The proposal however is to continue similar types of land uses consequently it is a matter that would ordinarily be addressed at the development application stage and is not considered to be an issue that would prevent the zoning amendment from proceeding.

5.5 Flooding

The site varies from between RL15m AHD to RL18.5m AHD which is partly below the 1-in-100 year flood level of 17.3m AHD. The site is classified as a 'flood control lot' which is generally land identified as having potential to be affected by a 1-in-100 year flood event. This affectation is common to all land within the vicinity of the nearby Killarney Chain of Ponds Creek and associated tributaries. From discussions with our client we are advised that the site has not been affected by flooding since the late 1950's; a period of some fifty years.

It is expected that any future redevelopment will need to address the question of flooding and associated risk management however it is not considered to be an issue that would prevent the zoning amendment from proceeding.

5.6 Services

Investigations identify that both water and sewer connections are readily available and it is not considered to be an issue that would prevent the zoning amendment from proceeding.

6 Rezoning Proposal

The purpose of the proposed rezoning is to formally recognise the historic land uses by introducing zonings that will allow a range of small scale retail, commercial and light industrial activities generally consistent with present day activities.

6.1 Proposed Zoning for the Site

Of the available zones in draft LEP 2009 we consider that the most appropriate solution is to establish two (2) zones, namely: B1 Neighbourhood centre; and IN2 light Industrial as illustrated in Figure 5. Extracts of these zones is provided in Appendix 2.

6.2 Site Constraints and Opportunities

The site is conveniently situated on a signalised intersection fronting Windsor Road (a classified road) with three (3) street frontages allowing adequate opportunities for vehicular access. Windsor Road is the main traffic route between Castle Hill and Windsor with easy access to both the M7 and M2 Motorways. The site is located within 3 kilometres of Mulgrave and 6 kilometres of Windsor which is identified as a major business and shopping centre for the district.

Although the site is identified as being flood affected in the 1 in 100 year event this constraint is not unique to the site or to the Hawkesbury Local Government Area. It also enjoys a relatively level topography with no significant vegetation or topographical constraints.

6.3 Review of Alternative Land uses

The current Rural Living zone and proposed RU4 Rural Small Holdings zone both identify in their respective objectives, the retention of agricultural and primary industries in conjunction with residential land uses whilst ensuring the protection of the natural landscape. Our client confirms that the site has not been used for agricultural purposes since the 1950's and it is their understanding that the previous owners also did not use the site for agricultural purposes.

The site and surrounding locality is largely identified as Class 3⁴. These lands now contain extensive sections of existing and future urban development.

⁴ Agricultural Land Classification Atlas – Sydney Basin (Riverstone 9030-1-S), New South Wales Agriculture (1995).

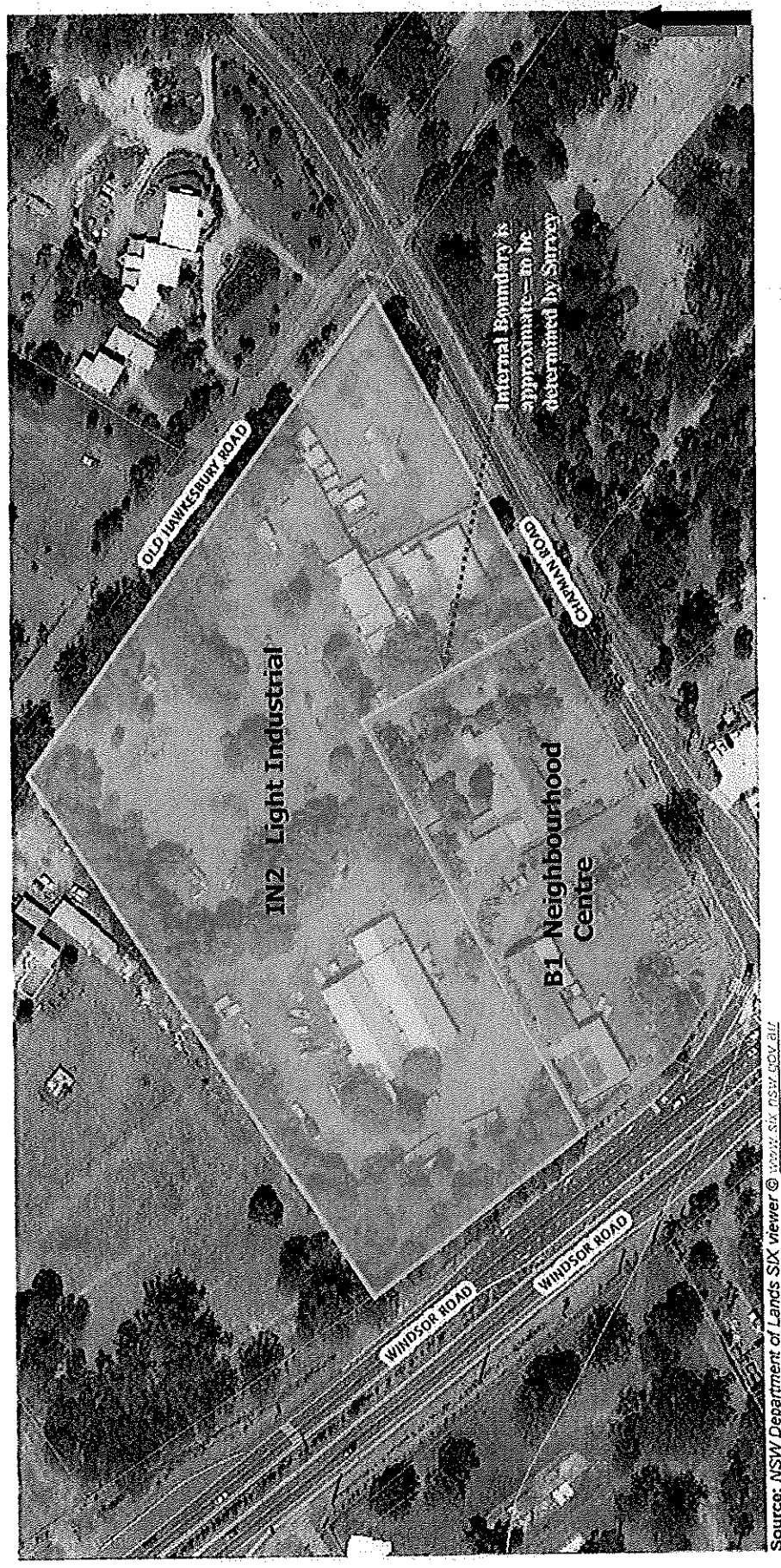


Figure 5 -Proposed Zoning For Site

Proposed Rezoning

NOT TO SCALE

Lot 53 DP 593354, Lot 4 and Lot 5 DP 536674 and Lot 10 and Lot 11 DP 1080426
Nos.533-547 Windsor Road (corner Chapman Road), Vineyard

The proposed RU4 Rural Small Holdings zone represents a conversion from the Rural Living zone. This conversion process has not; in our opinion taken into account the circumstances of this site, particularly its historic use comprising a mix of residential, light industrial and commercial purposes. It is our view that the nominated zone(s) is based upon a historical classification rather than as an outcome of any detailed investigations into its agricultural capability or locational characteristics and suitability for rural/residential land uses. This Report will demonstrate that the site provides suitable opportunities for both commercial and light industrial development.

6.4 Justification for the Rezoning

This Report provides the argument and evidence for Council to support a rezoning in the manner proposed. The site is located within the North-West Growth Centre diagonally opposite the Northern edge of the Riverstone release area (refer **Plate 17**). Ultimately the site will form part of Vineyard Release Area Precinct and consequently we submit that the Council should be considering the long-term use of our client's land within this Release Area Precinct.

Windsor Road is a main road and the Bandon Road will carry high volumes of traffic from the Vineyard Railway station. Our clients have for some time maintained that the site is therefore suitable for commercial and other land use activities that provide employment opportunities. The proposed amendment is considered to be consistent with the existing land use pattern of the site. The surrounding area contains a range of land uses, ranging from residential to commercial which will not suffer any long term adverse impacts.

Our preliminary investigations demonstrate that there are no prohibitive issues or matters that are inconsistent with Council's strategic framework or directions issued by the State Government. The proposed zoning does not create an unnecessary demand upon existing infrastructure or services, rather it seeks to utilise the land in an orderly and economic manner having proper regard to identified physical and ecological constraints.

7 Policy and Statutory Planning Strategies and Controls

The site is affected by a number of state, regional and local policy and statutory planning strategies and controls as follows:

STATE

- Standard Instrument—Principal Local Environmental Plan.
- State Environmental Planning Policy (Infrastructure) 2007.
- State Environmental Planning Policy No.55 – Remediation of Land.
- Section 117(2) Direction 1.1 Business and Industrial Zones.
- Section 117(2) Direction 1.2 Rural Zones.
- Section 117(2) Direction 3.4 Integrated Land Use and Transport.
- Section 117(2) Direction 4.3 Flood Prone Land.
- Section 117(2) Direction 4.4 Planning for Bushfire Protection.
- Section 117(2) Direction 7.1 Implementation of the Metropolitan Strategy.

REGIONAL

- Sydney Metropolitan Strategy.
- Sydney Regional Environmental Plan⁵ (SREP) No.20- Hawkesbury Nepean River.

LOCAL

- Hawkesbury Local Environmental Plan (LEP) 1989.
- Hawkesbury Draft Local Environmental Plan (LEP) 2009.
- Hawkesbury Employment Lands Study (2008).

7.1 Standard Instrument—Principal Local Environmental Plan

The Standard Instrument (Local Environmental Plans) Order 2006 was gazetted on 31st March 2006 and requires Council's in New South Wales to prepare a new "standard" principle Local Environmental Plan in accordance with the Order.

It establishes compulsory and non-compulsory provisions and a set of standardised zones. Council exhibited its draft 'standard principle Local Environmental Plan' (draft LEP 2009) in early 2010 and the proposed zones are consistent with those nominated in the exhibited draft Plan.

⁵ From 1st July 2009 existing REP's become 'deemed' SEPPs under new Division 2, Part 3 of the EP&A Act.

7.2 State Environmental Planning Policy (Infrastructure) 2007.

This Policy commenced on the 1st January 2008. The aim of this Policy is to facilitate the effective delivery of Infrastructure across the State by:

- (a) *improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) *providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) *allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (d) *identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*
- (e) *identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- (f) *providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.*

COMMENT – Although there is no specific development proposal before Council for assessment, the site fronts a classified road and therefore if the rezoning is supported it would be referred to the Roads and Traffic Authority as required under *Subdivision 2 Development in or adjacent to road corridors and road reservations, (clauses 98 – 104).*

Future development of the site would need to demonstrate that it would not compromise the effective and ongoing operation and function of Windsor Road.

Generally speaking issues that arise from development adjoining a classified road include the design of the vehicular access to the land, the emission of smoke or dust from the development, the nature, volume or frequency of vehicles using the classified road to gain access to the land, and any potential traffic safety, road congestion or parking implications of the development.

In our opinion these matters can all be addressed as part of any future development. The site has adequate opportunity for the provision of an integrated, safe and practical access from either Chapman Road or Old Hawkesbury Road, with sufficient area for the provision of the required on-site parking.

7.3 State Environmental Planning Policy No.55 – Remediation of Land.

State Environmental Planning Policy (SEPP) No 55—Remediation of Land commenced in August 1998 and provides for a State-wide approach to the remediation of contaminated land. Clause 6 requires the consideration of contamination and remediation matters as part of a rezoning proposal, namely:

6 Contamination and remediation to be considered in zoning or rezoning proposal

- (1) *In preparing an environmental planning instrument, a planning authority is not to include in a particular zone (within the meaning of the instrument) any land specified in subclause (4) if the inclusion of the land in that zone would permit a change of use of the land, unless:*
- (a) the planning authority has considered whether the land is contaminated, and*
 - (b) if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and*
 - (c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.*

Note. *In order to satisfy itself as to paragraph (c), the planning authority may need to include certain provisions in the environmental planning instrument.*

- (2) *Before including land of a class identified in subclause (4) in a particular zone, the planning authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.*
- (3) *If a person has requested the planning authority to include land of a class identified in subclause (4) in a particular zone, the planning authority may require the person to furnish the report referred to in subclause (2).*
- (4) *The following classes of land are identified for the purposes of this clause:*
- (a) land that is within an investigation area,*
 - (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
 - (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*

- (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
- (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

COMMENT – Essentially the Policy requires that Council consider whether it is possible, due to past land-use activities that the land may be contaminated and if so, whether it is suitable for the proposed use in its present (un-remediated) state.

The proposed zonings however are intended to reflect the current commercial and light industrial activities conducted on the site and if necessary the requested preliminary investigations can be carried out prior to any rezoning.

7.4 Section 117(2) Direction 1.1 Business and Industrial Zones

Objectives

(1) *The objectives of this direction are to:*

- (a) encourage employment growth in suitable locations,*
- (b) protect employment land in business and industrial zones, and*
- (c) support the viability of identified strategic centres.*

What a relevant planning authority must do if this direction applies

(4) *A planning proposal must:*

- (a) give effect to the objectives of this direction,*
- (b) retain the areas and locations of existing business and industrial zones,*
- (c) not reduce the total potential floor space area for employment uses and related public services in business zones,*
- (d) not reduce the total potential floor space area for industrial uses in industrial zones, and*
- (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.*

Consistency

(5) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:*

- (a) justified by a strategy which:*
 - (i) gives consideration to the objectives of this direction,*
 - (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
 - (iii) is approved by the Director-General of the Department of Planning, or*
- (b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or*
- (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) is of minor significance.*

COMMENT – the site has historically been used for light industrial and commercial uses which are clearly employment generating activities purposes. The proposal will not detract from the availability or attractiveness of employment lands within the existing business and industrial zones of Mulgrave, South Windsor, and surrounding areas.

The proposal seeks to formalise the zoning of the land in accordance with the current on-site activities. It is therefore considered that the proposal is of a minor significance and consequently does not warrant the preparation of a specific study.

7.5 Section 117(2) Direction 1.2 Rural Zones

Objective

- (1) *The objective of this direction is to protect the agricultural production value of rural land.*
- (2).....
- (3).....

What a relevant planning authority must do if this direction applies

- (4) *A planning proposal must:*
 - (a) *not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.*
 - (b) *not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).*

Consistency

- (5) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:*
 - (a) *justified by a strategy which:*
 - (i) *gives consideration to the objectives of this direction,*
 - (ii) *identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
 - (iii) *is approved by the Director-General of the Department of Planning, or*
 - (b) *justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or*
 - (c) *in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
 - (d) *is of minor significance.*

COMMENT – The site is within an area designated as 'rural living', with surrounding lands including detached housing, child care centre, primary school, retirement village, storage yards, engineering workshops, and retail shops.

The site does not represent 'working agricultural land' and does not have any future use in terms of potential agricultural production.

The area is identified within a future urban release area and it is therefore considered that the proposal is of a minor significance and consequently does not warrant the preparation of a specific study.

7.6 Section 117(2) Direction 3.4 Integrating Land Use and Transport

Objective

(1) *The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:*

- (a) *improving access to housing, jobs and services by walking, cycling and public transport, and*
- (b) *increasing the choice of available transport and reducing dependence on cars, and*
- (c) *reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- (d) *supporting the efficient and viable operation of public transport services, and*
- (e) *providing for the efficient movement of freight.*

(2).....

(3).....

What a relevant planning authority must do if this direction applies

(4) *A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:*

- (a) *Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and*
- (b) *The Right Place for Business and Services – Planning Policy (DUAP 2001).*

Consistency

(5) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:*

- (a) *justified by a strategy which:*
 - (i) *gives consideration to the objectives of this direction,*
 - (ii) *identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
 - (iii) *is approved by the Director-General of the Department of Planning, or*
- (b) *justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or*
- (c) *in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) *is of minor significance.*

COMMENT – As discussed previously the site is conveniently located on a classified road and is located within a future urban release area. It is approximately 850metres from Vineyard Railway Station, thereby providing convenient access to public transport, which reduces car dependence. It is therefore considered that the proposal is of a minor significance and consequently does not warrant the preparation of a specific study.

7.7 Section 117(2) Direction 4.3 Flood Prone land

Objectives

(1) The objectives of this direction are:

- (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and
- (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

(2).....

(3).....

What a relevant planning authority must do if this direction applies

- (4) A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).
- (5) A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.
- (6) A planning proposal must not contain provisions that apply to the flood planning areas which:
 - (a) permit development in floodway areas,
 - (b) permit development that will result in significant flood impacts to other properties,
 - (c) permit a significant increase in the development of that land,
 - (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or
 - (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.
- (7) A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).
- (8) For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).

Consistency

- (9) A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Director-General (or an officer of the Department nominated by the Director-General) that:
 - (a) the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or

(b) the provisions of the planning proposal that are inconsistent are of minor significance.

Note: "flood planning area", "flood planning level", "flood prone land" and "floodway area" have the same meaning as in the *Floodplain Development Manual 2005*.

COMMENT – The site is affected by flooding, and therefore any development will need to be considered in accordance with clause 6.7 – Flood Planning of the draft LEP 2009. In some respects a non-residential land use is preferable when considering potential impacts and the need for the evacuation and safety. Any development or rezoning will need to consider the NSW Floodplain Development Manual (2005). The manual provides that:

The primary objective of the New South Wales Flood Prone Land Policy, as outlined below, recognises the following two important facts:

- *flood prone land is a valuable resource that **should not be sterilised by unnecessarily precluding its development**; and*
- *if all development applications and proposals for rezoning of flood prone land are assessed according to rigid and prescriptive criteria, **some appropriate proposals may be unreasonably disallowed or restricted**, and equally, quite inappropriate proposals may be approved.*

The primary objective of the policy is to reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods, utilising ecologically positive methods wherever possible. That is:

- *a merit approach shall be adopted for all development decisions in the floodplain to take into account social, economic and ecological factors, as well as flooding considerations;*
- *both mainstream and overland flooding shall be addressed, using the merit approach, in preparation and implementation by councils of strategically generated floodplain risk management plans;*
- *the impact of flooding and flood liability on existing developed areas identified in floodplain risk management plans shall be reduced by flood mitigation works and measures, including on-going emergency management measures, the raising of houses where appropriate and by development controls; and*
- *the potential for flood losses in all areas proposed for development or redevelopment shall be contained by the application of ecologically sensitive planning and development controls (**emphasis added**)*

Having regard to the existing development and range of land uses on the property, the proposed rezoning is capable of satisfying any concerns that might arise due to flood affectation. It is considered that the proposal is of a minor significance and consequently does not warrant the preparation of a specific study.

7.8 Section 117(2) Direction 4.4 Planning for Bushfire Protection

Objectives

(1) *The objectives of this direction are:*

- (a) *to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and*
- (b) *to encourage sound management of bush fire prone areas.*

(2).....

(3).....

What a relevant planning authority must do if this direction applies

(4) *In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,*

(5) *A planning proposal must:*

- (a) *have regard to Planning for Bushfire Protection 2006,*
- (b) *introduce controls that avoid placing inappropriate developments in hazardous areas, and*
- (c) *ensure that bushfire hazard reduction is not prohibited within the APZ.*

(6) *A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:*

- (a) *provide an Asset Protection Zone (APZ) incorporating at a minimum:*
 - (i) *an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and*
 - (ii) *an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,*
- (b) *for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,*
- (c) *contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,*
- (d) *contain provisions for adequate water supply for firefighting purposes,*
- (e) *minimise the perimeter of the area of land interfacing the hazard which may be developed,*
- (f) *Introduce controls on the placement of combustible materials in the Inner Protection Area.*

Consistency

(7) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the planning proposal.*

COMMENT – The site is identified as being bush fire prone and is affected by a mix of Category 1, Category 2 and Vegetation Buffer land.

Any future development will need to have regard to the provisions of the Planning for Bushfire Protection (PfBP) 2006 document and relevant legislation under both the Environmental Planning and Assessment Act 1979 and Rural Fires Act 1997.

In our opinion the proposal is capable of satisfying the necessary statutory controls, and therefore complies with this direction.

7.9 Section 117(2) Direction 7.1 Implementation of the Metropolitan Strategy

Objective

(1) The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the Metropolitan Strategy.

(2).....

(3).....

What a Relevant Planning Authority must do if this direction applies

(4) Planning proposals shall be consistent with:

(a) the NSW Government's Metropolitan Strategy: City of Cities, A Plan for Sydney's Future, published in December 2005 ('the Metropolitan Strategy').

Consistency

(5) A planning proposal may be inconsistent with the terms of this direction only if the Relevant Planning Authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), that the extent of inconsistency with the Metropolitan Strategy:

(a) is of minor significance, and

(b) the planning proposal achieves the overall intent of the Strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.

COMMENT – We have undertaken a review of the Strategy in the following Section of this report and consider that the proposal complies with this direction.

7.10 Sydney Metropolitan Strategy

The Metropolitan Strategy 'City of Cities A Plan for Sydney's Future' and North West Subregional Strategy were released by the Department of Planning in December 2005 and December 2007, respectively. These documents outline the broad vision for the future planning of Sydney and the North West subregion to 2031.

It is anticipated that Sydney's population will grow by 1.1 million people between 2004 and 2031, from a current population of 4.2 million to 5.3 million by 2031.

To cater for this growth, the Government has predicted the need for 640,000 new homes and 130,000 jobs. In this respect the Employment Strategy aims to increase jobs within the Hawkesbury by 3000, from 24,000 to 27,000⁶.

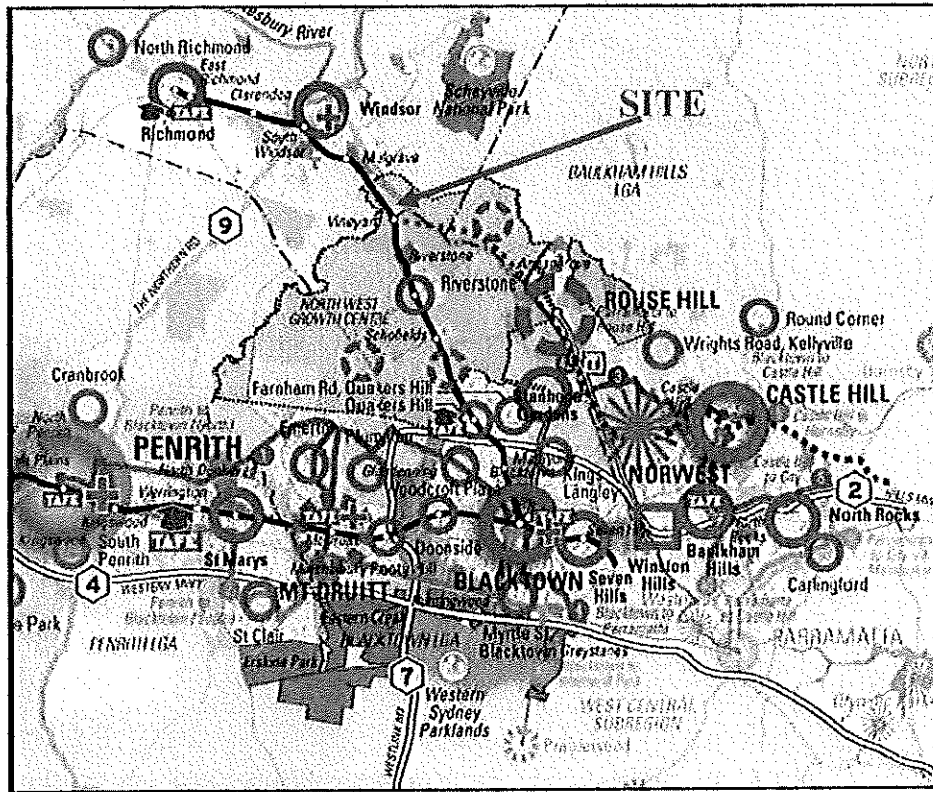


Plate 17 - Extract North West Sub Region Structure Plan

The North West Subregional Strategy translates objectives of the Metropolitan Strategy to the local level, with the economy and employment identified as a key component.

The strategy⁷ identifies the existing Mulgrave and Vineyard industrial area as being located, just outside of the growth area but recognises that this area is well-established, comprising a mix of industrial uses, such as manufacturing, automotive servicing and automotive sales as was faulty goods retailing. It also notes that the area surrounding it is flood prone and may not be suitable for further light industrial activities. This statement is seen as being of a generalised nature.

As stated previously, the site is located within the north-west growth centre and ultimately will form part of Vineyard Release Area Precinct. Consequently it is

⁶ Economy and Employment Strategy. Table 4 Employment Targets, page 29.

⁷ Economy and Employment Strategy, page 38.

considered that the use of the site in the manner proposed is not inconsistent with the aim of the strategy in terms of job creation.

The proposal reflects a balanced approach to urban growth. It is not inconsistent with the Strategy and therefore complies with this direction.

7.11 Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No.20 aims to protect the environment of the Hawkesbury-Nepean River by ensuring that the impacts of future land uses are considered in a regional context. Of most relevance to the proposal is the requirement to assess the development in terms of its impacts on water quality.

The proposal involves the subdivision of the land for residential housing. Any subdivision works will be undertaken in accordance with "The Blue Book" Landcom (2004). *Managing Urban Stormwater: Soils and Construction*. It is considered that any future development can be undertaken in a manner that controls turbidity and sediment run-off without adversely impacting upon the environment.

It is considered therefore that the application is consistent with the aims and intent of the Policy.

7.12 Hawkesbury Local Environmental Plan 1989

The land is presently zoned Rural Living (RL) under LEP 1989 however it is proposed to convert this zone to RU4 under draft LEP 2009. The objectives of the Rural Living zone are as follows:

- (a) *to provide primarily for a rural residential lifestyle,*
- (b) *to enable identified agricultural land uses to continue in operation,*
- (c) *to minimise conflict with rural living land uses,*
- (d) *to ensure that agricultural activity is sustainable,*
- (e) *to provide for rural residential development on former agricultural land if the land has been remediated,*
- (f) *to preserve the rural landscape character of the area by controlling the choice and colour of building materials and the position of buildings, access roads and landscaping,*
- (g) *to allow for agricultural land uses that are ancillary to an approved rural residential land use that will not have significant adverse environmental effects or conflict with other land uses in the locality,*
- (h) *to ensure that development occurs in a manner:*

- (i) that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as streams and wetlands, and*
- (ii) that satisfies best practice guidelines and best management practices,*
- (i) to prevent the establishment of traffic generating development along main and arterial roads,*
- (j) to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services".*

COMMENT – The commercial and light industrial land uses on the site have traded continuously since the late 1950's and in our opinion the existing zoning which reinforces a rural residential use and lifestyle is not reflective of the predominate land use activities.

The proposal seeks to formalise the existing uses, utilising existing infrastructure and the report will demonstrate that zoning ought to respond to the actual on site activities.

7.13 Draft Hawkesbury Local Environmental Plan 2009

The site is proposed to be zoned RU4 Rural Small Holdings under the draft LEP 2009.

The zone objectives are:

- *To enable sustainable primary industry and other compatible land uses.*
- *To maintain the rural and scenic character of the land.*
- *To ensure that development does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To enable identified agricultural land uses to continue in operation.*
- *To ensure that agricultural activity is sustainable.*
- *To ensure that agricultural activities occur in a manner that do not have a significant adverse effect on water catchments, including surface and groundwater quality and flows; land surface conditions and important ecosystems such as streams and wetlands.*
- *To prevent the establishment of traffic generating development along classified roads.*
- *To encourage tourism related development that will not have significant adverse environmental effects or conflict with other land uses in the locality.*

COMMENT – The proposed zoning does not allow for light industrial or business operations in the manner that they are currently conducted on site; this includes Vineyard Hardware, the sawmill and Henry Brothers Saws. By way of comment Henry

Brothers is a large specialised manufacturer of industrial saws. The company is one of the largest within Australia servicing both nationally and internationally.

The objectives of the RU4 zone are focused towards rural land use, with an allowance for business activities provided they do not interfere with the rural character of locality and do not interfere with the agricultural activities.

It is acknowledged that there are a number of rural properties within the immediate vicinity of the site however there are also a number of significantly sized business activities ranging from commercial to industrial. These businesses are naturally clustered along the Windsor road arterial due to high traffic volumes and the reasonably convenient nature of access to the surrounding main road network such as the M2 and M7 motorways.

The existing on-site businesses are well-established, and need to be provided with a reasonable opportunity to expend and redevelop; the proposed RU4 zoning will unfortunately prevent this from occurring.

Future development will need to comply with the provisions of the draft plan and from our review there are no controls (apart from the zoning), which would specifically prevent the submission of a development application. Any application submitted will need to address all relevant requirements and demonstrate compliance with the draft plan in order to be recommended for approval.

In our opinion the proposed rezoning of the site in the manner proposed in this application, will enable land to be developed in an orderly fashion, without impacting upon the viability of the nearby Mulgrave light industrial and business centre.

7.14 Hawkesbury Employment Lands Study (2008)

The study identifies a number of strengths within the Hawkesbury region⁸, including:

Hawkesbury's employment has consistently grown in the last 10 years though at a reduced rate since 2001. The economic analysis found that Hawkesbury LGA has:

- *relatively high employment self-containment (ratio of local jobs to resident workers) and high self sufficiency (share of local residents working locally);*
- *a large proportion of qualified residents; and*

⁸ Hawkesbury Employment Land Strategy, page 4.

- *A comparable, or higher, proportion of managers and professionals in the key industries of Manufacturing and Construction, Education and Health sectors compared to the Sydney Region and North West subregion.*

The report acknowledges that some of the existing employment centres lack adequate road and service infrastructure; the exception is Mulgrave which has access to rail and 'superior access to a major road (Windsor Road)'⁹.

It is noted that (in part) 'a key finding of this study was is that there is no immediate shortage of industrial or business zoned land in the Hawkesbury LGA'¹⁰. However one of the recommended strategies (no.5) is to 'investigate additional industrial land supply to address future employment growth'¹¹. Although it does not refer to the immediate locality of the subject site it is considered that the scale of this proposal is not of such significance that it would detract from or be inconsistent with the overall strategies of the Employment Lands Study.

8 LEP Pro Forma Criteria

This Section addresses the requirements of a "Spot Rezoning LEP"¹² as nominated by the Department of Planning.

Evaluation Criteria	Comments
1. Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node)?	Yes. Section 7 provides a detailed assessment of the proposal against the relevant State and Regional policies.
2. Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s.117) directions?	Yes. Section 7 provides a detailed assessment of the proposal against the relevant State and Regional policies.

⁹ Ibid., page 5.

¹⁰ Ibid., page 6.

¹¹ Ibid., page 7.

¹² As nominated in the Department of Planning's Circular No. PS 06-005.

Evaluation Criteria	Comments
3. Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	Yes. As discussed in Sections 6 and 7, the site is located within the North-West Growth Centre diagonally opposite the Northern edge of the Riverstone release area (refer Figure 6). Ultimately the site will form part of Vineyard Release Area Precinct.
4. Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	Yes. The proposal seeks to reinforce and formalise existing employment generating activity without resulting in loss of employment lands.
5. Will the LEP be compatible/ complementary with surrounding land uses?	Yes. Section 2, Section 3, Section 4, and Section 5 provide a description and assessment of the surrounding land uses. The proposal is considered to be compatible and complementary with the surrounding land uses.
6. Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders?	No. The proposal is not considered to create precedent. Refer Section 6.
7. Will the LEP deal with a deferred matter in an existing LEP?	No. This criteria is not seen as applicable to the proposal.
8. Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Yes. We are not aware of any other spot rezoning proposals that could potentially impact the proposal in the context of existing and future developments.

9 Conclusion

The client seeks the support of Hawkesbury City Council to rezone the site from Rural Living (proposed RU4 Rural Small Holdings) to a part B1 Neighbourhood Centre and part IN2 light Industrial which would allow a range of small scale retail commercial and light industrial activities generally consistent with present day activities.

If the exhibited draft RU4 zoning is endorsed these activities will be inconsistent with the intent of this zone and could only operate under the existing use rights provisions of the Environmental Planning and Assessment Act, 1979 and Regulation.

Whilst it is zoned rural the site does not represent '*working agricultural land*'. The commercial and light industrial land uses on the site have traded continuously since the late 1950's and in our opinion the existing and exhibited draft RU4 zoning reinforces a rural residential use and lifestyle that is not reflective of the predominate land use activities.

The proposal reflects a balanced approach and seeks to promote the orderly and economic use of the land by identifying an opportunity for commercial and light industrial activities that are generally consistent with the various policies and strategies identified in this report. In our opinion the proposal will not erode the aims and strategies of the adopted Employment Lands Study or future urban characteristics of the locality. The existing on-site businesses are well-established, and need to be provided with a reasonable opportunity to expand and redevelop. It is our opinion that this proposal has merit and should be supported by Council.

10 Recommendation

It is recommended that Council prepare a draft Local Environmental Plan amendment to rezone Lot 53 DP 593354, Lot 4 and Lot 5 DP 536674 and Lot 10 and Lot 11 DP 1080426, Nos.533-547 Windsor Road (corner Chapman Road), Vineyard from Rural Living (proposed RU4 Rural Small Holdings) to a part B1 Neighbourhood Centre and part IN2 light Industrial generally in accordance with Figure 5.

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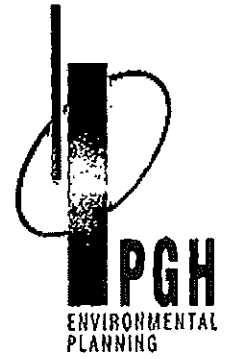
## 11 References

### PLANNING AND STATUTORY DOCUMENTS

- Environmental Planning and Assessment Act, 1979 ('EP&A Act').
- Environmental Planning and Assessment Regulation 2000 ('EP&A Regulation').
- State Environmental Planning Policy (Infrastructure) 2007.
- State Environmental Planning Policy No.55 – Remediation of Land.
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River (No.2-1997) ('SREP No.20').
- Hawkesbury Local Environmental Plan 1989 ('LEP 1989').
- Hawkesbury draft Local Environmental Plan 2009 ('draft LEP 2009')
- Section 117 Directions issued 1<sup>st</sup> July 2009  
<http://www.planning.nsw.gov.au/LocalEnvironmentalPlans/LocalPlanningDirections/tabid/248/language/en-AU/Default.aspx>
- NSW Metropolitan Strategy 'City of Cities A Plan for Sydney's Future', dated December 2005.

### REPORTS AND PLANS

- NSW Floodplain Development Manual, dated April 2005.
- Hawkesbury Employment Land Strategy (December 2008) prepared by SGS Economics and Planning Pty. Ltd.

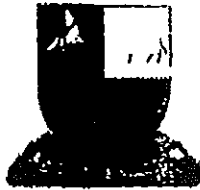


# **Appendix No. 1**

**HISTORY OF APPROVALS AND LAND USES**

ALL COMMUNICATIONS TO  
BE ADDRESSED TO THE  
TOWN CLERK

OFFICE HOURS  
MON. - FRI.  
9.00 - 4.00



# WINDSOR MUNICIPAL COUNCIL

COUNCIL CHAMBERS, GILLESPIE PLACE, WINDSOR, N.S.W. 2756  
PHONE: 045 77 4822

24th October, 1980.  
D2/1/CC R.A.Cole

The Manager,  
Vineyard Hardware Pty. Ltd.,  
Windsor Road,  
VINEYARD, N.S.W. 2765

Dear Sir,

Reference is made to your letter received on 15th October requesting details of the various consents granted for land at the corner of Windsor Road and Chapman Street, Vineyard.

The following history of approvals is submitted for your information:-

|            |                                                                                                                                                     |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| Prior 1951 | Shop and dwelling on land.                                                                                                                          |
| 9/4/1957   | Approval for F.E.Henry & Co. to erect a general machine shop for working building timber and store.                                                 |
| 5/12/1963  | R.E.Eaton & Co., Solicitors on behalf of F. Henry and J.M. Wilson, application to subdivide into 2 lots and erect a joinery works on the new lot 1. |
| 10/12/1963 | Resolved by Council to refer application to C.C.C. and Solicitor advised.<br>No further reference of result of application can be found.            |
| 20/9/1965  | Approval given for builders hardware store in "Rivoli" theatre.                                                                                     |
| 28/6/1968  | Sign approved stating "Roofing supplied and fixed, Brownbuilt, strammit repairs, tiles, fibro slates.                                               |
| 13/9/1968  | Approval for storage shed 100' x 30' and 2 flats.                                                                                                   |
| 13/11/1968 | B.A. 230/68 for storage shed.                                                                                                                       |
| 10/4/1969  | B.A. 34/69 2 flats.                                                                                                                                 |
| 5/6/1970   | B.A. 138/70 Carport.                                                                                                                                |
| 16/9/1970  | B.A. 253/70 Double Carport.                                                                                                                         |
| 16/11/1970 | Approval given to relocate residence to new lots 1 and 2 Chapman Road. Shop to be demolished.                                                       |

Vineyard Hardware Pty. Ltd.

24th October, 1980

11/2/1971

Approval given for:

1. Extensions to existing shop.
2. Extensions to storeroom attached to shop.
3. Extensions to outside storage area.
4. Extensions to existing flat building.
5. Extensions to existing residence.

23/3/1971

B.A. 79/71 Additions to shop and storage shed.

20/4/1971

B.A. 96/71 Additions to flats.

13/5/1971

Notification from D.L.I. application to register factory for "Key and Timber Cutting"  
No letter of objection from Council.

25/8/1971

B.A. 258/71 Swimming Pool.

3/11/1971

B.A. 362/71 Additions to hardware store (warehouse).

Yours faithfully,



R.L. Rawson,  
Town Clerk.

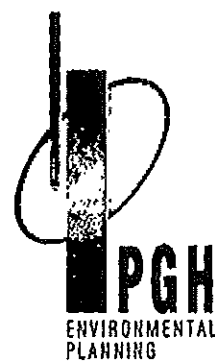
**HISTORY OF APPROVALS - VINEYARD HARDWARE P/L**  
**HENRY BROS & CO P/L, F.E. & S.A. HENRY**  
**541/533 WINDSOR RD VINEYARD 2765**

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|            |                                                                                                                                                                                                                                                                                                     |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PRIOR 1951 | SHOP AND DWELLING ON LAND AT 541 WINDSOR RD                                                                                                                                                                                                                                                         |
| 9/4/1957   | APPROVAL FOR F.E. HENRY & CO. TO ERECT A GENERAL MACHINE SHOP FOR BUILDING TIMBER AND STORAGE.                                                                                                                                                                                                      |
| 5/12/1963  | APPROVAL TO SUBDIVIDE INTO 2 LOTS & ERECT A JOINERY WORKS ON THE NEW LOT 1, 541 WINDSOR RD                                                                                                                                                                                                          |
| 20/6/1968  | APPROVAL GIVEN FOR BUILDERS HARDWARE STORE IN "RIVOLI THEATRE"                                                                                                                                                                                                                                      |
| 28/6/1968  | SIGNAGE APPROVED STATING "ROOFING SUPPLIED AND GENERAL HARDWARE"                                                                                                                                                                                                                                    |
| 13/9/1968  | APPROVAL FOR STORAGE SHED 100' X 30' & 2 FLATS                                                                                                                                                                                                                                                      |
| 11/2/1971  | APPROVAL GIVEN FOR:- <ol style="list-style-type: none"><li>1) EXTENSIONS TO EXISTING SHOP.</li><li>2) EXTENSIONS TO STOREROOM ATTACHED TO SHOP.</li><li>3) EXTENSION TO OUTSIDE STORAGE AREA.</li><li>4) EXTENSION TO EXISTING FLAT BUILDING.</li><li>5) EXTENSION TO EXISTING RESIDENCE.</li></ol> |
| 13/5/1971  | NOTIFICATION FROM D.C.I. TO REGISTER FACTORY, NO OBJECTION FROM COUNCIL.                                                                                                                                                                                                                            |
| 3/11/1971  | APPROVAL FOR ADDITIONS TO HARDWARE STORE ( WAREHOUSE )                                                                                                                                                                                                                                              |
| 21/6/2001  | APPROVAL GRANTED TO CHANGE EXISTING HARDWARE STORE INTO A REFRESHMENT ROOM / RESTAURANT                                                                                                                                                                                                             |

**LOT 53 / 533 WINDSOR RD VINEYARD**

|           |                                                                                                                                                            |
|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 15/8/1979 | APPROVAL GIVEN FOR THE BUILDING OF A BEE APARIE AND ANCILLARY WORKS INCLUDING, HONEY PROCESSING AND PACKAGING, SAWMILLING AND CRATE AND BOX MANUFACTURING. |
|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------|



## **Appendix No. 2**

**ZONING LAND USE TABLES (RU4, B1 & IN2)  
DRAFT LEP 2009**

**Zone RU4 Rural Small Holdings****1 Objectives of zone**

- To enable sustainable primary industry and other compatible land uses.
- To maintain the rural and scenic character of the land.
- To ensure that development does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To enable identified agricultural land uses to continue in operation.
- To ensure that agricultural activity is sustainable.
- To ensure that agricultural activities occur in a manner that do not have a significant adverse effect on water catchments, including surface and groundwater quality and flows; land surface conditions and important ecosystems such as streams and wetlands.
- To prevent the establishment of traffic generating development along classified roads.
- To encourage tourism related development that will not have significant adverse environmental effects or conflict with other land uses in the locality.

**2 Permitted without consent**

Environmental Protection Works; Extensive Agriculture (excluding within an area mapped as Environmental Constraint Area); Home Occupations

**3 Permitted with consent**

Animal Boarding and Training Establishments; Aquaculture; Boarding Houses; Business Identification Signs; Cemetery; Child Care Centres; Community Facilities; Dual Occupancies (Attached); Dwelling Houses; Educational Establishments; Entertainment Facilities; Environmental Facilities; Extensive Agriculture (within an area mapped as Environmental Constraint Area); Farm Buildings; Farm Stay Accommodation; Flood Mitigation Works; Food and Drink Premises; Home Based Child Care; Home Industries; Horticulture; Intensive Livestock Agriculture; Intensive Plant Agriculture; Landscape and Garden Supplies; Places of Public Worship; Public Administration Buildings; Recreation Areas; Recreation Facilities (indoor); Recreation Facilities (outdoor); Registered Clubs; Roads; Roadside Stalls; Rural Supplies; Rural Workers Dwellings; Tourist and Visitor Accommodation; Veterinary Hospitals; Waterbodies (artificial)

**4 Prohibited**

Any development not specified in item 2 or 3

**Zone B1 Neighbourhood Centre****1 Objectives of zone**

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- To promote the development and expansion of business activities to meet the optimum employment and social needs of Hawkesbury.
- To preserve the historic character of Hawkesbury by protecting heritage items and by encouraging compatible development within and adjoining historic buildings and precincts.
- To encourage tourism related development that will not have significant adverse environmental effects or conflict with other land uses in the locality.

**2 Permitted without consent**

Environmental Protection Works, Home Occupations

**3 Permitted with consent**

Boarding houses; Business Premises; Child Care Centres; Community Facilities; Neighbourhood Shops; Shop Top Housing; Roads; Animal Boarding and Training Establishments; Helipads; Heliports; Home Industries; Warehouse/Distribution Centres; Any other development not specified in Item 4 below

**4 Prohibited**

Airports; Airstrips; Aquaculture; Boat Repair Facilities; Boat Sheds; Caravan Parks; Cemeteries; Charter and Tourism Boating Facilities; Correctional Centres; Crematoria; Depots; Extensive Agriculture; Extractive Industries; Farm Buildings; Farm Forestry, Forestry; Freight Transport Facilities; Group Homes; Hazardous Industries; Hazardous Storage Establishments; Heavy Industries; Highway Service Centres; Home Occupation (sex services); Hostels; Intensive Livestock Agriculture; Intensive Plant Agriculture; Industrial Retail Outlets; Light Industry; Liquid Fuel Depots; Manufactured Home Estates; Marinas; Mining; Moorings; Movable Dwellings; Offensive Industries; Offensive Storage Establishments; Port Facilities; Recreation Facilities (major); Research Stations; Restricted Premises; Rural Industries; Rural Worker's Dwellings; Self Storage Units; Sewerage Systems; Sex Services Premises; Transport Depots; Vehicle Body Repair Workshops; Waste or Resource Management Facilities; Water Recreation Structures; Water Supply Systems

**Zone IN2 Light Industrial****1 Objectives of zone**

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To set aside certain land for the purposes of light industry within convenient distances of the urban centres of Hawkesbury;
- To allow commercial and retail development for:
  - (i) uses ancillary to the main use of land within the zone; and
  - (ii) the day-to-day needs of the occupants and employees of the surrounding industrial area.
- To ensure that industrial development creates areas which are pleasant to work in and safe and efficient in terms of transportation, land utilisation and services distribution

**2 Permitted without consent**

Environmental Protection Works; Home Occupations.

**3 Permitted with consent**

Depots; Light Industries; Neighbourhood Shops; Roads; Warehouse or Distributions Centres; Animal Boarding and Training Establishments; Extensive Agriculture; Self Storage Units; Liquid Fuel Depots; Health Consulting Rooms; Heilpads; Heliports; Hospitals; Food and Drink Premises; Any other development not specified in Item 4 below

**4 Prohibited**

Aquaculture; Airports; Airstrips; Amusement Centres; Boat Sheds; Bulky Goods Premises; Business Premises; Car Parks; Caravan Parks; Cellar Door Premises; Cemeteries; Charter and Tourism Boating Facilities; Educational Establishments; Exhibition Homes; Exhibition Villages; Farm Buildings; Farm forestry; Forestry; Hazardous Industries; Hazardous Storage Establishments; Health Services Facilities; Heavy Industries; Highway Service Centres; Home Business; Home Industry; Home Occupation (sex services); Home-based Child Care; Intensive Livestock Agriculture; Intensive Plant Agriculture; Kiosks; Manufactured Home Estates; Marinas; Markets; Medical Centres; Moorings; Movable Dwellings; Office Premises; Offensive Industries; Offensive Storage Establishments; Port Facilities; Recreation Facilities (major); Research Stations; Residential Accommodation; Restricted Premises; Roadside Stalls; Sawmill or Log Processing Works; Sex Services Premises; Sewerage systems; Shops; Tourist and Visitor Accommodation; Vehicle Body Repair Workshops; Wholesale Supplies; Waste or Resources Management Facilities; Water Recreation Structures; Water supply systems.

## **Attachment 2**

### **Council report and resolution dated 12 July 2011**



**Item: 147**      **CP - Planning Proposal - 533 - 547 Windsor Road and 7 Chapman Road, Vineyard - (95498)**

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**REPORT:**

**Executive Summary**

Council has received a Planning Proposal from PGH Environmental Planning, acting on behalf of Vineyard Hardware Pty Ltd and Henry Bros Saws Pty Ltd to rezone the land at 533-547 Windsor Road and 7 Chapman Road, Vineyard, from Rural living to part B1 Neighbourhood Centre and part IN2 Light Industrial under draft Hawkesbury Local Environmental Plan 2011 to allow a range of small scale retail/business and light industrial activities on the site.

The purpose of this report is to provide an assessment of the Planning Proposal.

**Consultation**

The Minister for Planning and Infrastructure will advise Council of requirements for consultation with public authorities and the community as part of the Gateway Determination of the Planning Proposal under s.56 of the Environmental Planning and Assessment Act, 1979.

**Background**

According to Council records, the subject site has a long history of approvals for a range of land uses since pre 1951. These include general machine shop for building timber and storage, builder's hardware store, roofing supply and repair shop, storage shed, residential flats, residence, carport, swimming pool, bee apiary, honey processing and packaging, sawmill, production of bee boxes, pallets and associated timber products and refreshment room (see Attachment 1 to this report). Over the last sixty years the site has been used for many uses including a shop and dwelling, warehousing, wholesaling, manufacturing of building components such as architraves, small joineries, mouldings, folding garden lattice sheets, hardwood slabs, structural softwood and hardwood timber planks.

The Planning Proposal indicates that in the early 1980s' the site was used for other uses such as a newsagency, gardenware, equipment hire service and, a saw sharpening and maintenance.

In June 2001, Council approved the use of part of a building fronting Windsor Road as a refreshment room which was operated until its closure in March 2006. Later a trailer hire business occupying that part of the building occupied by the former refreshment room and part of the site commenced with no approval from Council. In March 2007, Council advised the trailer hire business operator of this unauthorised use of the land and as a result, in July 2007, Council received a development application seeking approval for the use of that part of the building fronting Windsor Road and associated outdoor parking area as a general hardware store including the hiring, display, maintenance and repairs of trailers on Lots 10 and 11 DP 1080426 and Lot 5 DP 536674, 541-547 Windsor Road, Vineyard. As the proposed land use was prohibited in the Rural Living zone, the application sought approval under existing use rights to expand its existing use utilising the existing infrastructure and later the application was withdrawn.

**Planning Proposal**

The Planning Proposal seeks to rezone the subject site from Rural Living to part B1 Neighbourhood Centre and part IN2 Light Industrial under draft Hawkesbury Local Environmental Plan 2011 to allow a range of small scale retail, business and light industrial uses generally consistent with the current land uses on the land (see Attachment 2 to this report).

## ORDINARY MEETING

Meeting Date: 12 July 2011

### Site and Surrounds

The site is located on the northern side of the signalised intersection of Windsor Road/Chapman Road, close proximity to the North West Growth Centre and approximately 800m to the Vineyard Railway Station (see Attachment 3 to this Report). The site is bounded by Windsor Road to the south-west, Chapman Road to the south-east, Old Hawkesbury Road to the north-east and Lot 52 DP 593354, 523 Windsor Road to the north-west. The total site area is approximately 3.44ha and consists of the following five (5) allotments zoned Rural Living (see Attachment 3 to this report).

| Property Description | Street Address   | Area                |
|----------------------|------------------|---------------------|
| Lot 53 DP 593354     | 533 Windsor Road | 1.877ha             |
| Lot 4 DP 536674      | 7 Chapman Road   | 999m <sup>2</sup>   |
| Lot 5 DP 536674      | 541 Windsor Road | 1.289ha             |
| Lot 10 DP 1080426    | 545 Windsor Road | 871.9m <sup>2</sup> |
| Lot 11 DP 1080426    | 547 Windsor Road | 837.5m <sup>2</sup> |

The site has a main frontage to Windsor Road of approximately 145m and average depth of approximately 215m. The site is generally flat with a gentle slope in a northerly-easterly direction, and contains different land uses. A building containing a saw mill and woodwork and carpentry areas occupies Lot 53 DP 593354 and a residential flat building containing four dwellings with access to Chapman Road occupies Lot 4 DP 536674. A trailer hire business, Vineyard Hardware, sawmill, single dwelling house and open space occupy Lot 5 DP 536674, outdoor storage of trailers and parking area occupy Lots 10 and 11 DP 1080426.

The surrounding area is predominantly characterised by 2 hectare allotments zoned Rural Living under Hawkesbury Local Environmental Plan 1989 (see Attachment 4 to this report). The site is surrounded by a number of land uses. These include Vineyard Public School, childcare centre, retirement village (Windsor Country Village), Pilequip Australia engineering firm specialising in piling and foundation engineering equipment, materials and accessories, construction crane hiring and storage and pet supplies and sheds.

### Applicant's Justification of the Proposal

The applicant has provided the following justification in support of the Planning Proposal.

- "The site is located within the North-West Growth Centre diagonally opposite the northern edge of the Riverstone Release Area. Ultimately the site will form part of Vineyard Release Area Precinct and consequently we submit that the Council should be considering the long-term use of our client's land within this release area precinct.*
- Windsor Road is a main road and Bandon Road will carry high volumes of traffic from the Vineyard Railway Station. Our clients have for some time maintained that the site is therefore suitable for commercial and other land use activities that provide employment opportunities.*
- The proposed amendment is considered to be consistent with the existing land use pattern of the site. The surrounding area contains a range of land uses, ranging from residential to commercial which will not suffer any long term adverse impacts.*
- Our preliminary investigations demonstrate that there are no prohibitive issues or matters that are inconsistent with Council's strategic framework or directions issued by the State Government. The proposed zoning does not create an unnecessary demand upon existing infrastructure or services, rather it seeks to utilise the land in an orderly and economic manner having proper regard to identified physical and ecological constraints."*

### Assessment

#### *Draft North West Subregional Strategy*

The draft North West Subregional Strategy 2007 provides a direction for local councils in preparing Local Environmental Plans (LEP). A general direction is to provide sufficient zoned and serviced employment land to meet the employment capacity targets within their local government areas. Protecting Employment Lands is also a key direction of the strategy. The strategy acknowledges that Mulgrave/Vineyard industrial

area is a well established industrial area comprising a mix of industrial uses such as manufacturing, automotive servicing, and automotive sales as well as bulky goods retailing. The industrial area has good access to Windsor Road and is also located within close proximity to the North West Growth Centre. It also points out that adjoining areas are predominantly rural and are unlikely to be developed further within the life of the strategy due to flooding and flood evacuation constraints.

The Strategy identifies 3,000 new jobs target for Hawkesbury Local Government Area by 2031, and Council is required to plan for sufficient land and infrastructure to achieve this target.

#### *Hawkesbury Employment Lands Strategy 2008*

In December 2008 Council adopted the Hawkesbury Employment Lands Strategy. The purpose of the strategy is to provide a planning framework for employment precincts (industrial, commercial, retail) and locations for a range of employment types to support and enhance the economic competitiveness of the Hawkesbury region.

The Employment Lands Strategy has recommended a number of strategies for Council to pursue to address the economic prosperity of the LGA. Strategy 5 in the Employment Lands Strategy is to "*Investigate additional industrial land supply to address potential future employment growth*". It suggests that additional land could be zoned industrial where demand is identified and conditions are met. Although the subject site is not located within a recommended area for investigation, the site's close proximity to a future residential precinct containing 70,000 new dwellings for approximately 200,000 people within the North West Growth Centre, the sufficient infrastructure (e.g. water and power), easy access to Windsor Road which provides access to both the M7 and M2 Motorways and proximity to Vineyard Railway Station the Planning Proposal is generally consistent with the Employment Lands Strategy (December 2008).

The Planning Proposal seeks to rezone the site Part B1 Neighbourhood Centre and part IN2 Light Industrial under Hawkesbury Local Environmental Plan 2011. It is considered that a significant retail development in this location is not consistent with the government's centres policy, or with supporting the Windsor Town Centre. In this sense, a number of uses may be appropriate for the site, however the area proposed for B1 Neighbourhood Centre that permits retail development on the land should be restricted.

Future development of the site would require a higher standard of urban design to ensure an appropriate treatment of the frontage of Windsor Road. This is a requirement of the Employment Lands Strategy and may be controlled via the development of a site specific development control plan specifying appropriate development controls to ensure orderly development on the site and high urban design outcomes are achieved.

#### *Section 117 Directions*

##### Direction 1.1 Business and Industrial Zones

The objectives of this direction are to:

- (a) encourage employment growth in suitable locations,
- (b) protect employment land in business and industrial zones, and
- (c) support the viability of identified strategic centres.

The Planning Proposal seeks to rezone the subject site from Rural Living to part B1 Neighbourhood Centre and part IN2 Light Industrial under Hawkesbury Local Environmental Plan 2011. This will enable a formalisation of the current non-confirming land uses on the land and continued and economical use of the land for business, retail and industrial purposes to facilitate an orderly development in close proximity to the North West Growth Centre. The proposal will enable improved employment opportunities for the local community and the future population within the Growth Centre. It is therefore considered that the Planning Proposal is generally consistent with this direction.

Direction 1.2 Rural Zones

The objective of this direction is:

*to protect the agricultural production value of existing rural land.*

The Planning Proposal is inconsistent with part of this Direction. However, the Direction does permit an inconsistency under certain circumstances. Given that the land currently has no agricultural value (and is most unlikely that it will ever be used for agricultural purposes given the existing land uses rights since the 1950s) and the proposal is consistent with the Hawkesbury Employment Lands Strategy, it is considered that the inconsistency with the Direction is acceptable.

Direction 3.4 Integrated Land Use and Transport

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) improving access to housing, jobs and services by walking, cycling and public transport,
- (b) increasing the choice of available transport and reducing dependence on cars,
- (c) reducing travel demand including the number of trips generated by development and the distances traveled, especially by car,
- (d) supporting the efficient and viable operation of public transport services, and
- (e) providing for the efficient movement of freight.

**Comment:**

The Department of Planning's guidelines *Integrated Landuse and Transport* seeks to improve the integration of land use and transport planning. The Planning Proposal will enable the protection of the existing development and may provide additional employment opportunities close proximity to the North West Growth Centre should the site be redeveloped. It is considered that the proposed LEP is generally consistent with this Direction.

Direction 4.1 Acid Sulphate Soils

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils. The subject area is identified as "Class 5" (less constrained) on the Acid Sulphate Soils Planning Maps having a probability of containing acid sulphate soils, as shown on Acid Sulphate Soils Planning Maps held by the Department of Planning. As the area is not located within 500 metres of another classification, acid sulphate soils risk assessment may not be required.

Direction 4.3 Flood Prone Land

The objectives of this direction are:

- a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005*, and
- b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

**Comment**

The proposal is inconsistent with this Direction. The majority of the site proposed to be rezoned is below the 1:100 year flood level (see Attachment 5 to this report). In accordance with the Floodplain Development Manual 2005, Council engaged Bewsher Consulting Pty Ltd to prepare a Flood Risk Management Study and Plan for the Hawkesbury River within the Hawkesbury LGA in June 2010, and this project is expected to be completed late 2011 or early 2012. Council will be able to assess any future development on the land against the Hawkesbury Flood Risk Management Plan to ensure effective

development and management of the land with minimal impact of flooding on individual owners and occupiers of flood prone property and reduction in private and public losses resulting from major floods.

Direction 4.4 Planning for Bushfire Protection

The objectives of this direction are:

- (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- (b) to encourage sound management of bush fire prone areas.

The Applicant states that:

*"The site is identified as being bushfire prone and is affected by a mix of Category 1, Category 2 and Vegetation Buffer land.*

*Any future development will need to have regard to the provisions of the Planning for Bushfire Protection (PfBP) 2006 document and relevant legislation under both the Environmental Planning and Assessment Act 1979 and Rural Fires Act 1997.*

*In our opinion the proposal is capable of satisfying the necessary statutory controls, and therefore complies with this direction."*

**Comment:**

The subject area is identified as bush fire prone land with a mix of Vegetation Categories 1 and 2 and Vegetation Buffer land. Accordingly, Council is required to consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in accordance with section 57 of the Act, and take into account any comments so made.

Direction 6.1 Approval and Referral Requirements

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

This planning proposal is consistent with this direction as it does not require the concurrence, consultation or referral of development applications to a Minister or public authority, and does not identify development as designated development.

Direction 6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessary restrictive site specific planning controls. The proposal is consistent with this direction as it does not specify any restrictive provisions for future development on the land other than those already specified in Hawkesbury LEP 2011 for the B1 Neighbourhood Business Zone and IN2 Light Industrial Zone.

Direction 7.1 Implementation of the Metropolitan Strategy

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the *Metropolitan Strategy*.

The applicant states that:

*"The Metropolitan Strategy 'City of Cities A Plan for Sydney's Future' and North West Subregional Strategy were released by the Department of Planning in December 2005 and December 2007,*

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respectively. These documents outline the broad vision for the future planning of Sydney and the North West subregion to 2031.

*The North West Subregional Strategy translates objectives of the Metropolitan Strategy to the local level, with the economy and employment identified as a key component.*

*The Strategy identifies the existing Mulgrave and Vineyard industrial area as being located, just outside of the growth area but recognises that this area is well established, comprising a mix of industrial uses, such as manufacturing, automotive servicing and automotive sales as well as faulty good retailing. It also notes that the area surrounding it is flood prone and may not be suitable for further light industrial activities.*

*As stated previously, the site is located within the north-west growth centre and ultimately will form part of Vineyard Release Area Precinct. Consequently it is considered that the use of the site in the manner proposed is not inconsistent with the aim of the strategy in terms of job creation."*

### Comment

The planning proposal is consistent with the *Metropolitan Strategy*. One of the objectives of the proposal is to provide employment opportunities to assist achievement of Council's employment target under the *Metropolitan Strategy*. This planning proposal is therefore consistent with the NSW Government's *Metropolitan Strategy: City of Cities, A Plan for Sydney's Future*, published in December 2005 ('the *Metropolitan Strategy*').

### **Draft Hawkesbury Local Environmental Plan 2011**

The applicant states that:

*"The existing onsite businesses are well established, and need to be provided with a reasonable opportunity to expand and redevelop; the proposed RU4 zoning will unfortunately prevent this from occurring.*

*In our opinion the proposed rezoning of the site in the manner proposed in this application, will enable land to be redeveloped in an orderly fashion, without impacting upon the viability of the nearby Mulgrave light industrial and business centre."*

### Comment:

The current zoning provisions of Hawkesbury LEP 1989 have been converted into the corresponding NSW Standard Template LEP zones in draft Hawkesbury Local Environmental Plan 2011, and the new corresponding zone in Hawkesbury LEP 2011 for the current Rural Living zoning of the subject site will be RU4 Rural Small Holdings. Retail, business and light industrial activities are not permitted in RU4 Rural Small Holdings zones. Therefore, the Planning Proposal seeks to rezone the site from Rural Living to part B1 Neighbourhood Centre and part IN2 Light Industrial under draft Hawkesbury Local Environmental Plan 2011 to formalise certain land use activities within the site and allow redevelopment of the site for a range of small scale retail, business and light industrial purposes. With Council's consent, retail and business uses are permitted in B1 Neighbourhood Zone and light industrial and ancillary retail activities are permitted in IN2 Light Industrial Zone.

Given the site's close proximity to North West Growth Centre, easy and convenient access to regional road network including M2 and M7 Motorways and good access to infrastructure (e.g. water and electricity) and Vineyard Railway Station, the proposed rezoning of the land to part B1 Neighbourhood Centre and part IN2 Light Industrial to allow suitable business, retail and light industrial activities to meet the needs of surrounding residential areas such as McGrath Hills and Pitt Town and the future population in the North West Growth Centre is considered appropriate.

According to the Department of Planning's practice notes on the preparation of Local Environmental Plans using the Standard Instrument: Standard zones, B1 Neighbourhood Centres Zone is for neighbourhood centre that include small-scale convenience retail premises (neighbourhood shops), business premises, 'medical centres' and community uses that serve the day-to-day needs of residents in easy walking

distance. Shop top housing is permitted in the zone, and other mixed use development may be considered appropriate. As mentioned in the early part of this report a significant retail development in this location is considered inconsistent with the Stage Government's centres policy, or with supporting the Windsor Town Centre, and therefore approximately 14,600m<sup>2</sup> land area (i.e. 42% of the site area) proposed as B1 Neighbourhood Centre in the Planning Proposal is considered excessive. In order to facilitate economical and viable redevelopment of the site, boost the current economic activities within the Hawkesbury Local Government Area and ensure economic viability of the Windsor Town Centre is remained unaffected, a maximum of 5,000m<sup>2</sup> land area (i.e. approximately 15% of the site area) incorporating Lots 10 and 11 DP 1080426, 545-547 Windsor Road and part Lot 5 DP 536674, 541 Windsor Road as shown in Attachment 6 to this report to allow limited retail opportunities is considered appropriate.

### ***Traffic and Access***

Given the site is located on the signalised intersection of Windsor Road/Chapman Road and has three street frontages, access to and from the site is not a significant issue. Currently the site is accessed via Chapman Road and Old Hawkesbury Road. Windsor Road is a Classified Road and generally the Roads and Traffic Authority (RTA) does not allow access from this road. The Planning Proposal proposes to continue with the current access arrangements with no access from Windsor Road. Also the site has a fairly good access to M2 and M7 Motorways which provide easy and convenient access to Sydney and its environs.

Given the size and location of the site it can provide easy vehicular access, safe and convenient vehicular movements, vehicles can enter and leave the site in forward direction and provide required parking on site.

### ***Vegetation***

In accordance with the Biodiversity Protection Map accompanying the adopted draft Hawkesbury Local Environmental Plan 2011, the site contains areas of remnant vegetation mainly along the north-western, north-eastern and south-western boundaries and middle of the site. However a large area of the site is free of any significant stand of vegetation. Given the presence of significant trees on the site, any future development would require preparation of a flora and fauna report in accordance with Section 5A of the Environmental Planning and Assessment Act, 1979. This will enable Council to determine the likely impact of the future development of the site on the existing vegetation.

### ***Services***

The site is adequately serviced by community infrastructure such as water, electricity, telecommunication and sewerage, and it will not place additional demands on the community infrastructure. The site is located approximately 800m from the Vineyard Railway Station.

### ***Site Contamination***

The site has been used for residential, commercial and industrial since pre 1951.

In terms of Clause 6 (1) of State Environmental Planning Policy No 55 - Remediation of Land it is considered that:

- (a) given there was no adequate information or evidence on the use of the subject site before 1950s' there may be a potential that the site may be contaminated however, at present this has not been investigated in detail by the proponent or by Council; and,
- (b) if the land is contaminated, Council is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the RU4 Rural Small Holdings zone is permitted to be used; and,
- (c) if the land requires remediation to be made suitable for any purpose for which land in the RU4 Rural Small Holdings zone is permitted to be used, Council is satisfied that the land will be so remediated before the land is used for that purpose. This can be dealt with at Development Application stage for any subsequent development of the land.

### ***Existing Use Rights***

The site is currently zoned Rural Living under Hawkesbury Local Environmental Plan 1989, and the corresponding new zone for the site under the adopted draft Hawkesbury Local Environmental Plan 2011 is RU4 Rural Small Holdings. Both the zones prohibit business, retail and light industrial uses. According to Council's records the site had been approved for business, retail and light industrial uses such as general machine shop, joinery works, builders hardware store, warehouse, shop and key and timber cutting factory in the period of pre 1951- 2001. All these land uses are now non-confirming uses on the subject site under the current Rural Living zoning or the corresponding new RU4 Rural Living zoning.

In June 2001, development consent was granted for the use of the existing building located on the south-western corner of the site as a refreshment room, and a large part of the remainder of the site as a car park associated with the refreshment room. A 'refreshment room' is a permissible land use in the current Rural Living zone as well as in the corresponding new RU4 Rural Living zone in the adopted draft Hawkesbury Local Environmental Plan 2011.

The last development application received for the site in March 2007 was for the use of that part of the building fronting Windsor Road and associated outdoor parking area as a general hardware store and trailers hire business. The application claimed that there was sufficient evidence to demonstrate that the hardware store approved in 1965, the subsequently approved extension to the hardware store in 1971, the shop, shed and the associated car parking area had continuously been operated within the site since their lawful commencement.

The legal advice received by Council in January 2009 with respect to the existing use rights of 543 -547 Windsor Road, Vineyard stated that the use of the refreshment room premises for a period of five (5) years resulted in the existing use of that building for the purposes of a hardware store being "abandoned" and it was of the view that existing use rights for the purposes of a builders hardware store no longer apply to the refreshment room premises.

The advice was not conclusive that the outdoor car park was not in fact used for the purposes of the refreshment room as well as the existing use for the purposes of a hardware store due to the given limited evidence or the information. As a result, without evidence to the contrary (and based on evidence from the Applicant's solicitor) it appeared to accept the fact that the carpark has continued to be used for the purposes of a builder's hardware store and the existing use of the area may have been preserved.

It also suggested that based on the evidence provided in the approved development application for the approved refreshment room it was possible to conclude that the use of the shed on the premises (adjacent to the refreshment room building) has been continually used for the purposes of a hardware store since the granting of the 1965 consent unless Council has evidence to the contrary to suggest that the use for the purposes of the hardware store within the shed has not.

According to the legal advice, the hardware store (other than the area occupied by the former refreshment room) and associated car parking area on 541 - 547 Windsor Road will be able to continue their operations under existing use rights. Should Council resolve not to proceed with the proposed rezoning the current non-confirming uses on the site that are unable to demonstrate that they have existing use rights will need to cease their operations.

According to existing use provisions in the EP & A Act 1979 and Environmental Planning Assessment Regulation 2000 an existing use may:

- be enlarged, expanded or intensified, or
- be altered or extended, or
- be rebuilt, or

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- be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or
- if it is a commercial use - be changed to another commercial use, or
- if it is a light industrial use - be changed to another light industrial use or a commercial use.

However an existing use can only be changed if it:

- involves minor alterations or additions, and
- does not increase of more than 10% in the floor space of the premises associated with the existing use, and
- does not involve the rebuilding of the premises associated with the existing use, and
- does not involve a significant intensification of that existing use.

Given the above circumstances, it may not be possible to have an economical development on the land under existing use rights.

### Conclusion

The above assessment reveals that the Planning Proposal has merits and it is worthy of supporting of the proposal mainly due to the following:

- The proposal's consistency with the Sydney Metropolitan Strategy, North West Sub-regional Strategy, Hawkesbury Employment Land Strategy (December 2008) and other relevant statutory framework.
- Its likely ability to help achieve the target of 3,000 new jobs by 2031 set for the Hawkesbury LGA.
- The potential to create employment opportunities close proximity to the North West Growth Centre which will accommodate 70,000 new dwellings for approximately 200,000 people.
- Increased economic activities within the LGA.
- Its likely potential to meet the needs of the surrounding residential areas and the future population within the North West Growth Centre.
- Its location within a reasonable walking distance to Vineyard Railway Station.
- Increased viability of the public transport system, in particular, railway system.
- Convenient access to regional network including M2 and M7 Motorways that links Sydney and the surround.
- Size and location of the site with three street frontages enabling easy and convenient access to and from the site.
- Economical and orderly development on the land.

### **Conformance to Community Strategic Plan**

The proposal is consistent with the Supporting Business and Local Jobs Directions statement;

- Plan for a range of industries that build on the strengths of the Hawkesbury to stimulate investment and employment in the region.
- Offer an increased choice and number of local jobs and training opportunities to meet the needs of Hawkesbury residents and to reduce their travel times.

and is also consistent with strategy in the Community Strategic Plan being:

- Implement Employment Lands Strategy.

The Planning Proposal will enable increased business, retail and light industrial activities on the land and boost the Hawkesbury LGA's economic activities and employment opportunities, and therefore it will be an appropriate tool in the implementation of the Directions and Strategies contained in the Community Strategic Plan.

### **Financial Implications**

There are no financial implications arising from this report.

### **Planning Decision**

As this matter is covered by the definition of a "planning decision" under Section 375A of the Local Government Act 1993, details of those Councillors supporting or opposing a decision on the matter must be recorded in a register. For this purpose a division must be called when a motion in relation to the matter is put to the meeting. This will enable the names of those Councillors voting for or against the motion to be recorded in the minutes of the meeting and subsequently included in the required register.

### **RECOMMENDATION:**

That:

1. The Planning Proposal to rezone the subject site located at Nos. 533 - 547 Windsor Road and 7 Chapman Road, Vineyard, from Rural living to part B1 Neighbourhood Business Centre and part IN2 Light Industrial under draft Hawkesbury Local Environmental Plan 2011 subject to the limitation of B1 Neighbourhood Business Centre area as shown in Attachment 6 to this report be forwarded to the Minister for Planning and Infrastructure seeking a Gateway Determination.
2. Upon receipt of notification of the Gateway Determination to proceed, Council exhibit the Planning Proposal in accordance with the requirements of the Gateway Determination and the Environmental Planning and assessment Act, 1979.
3. The applicant/owner of the subject site is to develop a draft site specific Development Control Plan for the site, at their own expense, in conjunction with Council staff and to the satisfaction of Council. The Development Control Plan is to be adopted by Council prior to the finalisation of the rezoning.

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**ATTACHMENTS:**

- AT - 1    Past Approvals
- AT - 2    Planning Proposal - *(To be Distributed Under Separate Cover)*
- AT - 3    Subject Site
- AT - 4    Existing Zoning - Subject Site and the Surrounding
- AT - 5    Flood Map
- AT - 6    Proposed Rezoning Map

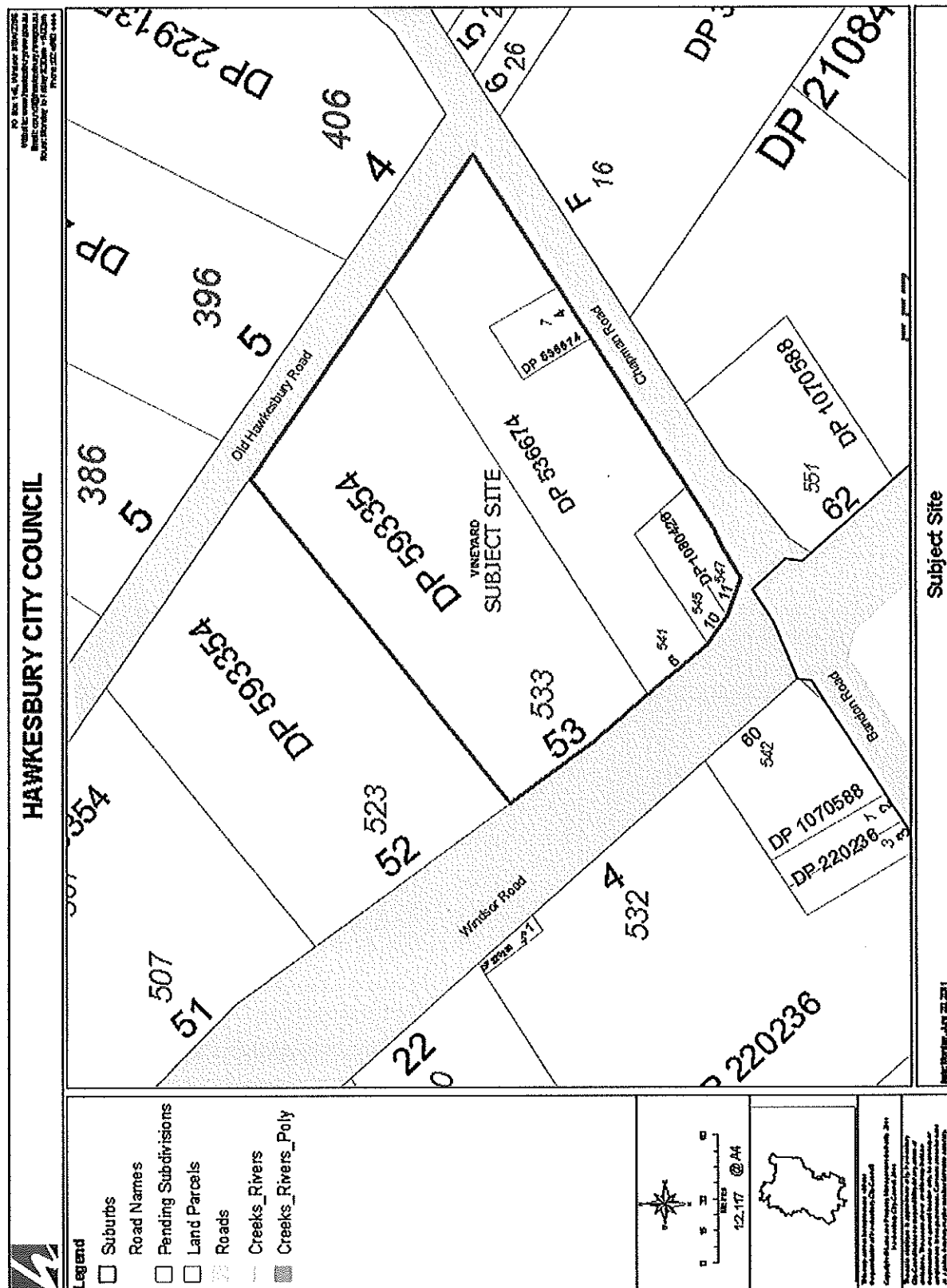
**ORDINARY MEETING**  
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**AT - 1 Past Approvals**

| Past Approvals for the Subject Site                                                                               |                  |
|-------------------------------------------------------------------------------------------------------------------|------------------|
| Development Approved                                                                                              | Date of Approval |
| Shop and dwelling on land                                                                                         | Prior 1951       |
| General machine shop for working building timber and store                                                        | 9/04/1957        |
| Subdivision of the land into 2 lots and erect a joinery works on the proposed lot 1                               | 5/12/1963        |
| Builders hardware store in "Rivoli" theatre                                                                       | 20/09/1965       |
| Signage for 'Roofing supplied and general hardware'                                                               | 28/06/1968       |
| Storage shed (100' x 30') and two (2) flats                                                                       | 13/09/1968       |
| Storage shed                                                                                                      | 13/11/1969       |
| Erection of two (2) flats                                                                                         | 10/04/1969       |
| Carport                                                                                                           | 5/06/1970        |
| Double carport                                                                                                    | 16/09/1970       |
| Relocation of residence to new lots 1 and 2 Chapman Rd and demolition of shop                                     | 16/11/1970       |
| Extensions to existing shop                                                                                       | 11/02/1971       |
| Extensions to storeroom attached to shop                                                                          | 11/02/1971       |
| Extensions to outside storage area                                                                                | 11/02/1971       |
| Extensions to existing flat building                                                                              | 11/02/1971       |
| Extensions to existing residence                                                                                  | 11/02/1971       |
| Additions to shop and storage shed                                                                                | 23/03/1971       |
| Additions to flats                                                                                                | 20/04/1971       |
| Application to register factory for 'key and Timber Cutting'                                                      | 13/05/1971       |
| Swimming pool                                                                                                     | 25/08/1971       |
| Additions to hardware store                                                                                       | 3/11/1971        |
| Change of existing hardware store into a refreshment room/restaurant                                              | 21/06/2001       |
| Lot 53 DP,593354, 533 Windsor Road                                                                                |                  |
| Bee aparie and ancillary works including honey processing and parking, sawmilling and crate and box manufacturing |                  |
|                                                                                                                   | 21/06/2001       |

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**AT - 3 Subject Site**



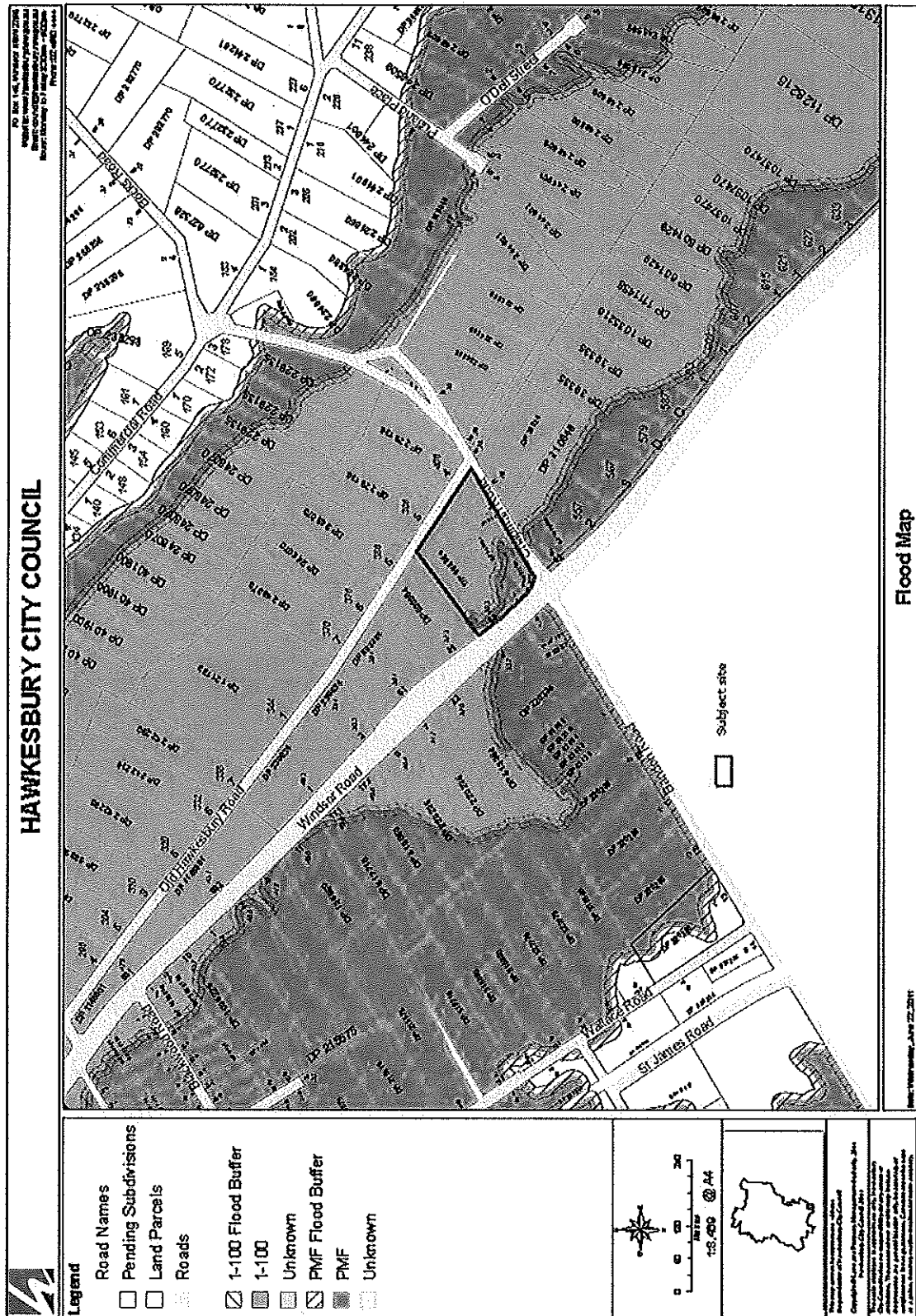
**Meeting Date:** 12 July 2011

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# ORDINARY MEETING

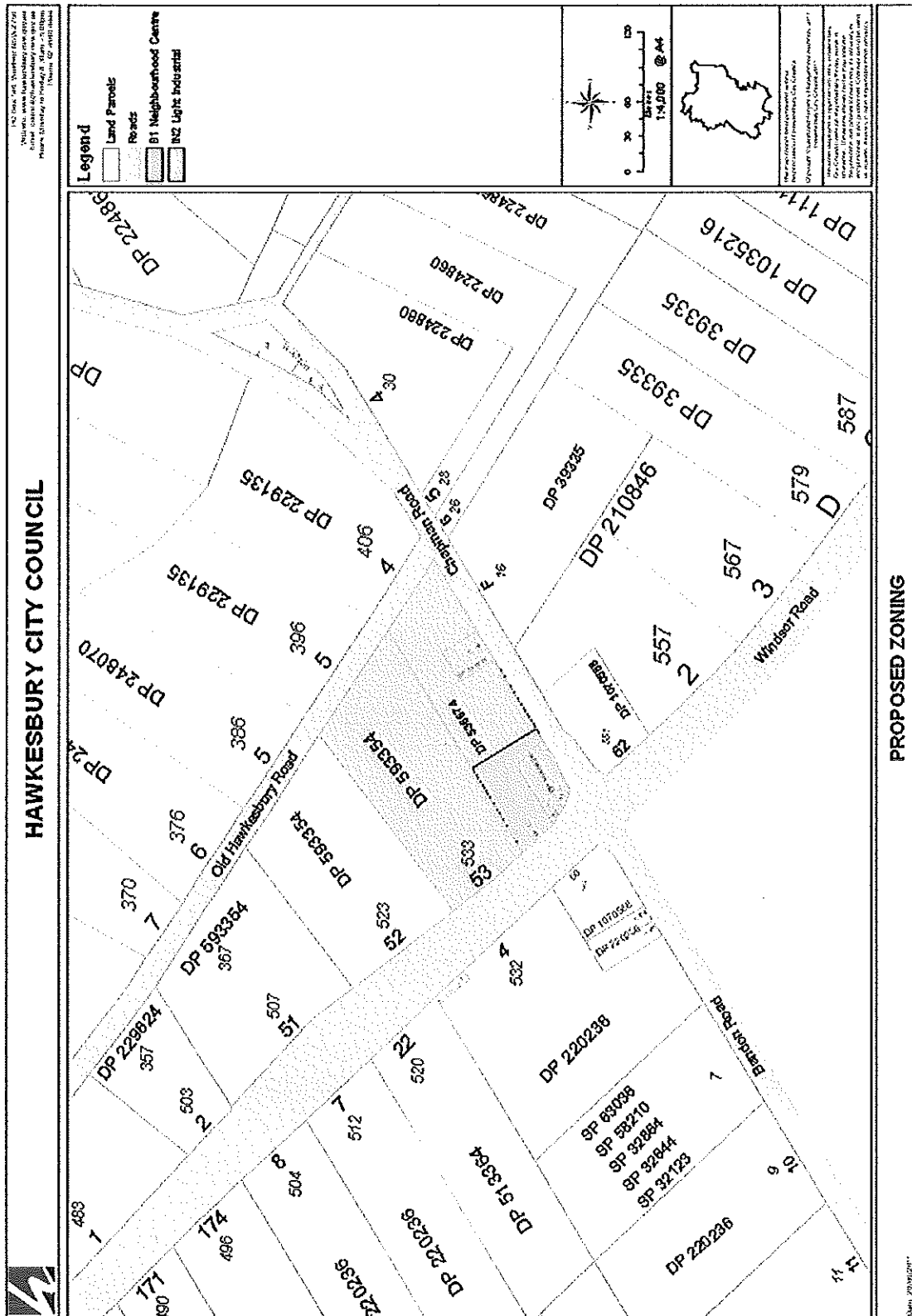
Meeting Date: 12 July 2011

## AT - 5 Flood Map



**ORDINARY MEETING**  
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**AT - 6 Proposed Rezoning Map**



**ORDINARY MEETING**

**MINUTES: 12 July 2011**

**Item: 147**      **CP - Planning Proposal - 533 - 547 Windsor Road and 7 Chapman Road, Vineyard - (95498)**

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Mr Patrick Hurley, proponent, addressed the Council.

**MOTION:**

RESOLVED on the motion of Councillor Rasmussen, seconded by Councillor Mackay.

*Refer to RESOLUTION*

**232 RESOLUTION:**

RESOLVED on the motion of Councillor Rasmussen, seconded by Councillor Mackay.

That the matter be deferred to allow the applicant to confer with adjoining property owners and the Department of Planning with a view to considering a planning proposal for a larger area in the location.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

| <b>For the Motion</b> | <b>Against the Motion</b> |
|-----------------------|---------------------------|
| Councillor Bassett    | Nil                       |
| Councillor Calvert    |                           |
| Councillor Conolly    |                           |
| Councillor Ford       |                           |
| Councillor Mackay     |                           |
| Councillor Paine      |                           |
| Councillor Porter     |                           |
| Councillor Rasmussen  |                           |
| Councillor Reardon    |                           |
| Councillor Tree       |                           |
| Councillor Williams   |                           |

Councillor Whelan was absent from the meeting.

## **Attachment 3**

**DP & I advice dated 16 July 2011**





## Planning & Infrastructure

Mr Peter Jackson  
General Manager  
Hawkesbury City Council  
PO Box 146  
WINDSOR NSW 2756

11/13684

Hawkesbury City Council

18 AUG 2011

Attention: Karu Wijayasinghe

Dear Mr Jackson

**Re: Planning Proposal to rezone Lot 53 DP 593354, Lots 4 and 5 DP 536674 and Lots 10 and 11 DP 1080426 (533 – 547 Windsor Road), VINEYARD NSW 2765**

I refer to your letters dated 20 July 2011 seeking comments from the Department of Planning & Infrastructure in relation to the above planning proposal. The Department's Land Release and Sydney Region West Teams have reviewed the information and provide the following advice.

As Council has noted in its letter, the planning proposal relates to land within the Vineyard Precinct of the North West Growth Centre, identified in *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP). The Vineyard Precinct has not been declared a release precinct under clause 276 of the *Environmental Planning and Assessment Regulation 2000*.

The release of precincts for urban development in the Growth Centres is determined by the NSW Government following the consideration of a number of factors including timeframes for infrastructure delivery. There is currently no timetableing for the release of the Vineyard Precinct.

The Department does not support rezoning land in a precinct ahead of precinct planning for the whole precinct. Until the Vineyard Precinct is released and rezoned under the Growth Centres SEPP, Council should continue to assess development applications under the current Local Environmental Plan and the relevant provisions in the Growth Centres SEPP.

Should you have any further enquiries about this matter, I have arranged for Ms Elizabeth Kinkade, Director, Land Release (Planning & Delivery), to assist you. She may be contacted on telephone number (02) 9860 1537.

Yours sincerely

Robert Black  
Executive Director, Land Release (Planning & Delivery)



**SCANNED**

cc: Peter Goth, Director, Sydney Region West

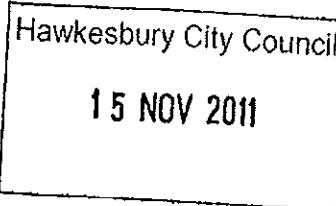
## **Attachment 4**

**DP & I advice dated 14 November 2011**





**Planning &  
Infrastructure**



Mr Peter Jackson  
General Manager  
Hawkesbury City Council  
PO Box 146  
WINDSOR NSW 2756

11/19695

Attention: Karu Wijayasinghe

Dear Mr Jackson

**Re: Additional Permitted uses 533 – 547 Windsor Road and 7 Chapman Road, VINEYARD**

I refer to your letter dated 13 October 2011 seeking advice on the inclusion of additional permitted uses in the draft Hawkesbury Local Environmental Plan 2011 in relation to land at 533-547 Windsor Road and 7 Chapman Road, Vineyard.

The use of Schedule 1 – Additional Permitted Uses is considered to be the appropriate mechanism to legitimise the existing uses in this instance, subject to Council demonstrating that the additional uses will not negatively impact on the future precinct planning for the Vineyard Precinct.

If Council wishes to proceed with the inclusion of additional permitted uses for the subject site, a planning proposal will need to be prepared for consideration under the Gateway process. The Department's Sydney Region West team can provide further advice in relation to the preparation of a planning proposal. Derryn John, Team Leader, Sydney Region West can be contacted on 9873 8543.

It is also recommended that Council consider conditions to ensure that the proposed uses do not impede the future precinct planning process, for example the additional uses clause ceases to operate in 5 years. The additional uses provision under the Liverpool LEP 2008 for certain land at Bringelly in Zone RU1 is another example. These details will need to be provided in your planning proposal.

In addition Council and the landowner should be aware that any future development applications within the Vineyard Precinct will need to be determined in accordance with the relevant provisions of *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* and that the Western Sydney Growth Areas Special Infrastructure Contribution Western Sydney Growth Areas applies to certain development.

Yours sincerely

*Robert Black* 14/11/11



**SCANNED**

Robert Black  
Executive Director, Land Release (Planning & Delivery)

cc: Peter Goth, Director, Sydney Region West

## **Attachment 5**

**Council report and resolution dated 27  
March 2012**



**Item: 41**                      **CP - Planning Proposal - 533 - 547 Windsor Road and 7 Chapman Road, Vineyard - (95498)**

**Previous Item:**            147, Ordinary (12 July 2011)

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**REPORT:**

**Executive Summary**

On 12 July 2011 Council resolved to defer a Planning Proposal seeking rezoning of 533 – 547 Windsor Road and 7 Chapman Road, Vineyard to permit certain retail/business and light industrial activities on the land, to allow the applicant to consult with the adjoining property owners and the Department of Planning and Infrastructure (DP & I) with a view to considering a planning proposal in the broader planning context.

The DP & I advised Council by its letter dated 16 July 2011 (received at Council 18 August 2011) that it does not support any rezoning of land within the Vineyard Precinct until the precinct is released and rezoned under the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP). Following discussions between Council staff and DP & I staff subsequent advice was received from the Department indicating that the use of Schedule 1 - Additional Permitted Uses in the draft Hawkesbury Local Environmental Plan 2011 (HLEP 2011) is considered to be the appropriate mechanism to legitimise the existing uses on the subject land.

This report recommends that a revised planning proposal be prepared and submitted to the Minister for Planning & Infrastructure in accordance with the Department's recent advice.

**Consultation**

The Minister for Planning and Infrastructure will advise Council of requirements for consultation with public authorities and the community as part of the Gateway Determination of the Planning Proposal under Section 56 of the Environmental Planning and Assessment Act, 1979.

**Background**

The subject site is currently zoned Rural Living under Hawkesbury Local Environmental Plan 1989 and the corresponding new zone under draft HLEP 2011 is RU4 Rural Small Holdings. According to Council's records the site has been approved and used for a range of business, retail and light industrial uses such as general machine shop, joinery works, builders hardware store, warehouse, shop, and key and timber cutting factory in the period of pre 1951- 2001. Both the current Rural Living and new RU4 zones prohibit business, retail and light industrial uses and therefore these activities are now non-conforming uses on the land.

On 12 July 2011 Council considered a Planning Proposal seeking rezoning of the subject land to part B1 Neighbourhood Centre and part IN2 Light Industrial under HLEP 2011 to allow certain retail/business and light industrial activities on the land. The resolution of that meeting was as follows:

*"That the matter be deferred to allow the applicant to confer with adjoining property owners and the Department of Planning with a view to considering a planning proposal for a larger area in the location".*

Given the Council's resolution and in order to enable Council to consider any future planning proposals within or in the vicinity of the North West Growth Centre in the broader planning context advice was sought from the DP & I.

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Meeting Date: 27 March 2012

On 18 August 2011 Council received a response from DP & I (dated 16 July 2011) advising Council that the Vineyard Precinct has not been declared a release precinct under the *Environmental Planning and Assessment Regulation 2000* and currently there is no time schedule for the release of the precinct.

The DP & I also advised that it does not support any rezoning of land in a precinct ahead of precinct planning and until the Vineyard Precinct is released and rezoned. Council should continue to assess development applications under the current planning provisions including the Growth Centres SEPP.

On 7 October 2011 Council Officers met with the applicant and the owner of the land to explain the DP & I's view on the Planning Proposal and discuss possible alternatives to address the current land use issues on the land. The inclusion of certain non-conforming land uses as additional permitted uses in Schedule 1 of draft HLEP 2011 was considered to be the only mechanism available for Council to receive and assess development applications and facilitate orderly development with no adverse impacts on the surrounding development.

As a result, on 13 October 2011 Council sought advice on this alternative approach from the DP & I. A response dated 14 November 2011 was received from the DP & I advising that the proposed mechanism, with no negative impacts or impediments on the future precinct planning, is considered to be appropriate.

### Revised Planning Proposal

The objective of the revised Planning Proposal is to specify certain non-conforming land uses on the subject land as additional permitted development that may be carried out with development consent under draft HLEP 2011.

Schedule 1 of draft HLEP 2011 makes provision for carrying out development on particular land with or without Council's consent. Therefore the Planning Proposal seeks to utilise this provision to allow the following non-conforming development as additional permitted uses on the land with Council's consent.

- Use of part of Lot 53 DP 593354, 533 Windsor Road, being for the purpose of a sawmill, timberyard and associated parking (with the total land area including the area for parking not exceeding 10,000m<sup>2</sup>)
- Use of part of Lot 5 DP 536674, 541 Windsor Road for the purpose of general industry and industrial retail premises being saw manufacturing, repairs and sales and associated parking (with the total land area including the area for parking not exceeding 3,000m<sup>2</sup> and a gross floor area of the industrial retail premises not greater than 150m<sup>2</sup>)
- Use of part of Lot 5 DP 536674 and Lots 10 & 11 DP 1080426, 541-547 Windsor Road for the purpose of hardware and building supplies, a trailer hire business and associated parking (with the total land area including the area for parking not exceeding 5,000m<sup>2</sup> and the gross floor areas of the trailer hire premises and building hardware store are not to exceed 325m<sup>2</sup> and 250m<sup>2</sup> respectively)

Attachment 4 to this report depicts the areas of proposed additional uses within the subject land.

Given the subject land is predominantly surrounded by rural land uses and located within the Vineyard Precinct it is considered appropriate to include the current trailer hire business, occupying part of the hardware store on the land, as an additional permitted use to legitimise the current operation. All existing development consents that apply to the land would not be affected and would remain in force.

### Sunset Clause

The DP & I also advised Council that the inclusion of suitable conditions or a sunset clause in Schedule 1 in relation to proposed additional uses on the subject land is considered important to ensure that these uses do not impede the future precinct planning. The Planning Proposal therefore proposes the inclusion of a sunset clause allowing applications to be submitted for development specified in Schedule 1 within 2 years from the gazettal of this plan, after which the effect of the clause lapses.

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The Planning Proposal should also contain a provision that limits the life of any new development consents for the abovementioned additional uses, as per the advice from the DP&I. In this regard it is proposed to limit new development consents so that they expire upon the finalisation of the precinct planning process for the Vineyard precinct.

The Planning Proposal can be justified for the following reasons:

- This is the only mechanism to address the existing land use anomalies on the land.
- Given the site's location and long term uses it is more suited to business and industrial activities.
- The proposed development can be adequately serviced with existing infrastructure.
- The site has easy and convenient access to the regional road network.
- The proposed land uses will enable increased economic activities within the LGA.
- The development provides employment opportunities.
- It will enable economical use of the land and orderly development.
- It has potential to meet the needs of the surrounding residential areas and the future population within the North West Growth Centre.

### Conformance to Community Strategic Plan

The proposal is consistent with the Supporting Business and Local Jobs Directions statement;

- Plan for a range of industries that build on the strengths of the Hawkesbury to stimulate investment and employment in the region.
- Offer an increased choice and number of local jobs and training opportunities to meet the needs of Hawkesbury residents and to reduce their travel times.

and is also consistent with the strategy in the Community Strategic Plan being:

- Implement Employment Lands Strategy.

The Planning Proposal will enable increased business, retail and light industrial activities on the land and boost the Hawkesbury LGA's economic activities and employment opportunities, and therefore it will be an appropriate tool in the implementation of the Directions and Strategies contained in the Community Strategic Plan.

### Financial Implications

There are no financial implications arising from this report.

### Planning Decision

As this matter is covered by the definition of a "planning decision" under Section 375A of the Local Government Act 1993, details of those Councillors supporting or opposing a decision on the matter must be recorded in a register. For this purpose a division must be called when a motion in relation to the matter is put to the meeting. This will enable the names of those Councillors voting for or against the motion to be recorded in the minutes of the meeting and subsequently included in the required register.

**RECOMMENDATION:**

That:

1. The Planning Proposal as outlined in this report be prepared and forwarded to the Minister for Planning and Infrastructure seeking a Gateway Determination.
2. Upon receipt of notification of the Gateway Determination to proceed, Council exhibit the Planning Proposal in accordance with the requirements of the Gateway Determination and the Environmental Planning and assessment Act, 1979.

**ATTACHMENTS:**

- AT - 1 Report to Council Meeting on 12 July 2011
- AT - 2 Correspondence from DP & I dated 16 July 2011
- AT - 3 Correspondence from DP & I dated 14 November 2011
- AT - 4 Map depicting the areas of the proposed additional uses



## Attachment 4: Land areas of Proposed Additional Uses

## ORDINARY MEETING

Meeting Date: 27 March 2012

Item: 41 CP - Planning Proposal - 533 - 547 Windsor Road and 7 Chapman Road, Vineyard - (95498)

Previous Item: 147, Ordinary (12 July 2011)

Mr Patrick Hurley, proponent, addressed Council.

### MOTION:

RESOLVED on the motion of Councillor Conolly, seconded by Councillor Tree.

*Refer to RESOLUTION*

### 72 RESOLUTION:

RESOLVED on the motion of Councillor Conolly, seconded by Councillor Tree.

That:

1. The Planning Proposal as outlined in this report be prepared and forwarded to the Minister for Planning and Infrastructure seeking a Gateway Determination.
2. Upon receipt of notification of the Gateway Determination to proceed, Council exhibit the Planning Proposal in accordance with the requirements of the Gateway Determination and the Environmental Planning and assessment Act, 1979.

Further that Council write to the Minister for Planning & Infrastructure re-affirming Council's support for the early release of the Vineyard Precinct.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

| For the Motion       | Against the Motion |
|----------------------|--------------------|
| Councillor Bassett   | Nil                |
| Councillor Calvert   |                    |
| Councillor Conolly   |                    |
| Councillor Ford      |                    |
| Councillor Mackay    |                    |
| Councillor Paine     |                    |
| Councillor Porter    |                    |
| Councillor Rasmussen |                    |
| Councillor Reardon   |                    |
| Councillor Tree      |                    |
| Councillor Whelan    |                    |
| Councillor Williams  |                    |