



Hawkesbury City Council

Attachment 1
to
item 003

Current Planning Proposal to
Amend the Hawkesbury
Local Environmental Plan 2012

date of meeting: 18 February 2020
location: council chambers
time: 6:30 p.m.

Hawkesbury City Council Planning Proposal

General Amendments to Hawkesbury Local Environmental Plan 2012



Ref:LEP003/15

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Planning Proposal

Local Government Area: Hawkesbury City Council

Name of Planning Proposal: General amendments to Hawkesbury Local Environmental Plan 2012

Land affected by Planning Proposal: All land within the Hawkesbury Local Government Area

Proposal Summary

This planning proposal primarily consists of approximately 50 amendments that are mostly minor 'Housekeeping' matters relating to mapping, definitional and written instrument changes. Examples include:

- Correcting minor anomalies, discrepancies and mapping errors that were created during the preparation of Hawkesbury Local Environmental Plan 2012 (LEP 2012)
- Updating property addresses and heritage information that has changed since the gazettal of LEP 2012
- Amending the provisions of Schedule 2 – Exempt Development and addition of a new clause relating to boundary adjustments to reflect changes to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*
- Re-drafting clauses within LEP 2012 that are unclear or have lost the intent of the clauses previously included under Hawkesbury Local Environmental Plan 1989 (LEP 1989)
- Rezoning Lot 1, DP 1041524, 46 Bourke Street, Richmond, being a Council owned and managed site, from RE2 Private Recreation to RE1 Public Recreation
- Adoption of newly defined uses not previously listed under LEP 1989

In addition to the proposed minor 'Housekeeping' changes there are three amendments which relate to the following:

- Permit *function centres* in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, RU5 Village and E4 Environmental Living zones
- Change the minimum allotment provisions for the Wilberforce township in order to be consistent with Hawkesbury City Council's *Wilberforce Subdivision and Development Policy* – Adopted 31 July 2012
- Reclassify Lots 2 and 3 in DP 582878, 1913 & 1905 Bells Line of Road, Kurrajong Heights from *community land* to *operational land*.

The amendments are considered necessary to ensure that LEP 2012 is accurate and remains consistent with Council's overall strategic policy direction.

A detailed explanation of each amendment is provided in Attachments 1-4.

Background

The primary objective of Council in preparing LEP 2012 was to convert the provisions of LEP 1989 into the Department of Planning and Environment's standardised local environmental plan (the standard instrument) without making substantial or significant changes to underlying land use permissibilities or minimum lot size provisions.

During the preparation of LEP 2012 Council received a number of requests to make amendments to the LEP. Requested amendments that did not meet this primary objective were put aside for later consideration. This planning proposal incorporates some of these requested amendments.

Since the gazettal of LEP 2012 a number of anomalies have been identified in the written instrument and maps. Most of these anomalies are considered to be minor matters however some of these anomalies have raised question in respect to the interpretation and application of certain clauses and permissibilities.

More recently, Council has also resolved to amend the permissibility of certain land uses within LEP 2012.

All of these above mentioned amendments have been consolidated into one planning proposal.

Part 1 - Objectives or Intended Outcomes

The objective of this planning proposal is to ensure that LEP 2012 is an up to date plan that is consistent with State planning policies and Councils strategic planning framework.

The intended outcome of the planning proposal is for Council to have a comprehensive planning policy which is clear, transparent and consistent with current legislative requirements.

Part 2 - Explanation of the Provisions

This part of the planning proposal describes how the objectives or intended outcomes described in Part 1 will be achieved. Amendments proposed as part of this planning proposal have been divided into four (4) main categories and are summarised under the following headings:

1. *Written Instrument Amendments to Hawkesbury Local Environmental Plan 2012*

Changes to the written instrument predominately relate to updating the LEP to be consistent with amendments to State legislation such as SEPP (Exempt and Complying Development Codes) 2008 and clarifying the general interpretation of particular clauses that were converted from LEP 1989 into the standard instrument.

These changes primarily relate to:

- reinstating the boundary adjustment clause of LEP 1989
- clarifying the wording used in clauses relating to subdivisions and clarifying the exempt provisions for signage
- increase the total number of days for which Council can approve a temporary use of land
- amend exempt development provisions to include *bed and breakfast accommodation*, the subdivision of Council owned or managed land, and storage structures

- correction of a number of anomalies and update descriptions and addresses of some properties listed in Schedule 5 Environmental heritage
- introduce a new local clause for temporary events on public land

A complete list and explanation of the proposed written instrument amendments is in Attachment 1.

2. Mapping Amendments to Hawkesbury Local Environmental Plan 2012

Mapping amendments include changes to the maps for heritage items, land reservation acquisition, lot size and land zoning. These changes are proposed to correct errors/inconsistencies in relevant maps and update the lot size and land zone maps to ensure the plan is consistent with the strategic policies of Council. The following headings summarise the proposed amendments.

Heritage Map

Various Heritage Maps need to be updated to refer to the correct heritage item numbers and properties which contain a heritage item.

Land Reservation Acquisition Map

Amend LEP maps to resolve inconsistency between Land Reservation Acquisition Map 008DB and Land Zoning Map 008DB for various properties in Bridge, George Street, and Court Streets, Windsor.

Lot Size Map

Amendments include amending Land Zoning Map 008C to correct the minimum allotment size symbols and legend and to amend minimum lot sizes in the Wilberforce township so that the map is consistent with Hawkesbury City Council's *Wilberforce Subdivision and Development Policy* – Adopted 31 July 2012.

Land Zoning Map

Rezone Lot 1, DP 1041524, 46 Bourke Street, Richmond from RE2 Private Recreation to RE1 Public Recreation to appropriately reflect Council ownership and management of the land and allow for uses more in line with public purposes such as public administration buildings. Potential rezoning and amendment to other affected maps of Lot 16, DP 1205408, 916 Settlers Road, Central Macdonald given redefinition of the property.

A complete list and explanation of the proposed mapping amendments is in Attachment 2.

3. Adoption of additional land uses

Changes to the Land Use Table predominately arise from the adoption of standard instrument dictionary terms and the way development is categorised under LEP 2012. Furthermore Council has received requests to make certain land uses permissible with consent in LEP 2012.

The proposed changes include making *function centres* and *eco tourist facilities* permissible in certain rural and environment protection zones and permitting *community facilities* and *public administration buildings* in the SP2 Infrastructure Zone.

A complete list and explanation of the proposed additional land uses is in Attachment 3.

4. *Site specific reclassification of land*

During the drafting of LEP 2012 Council received a request to reclassify Lots 2 and 3 in DP 582878, 1913 & 1905 Bells Line of Road, Kurrajong Heights from *community land* to *operational land*. Given that the primary focus of LEP 2012 was to adopt the standard instrument actioning this request was deferred to a later amendment of LEP 2012.

Accordingly, this planning proposal seeks to reclassify the above mentioned lands to *operational land*.

Details of the proposed reclassification are in Attachment 4.

Part 3 - Justification

This section of the planning proposal outlines the reasons for the proposed amendments to LEP 2012 and justifies the proposed changes based on a series of questions outlined in the Department of Planning and Infrastructures 'A Guide to Preparing Planning Proposals 2012'

Section A – Need for the planning proposal

1. *Is the planning proposal a result of any strategic study or report?*

The majority of amendments identified in this planning proposal are minor 'Housekeeping' matters and accordingly a broad ranging strategic study has not been undertaken for this planning proposal.

On 31 March 2015 a report regarding a suite of general amendments to LEP 2012 was considered by Council. In response Council resolved that a planning proposal be prepared and forwarded to the Department of Planning & Environment. This planning proposal has been prepared as a result of Council's resolution. The report and resolution of Council is included in this planning proposal as Attachment 5.

This planning proposal includes amendments that are consistent with a Council policy regarding minimum lot sizes within the Wilberforce township. The policy is included in this planning proposal as Attachment 7.

Section B - Relationship to Strategic Planning Framework

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

Yes, the planning proposal is the most effective method of ensuring that LEP 2012 is an up to date planning instrument that is consistent with current legislation requirements and the strategic planning framework of Council. This planning proposal seeks to address a number of matters which have arisen since the adoption of LEP 2012. Consideration of the proposed changes in one amendment will be the most efficient way of updating the current LEP and will remove the need to concurrently consider multiple amendments.

3. *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)?*

A Plan for Growing Sydney

A Plan for Growing Sydney was released in December 2014 and is the NSW Government's 20-year plan for the Sydney Metropolitan Area (SMA). It provides direction for Sydney's productivity, environmental management, and liveability; and for the location of housing, employment, infrastructure and open space.

A Plan for Growing Sydney contains the following Vision for Sydney:

A strong global city, a great place to live.

The Vision is supported by following four goals and three principles:

- | | |
|--------------|--|
| Goal 1: | A competitive economy with world-class services and transport |
| Goal 2: | A city of housing choice with homes that meet our needs and lifestyles |
| Goal 3: | A great place to live with communities that are strong, healthy and well connected |
| Goal 4: | A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources. |
| Principle 1: | Increasing housing choice around all centres through urban renewal in established areas |
| Principle 2: | Stronger economic development in strategic centres and transport gateways |
| Principle 3: | Connecting centres with a networked transport system |

A Plan for Growing Sydney divides the Sydney into six subregions: Central; West Central; West; North; South West; and South. The Hawkesbury LGA is in the West subregion with the Penrith and Blue Mountains LGAs.

It is considered that amendments proposed by this planning proposal will not hinder the attainment of these goals and principles.

A full copy of *A Plan for Growing Sydney* can be viewed at <http://www.planning.nsw.gov.au/~media/Files/DPE/Plans-and-policies/a-plan-for-growing-sydney-2014-12.ashx>.

Draft North – West Sub-Regional Strategy

The Draft North West Subregional Planning Strategy (the Strategy) was released by the State government in December 2007. The Strategy covers the LGAs of The Hills, Blacktown, Blue Mountains, Hawkesbury and Penrith and sets broad directions for additional dwelling and employment growth.

The Strategy has targets for the North West of 140,000 additional dwellings and 130,000 new jobs by 2031. The Strategy sets targets for the Hawkesbury of an additional 5,000 dwellings and 3,000 jobs by 2031.

The Strategy's Key Directions are:

- Plan to meet employment and housing capacity targets
- Develop Penrith as a Regional City
- Strengthen the role of centres

- Improve access to, from and within the subregion
- Protect rural and resource lands
- Promote the environmental and scenic qualities of the region
- Improve access to open space and recreation opportunities.

The Strategy was never finalised and is currently under review.

It is considered that amendments proposed by this planning proposal are not inconsistent with the key directions of the Strategy.

4. *Is the planning proposal consistent with Council's local strategy or other local strategic plan?*

The planning proposal is consistent with the Hawkesbury Community Strategic Plan 2013 – 2032, particularly in respect to the Shaping Our Future Together strategies which, inter alia, seeks to “*Achieve community respect through good corporate governance and community leadership and engagement.*”

In this regard the proposed amendments are primarily made up of minor ‘Housekeeping’ matters which should be corrected to ensure that LEP 2012 is an up to date plan consistent with current legislative requirements and Council’s strategic direction.

The proposal to change the minimum allotment size for the Wilberforce township is consistent with the Looking After People and Place strategy which seeks to “*Encourage affordable, diverse and quality housing solutions in serviced areas.*”

5. *Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPP)?*

It is considered that there are no provisions within this planning proposal that would unreasonably hinder the application of the following SEPPs

State Environmental Planning Policy No. 21 - Caravan Parks
State Environmental Planning Policy No. 30 - Intensive Agriculture
State Environmental Planning Policy No. 32 - Urban Consolidation
State Environmental Planning Policy No. 33 - Hazardous and Offensive Development
State Environmental Planning Policy No. 50 - Canal Estate Development
State Environmental Planning Policy No. 62 - Sustainable Aquaculture
State Environmental Planning Policy No. 65 - Design of Residential Flat Development
State Environmental Planning Policy No. 70 - Affordable Housing (Revised Schemes)
State Environmental Planning Policy (Affordable Rental Housing) 2009
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
State Environmental Planning Policy (Housing for seniors or People with a Disability) 2004
State Environmental Planning Policy (Major Development) 2005
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007
State Environmental Planning Policy (Repeal of Concurrence and Referral Provisions) 2004
State Environmental Planning Policy (Repeal of Concurrence and Referral Provisions) 2008
State Environmental Planning Policy (State and Regional Development) 2011
State Environmental Planning Policy (Sydney Region Growth Centres) 2006

More specifically in terms of the SEPPs listed below the following comments are made:

State Environmental Planning Policy No. 19 - Bushland in Urban Areas

The proposed amendments do not affect the operation of Clause 6.4 Terrestrial biodiversity of LEP 2012 which serves to maintain terrestrial biodiversity by protecting native fauna and flora,

protecting the ecological processes necessary for their continued existence, and encouraging the conservation and recovery of native fauna and flora and their habitats.

State Environmental Planning Policy No. 44 - Koala Habitat Protection

The proposed amendments do not affect the operation of Clause 6.4 Terrestrial biodiversity of LEP 2012 which serves to maintain terrestrial biodiversity by protecting native fauna and flora, protecting the ecological processes necessary for their continued existence, and encouraging the conservation and recovery of native fauna and flora and their habitats.

State Environmental Planning Policy No. 55 - Remediation of Land

Given the City wide and generally minor 'Housekeeping' nature of this planning proposal a preliminary investigation, carried out in accordance with the Contaminated Land Planning Guidelines, has not been undertaken and it is considered that undertaking such an assessment would be unreasonable and impracticable.

The amendments proposed by this planning proposal will not hinder the application of this SEPP at development application stage.

State Environmental Planning Policy No. 64 - Advertising and Signage

The amendments proposed by this planning proposal are consistent with the aims of this SEPP in that the planning proposal seeks to clarify the requirements for acceptable types of signage. Item 1.8 is aimed at clarifying the types of signage permitted as exempt development in the Hawkesbury.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The amendments proposed by this planning proposal will not hinder the application of this SEPP and are intended to ensure that there is a consistency between LEP 2012 and relevant State legislation.

The purpose of items 1.7, 1.8, 1.11, 1.18 and 1.19 is to restore flexibility to the LEP following the introduction of the standard instrument and changes that have been made to State legislation.

State Environmental Planning Policy (Infrastructure) 2007

The planning proposal is consistent with the overall aims and objectives of this policy. Particularly Item 2.4 which proposes a change to the minimum lot size of properties in Wilberforce in order to provide for a fair and equitable allocation of Sydney Water services.

The proposal is considered to be consistent with the deemed State Environmental Planning Policies listed below:

Sydney Regional Environmental Plan No. 9 - Extractive Industry (No 2 - 1995)

It is considered that the amendments proposed by the planning proposal will not result in development that will restrict the obtaining of deposits of extractive material from land described in Division 1, 4, 6, 7, 8 or 9 of Schedule 1 of this Plan. Notwithstanding, it is proposed that the planning proposal be forwarded to the NSW Environment Protection Authority and NSW Department of Trade & Investment – Mineral Resources Branch for comment as part of consultation with relevant public authorities

Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean River (No 2— 1997)

It is considered that the amendments proposed by this planning proposal are consistent with aim of the plan set out in clause 3, the general planning considerations set out in clause 5, and the specific planning policies and related recommended strategies set out in clause 6 of this Plan.

Sydney Regional Environmental Plan No. 19 - Rouse Hill Development Area

It is considered that there are no provisions within this planning proposal that would unreasonably hinder the application of this Plan or the intended long-term growth of the Sydney Region.

State Environmental Planning Policies and Sydney Regional Environmental Plans can be viewed at <http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0> by clicking on "S" within the "Browse in Force" "EPs" section.

6. *Is the planning proposal consistent with applicable Ministerial Directions (s.117 Directions)?*

The Minister for Planning, under section 117(2) of the *Environmental Planning and Assessment Act 1979* issues directions that local councils must follow when preparing planning proposals for new local environmental plans. The directions cover the following broad categories:

- a. employment and resources
- b. environment and heritage
- c. housing, infrastructure and urban development
- d. hazard and risk
- e. regional planning
- f. local plan making.

An assessment of the planning proposal against applicable Section 117 directions is provided below. A full copy of the directions can be viewed at <http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning/Policy-Directions-for-Plan-Making>

1. Employment and Resources

1.1 Business and Industrial Zones

The overall objective of this direction is to encourage employment growth, protect employment land and support the viability of strategic centres. The proposed amendments of most relevance to this direction are:

- Item 1.1 proposes to increase the number of days *temporary uses* can be considered in any zone. The amendment has been proposed in order to support employment and businesses that are carried out on a temporary basis.
- Item 1.7 proposes to allow Council owned or managed land to be subdivided for lease purposes without the need for development consent. It seeks to simplify the leasing agreements which are necessary to support community facilities and employment, particularly in commercial zones managed or owned by Council.
- Item 1.8 is aimed at clarifying the types of signage permitted within business zones.
- Item 1.18 seeks to simplify the process required to be followed to support temporary events such as exhibitions, meetings, concerts, markets, carnivals, festivals etc. These uses are often located in or around commercial zones on public land such as malls, roads, parks and reserves.

1.2 Rural Zones

The overall objective of this direction is to protect the agricultural production value of rural land. All amendments proposed as part of this planning proposal are considered to be of minor significance with respect to this direction as the proposed amendments do not seek to rezone rural land or propose provisions that will increase the permissible density of land within a rural zone.

The proposed amendments of most relevance to this direction are:

- Item 1.6 proposes to clarify that consent shall not be granted for the purposes of the erection of a dwelling on land that has been subdivided for the purposes of primary production under Clause 4.2. This amendment proposes to protect land which has been subdivided for the purposes of agricultural purposes.
- Item 3.1 proposes to permit with consent *function centres* in the same zones that permit *restaurants*. This amendment is required as a result of the adoption of the standard instrument. In this respect the standard instrument introduced the definition of *function centres* and has resulted in issues when classifying activities such as *restaurants* which propose to cater for functions such as weddings. The adoption of the standard instrument has resulted in classifying a use previously not specified under LEP 1989 and resulted in prohibiting the use of *restaurants* as *function centres* in rural areas. It is considered that the impacts of future *functions centres* on surrounding agricultural uses would be similar to that of a *restaurant* and can be appropriately assessed at development application stage.
- Item 3.2 proposes to permit *eco- tourist facilities* within zones that allow for *tourist and visitor accommodation* and the RU2 zone. Throughout these zones there are properties which contain areas of ecological significance and it is considered such land could be used to support this type of low scale tourist activity without impacting on surrounding agricultural uses.
- Item 4.1 proposes to reclassify two (2) parcels of land zoned RU2 from *community land* to *operational land*. The proposal is related to a piece of land that was reserved for road widening which is currently used to service an existing café. It is considered that the reclassification will not have any impact on existing or potential agricultural production of the land.

1.3 Mining, Petroleum Production and Extractive Industries

It is proposed that the planning proposal be forwarded to the NSW Department of Trade & Investment – Mineral Resources Branch for comment as part of consultation with relevant public authorities.

1.4 Oyster Aquaculture

Due to the significant distance between the Hawkesbury Local Government Area and downstream Priority Oyster Aquaculture Areas or oyster aquaculture activities outside of such areas it is considered that the amendments proposed by this planning proposal will not adversely impact oyster aquaculture.

1.5 Rural Lands

This direction is not applicable to the Hawkesbury Local Government Area.

2. Environment and Heritage

2.1 Environment Protection Zones

The planning proposal is consistent with the objectives of this direction which seeks to facilitate the protection and conservation of environmentally sensitive areas. The proposed amendments will not reduce environmental protection standards. The proposed amendments of most relevance to this direction are:

- Item 1.4 seeks to clarify when exceptions to the minimum allotment size requirements apply so as to ensure that land containing an environmentally sensitive area will only be subdivided below the minimum allotment size in accordance with the overall intent of this clause.
- Item 3.1 proposes to permit with consent *function centres* in the same zones that permit *restaurants*. This amendment is required as a result of the adoption of the standard instrument. In this respect the standard instrument introduced the definition of *function centres* and has resulted in issues when classifying activities such as *restaurants* which propose to cater for functions such as weddings. The adoption of the standard instrument has resulted in classifying a use previously not specified under LEP 1989 and resulted in prohibiting the use of *restaurants* as *function centres* in the E4 Environmental Living zone. It is considered that the impacts of future *functions centres* on any affected environmental sensitive areas can be appropriately assessed at development application stage.
- Item 3.2 proposes to permit *eco-tourist facilities* within the E3 Environmental Management and E4 Environmental Living zones. As previously discussed the adoption of this definition is required as a result of the standard instrument. The adoption of this definition aims to distinguish the difference between *tourist and visitor accommodation* and *eco-tourist facilities* when considering and assessing tourist related development in environmentally sensitive areas.

2.2 Coastal Protection

This direction is not applicable to the Hawkesbury Local Government Area.

2.3 Heritage Conservation

The planning proposal is consistent with this direction as the changes proposed under Items 1.16 and 2.1 are required to be made to ensure that LEP 2012 accurately identifies the heritage items shown on the heritage maps and listed under Schedule 5 of LEP 2012.

2.4 Recreation Vehicle Areas

The amendments by this planning proposal do not allow land to be used for a recreation vehicle area.

3. Housing, Infrastructure and Urban Development

3.1 Residential Zones

The proposed amendments of most relevance to this direction are:

- Item 1.2 seeks to allow for boundary adjustments to be undertaken between undersized allotments. The current controls prevent Council from recognising a subdivision between existing undersized lots and it is considered that the new provisions will be consistent with this direction as the change will not reduce permissible residential density of land.
- Item 1.5 is consistent with this direction as the proposal seeks to standardise the way lot sizes are calculated in residential areas. This will ensure that there is consistency in the way land is subdivided throughout the Hawkesbury and will ensure that residential densities are calculated in the same manner.

- Item 2.4 is considered to be a minor change that is consistent with this direction. It is proposed that the housing densities of the Wilberforce township be amended to reflect Council's strategic direction. In this respect land in the Wilberforce township was previously not able to be subdivided below 4,000m² given that sewer was not available. Since the Drafting of LEP 2012 sewer has become available and the minimum allotment size reverted to the standard residential size of 450m². This has inadvertently increased residential densities without considering the service arrangements available. Council has received advice that the sewer servicing for the Wilberforce township has a limited capacity and accordingly on 31 July 2012 Council adopted the *Wilberforce Subdivision and Development Policy*. This policy seeks to cater for additional residential development in areas that are above the predicted 1 in 100 year flood level and close to commercial centres. This amendment is consistent with the overall objectives of this direction which seeks to make efficient use of existing infrastructure and services.
- Item 3.2 will enable *eco-tourist facilities* within residential zones which currently permit *tourist and visitor accommodation*. It is considered that the proposed change is consistent with this direction as the proposed change is merely a definitional change to distinguish the difference between the two types of accommodation. Furthermore the proposal will not reduce the permissible residential density of the residential areas.

3.2 Caravan Parks and Manufactured Home Estates

The amendments proposed by this planning proposal do not affect the current permissibility, or otherwise, of caravan parks and manufactured home estates within LEP 2012.

3.3 Home Occupations

The amendments proposed by this planning proposal do not affect the current permissibility of home occupation within LEP 2012.

3.4 Integrating Land Use and Transport

The land use changes in this planning proposal are considered to be minor having regard to the established transport networks and there are no changes that directly relate to this direction. However:

- Item 2.2 seeks to correct a topographical error and ensure that the Land Reservation Acquisition Map is consistent with the zoning map and that land is appropriately identified as being designated for transport purposes within the Hawkesbury. This change is minor and does not propose any changes that would directly alter the urban development of the area, and
- Item 2.4 proposes changes to the lot size in the Wilberforce township which is consistent with this direction. It is proposed that residential densities will be concentrated within the township close to commercial areas and public transport which would encourage walking and cycling as alternative forms of transport.

3.5 Development Near Licensed Aerodromes

This direction is not applicable to the Hawkesbury Local Government Area as RAAF Base Richmond is not a licensed aerodrome.

3.6 Shooting Ranges

Known licensed shooting ranges in the Hawkesbury are:

- Phoenix Pistol Club -Scheyville National Park, 217 Scheyville Road, Scheyville NSW 2756, and
- Kurrajong Pistol Club, 1550A Bells Line of Rd Kurrajong Heights NSW 2758

It is considered that the amendments proposed by this planning proposal will not adversely impact upon the operation of these clubs or public safety and amenity.

4. Hazard and Risk

4.1 Acid Sulfate Soils

This planning proposal does not propose any amendments to Clause 6.1 Acid sulfate soils of LEP 2012.

Given the City wide and generally minor 'Housekeeping' nature of this planning proposal an acid sulphate soils study has not been undertaken and it is considered that undertaking such an assessment would be unreasonable and impracticable.

4.2 Mine Subsidence and Unstable Land

No Mine Subsidence Districts have been proclaimed within the Hawkesbury Local Government Area.

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.

Sub-clauses (4) to (8) of this direction set out particular requirements for planning proposals.

However, sub-clause (9) of this direction states that 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

Hawkesbury City Council adopted the Hawkesbury Floodplain Risk Management Study and Plan on 11 December 2012. The Floodplain Risk Management Plan (FRMP) component of this document outlines a suite of actions in relation to flood education and resilience, emergency management, advice to consent authorities, land use planning, voluntary house raising/purchase, flood mitigation works, and flood modeling. A copy of the (FRMP) is included in this planning proposal as Attachment 8.

The amendments proposed by this planning proposal will not hinder the implementation of FRMP.

Furthermore the proposed amendments do not alter Council's current flood related development controls found in LEP 2012, the *Hawkesbury Development Control Plan 2002*, or Council's *Development of Flood Liable Land Policy (Version 1)*, adopted 31 July 2012.

Finally, as emergency management and flood evacuation are significant issues in the Hawkesbury it is proposed that the planning proposal be forwarded to the NSW State Emergency Service for comment as part of consultation with relevant public authorities.

4.4 Planning for Bushfire Protection

It is proposed that the planning proposal be forwarded to the NSW Rural Fire Service for comment as part of consultation with relevant public authorities.

5. Regional Planning

No directions in this section apply to the Hawkesbury Local Government Area.

6. Local Plan Making

6.1 Approval and Referral Requirements

The amendments proposed in Item 1.10 (Clause 5.1A Development of land intended to be acquired for public purposes) could suggest that Council may consult with or refer certain development applications to relevant public authorities.

It is proposed that the planning proposal be forwarded to relevant public authorities for comment, and if necessary, approval prior to Council undertaking community consultation.

6.2 Reserving Land for Public Purposes

Items 2.2 and 2.6 forecast possible amendments to the Land Reservation Acquisition Map and the SP2 Infrastructure and E1 National Parks and Nature Reserves zones.

It is proposed that the planning proposal be forwarded to the Roads and Maritime Service and Office of Environment and Heritage for comment, and if required approval, as part of consultation with relevant public authorities.

6.3 Site Specific Provisions

The amendments proposed by this planning proposal are consistent with this direction.

7. Metropolitan Planning

7.1 Implementation of A Plan for Growing Sydney

It is considered that amendments proposed by this planning proposal will not hinder the attainment of the goals and principles of *A Plan for Growing Sydney*.

Section C - Environmental, Social & Economic Impact

7. ***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?***

It is considered that the proposed amendments will not adversely impact on any critical habitat or threatened species, populations or ecological communities, or their habitats.

The proposed amendments do not affect the operation of Clause 6.4 Terrestrial biodiversity of LEP 2012 which serves to maintain terrestrial biodiversity by protecting native fauna and flora, protecting the ecological processes necessary for their continued existence, and encouraging the conservation and recovery of native fauna and flora and their habitats.

More specifically proposed amendment Item 1.4 is aimed at protecting land which is occupied by an environmental constraint area and/or a critically endangered ecological community. This item is required to ensure that there is no confusion when considering a subdivision pursuant to Clause 4.1E of LEP 2012.

Notwithstanding the above commentary it is proposed that the planning proposal be forward to the Office of Environment and Heritage and the Department of Industry, Skills and Regional Development for comment as part of the public authority consultation stage of the planning proposal process.

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

The planning proposal is largely made up of minor 'Housekeeping' matters relating to mapping, definitional and written instrument changes and accordingly no adverse environmental effects are envisaged.

The proposed additional *permitted with consent* land uses are considered to be consistent with the current suite of permitted land uses within the respective zones and would be subject to detailed assessment under the development application process of the *Environmental Planning and Assessment Act 1979*.

Changes to the lot size map for the Wilberforce township proposed under amendment Item 2.4 will ensure that the future development of the area will be consistent with Council's existing policies and strategic direction. It is considered necessary that the minimum lot sizes be adjusted to facilitate the appropriate residential development and prevent adverse environmental effects that may result under the current lot size provisions.

9. *Has the planning proposal adequately addressed any social and economic effects?*

It is envisaged that the amendments proposed as part of this planning proposal will have a positive impact on the overall social and economic wellbeing of the Hawkesbury by ensuring that LEP 2012 is an up to date plan that is consistent with State planning policies and Councils strategic planning framework.

Amendment Item 2.4 (Lot Size Map amendment Wilberforce) is proposed to ensure the appropriate development of land within Wilberforce. This change has been proposed to formalise Council's strategic direction and existing adopted policy. The social and economic effects have been adequately considered by Council as part of the preparation and adoption of the Council's Wilberforce Subdivision and Development Policy. The policy associated with Items 2.4 is included in this planning proposal as Attachment 7.

Section D- State and Commonwealth interests

10. *Is there adequate public infrastructure for the planning proposal?*

In general, it is considered that the amendments proposed by this planning proposal will not have a significant adverse impact on public infrastructure such as roads and transport, community facilities, open space, storm water and drainage.

Any impacts resulting from the proposed additional *permitted with consent* land uses can be considered in detail as part of the development application process of the *Environmental Planning and Assessment Act 1979*.

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

Consultation with public authorities is proposed to occur after a Gateway determination.

It is envisaged that the following public authorities will be consulted.

Office of Environment and Heritage
 Sydney Water
 NSW Road and Maritime Service
 Transport for NSW
 NSW Rural Fire Service
 Department of Industry, Skills and Regional Development
 NSW Department of Trade & Investment – Mineral Resources Branch
 Greater Sydney Local Land Services
 NSW State Emergency Service
 Department of Defence
 Endeavour Energy

Part 4 - Mapping

Proposed mapping amendments pertaining to Items 2.1, 2.2, 2.3, 2.4, 2.5 and 2.6 are detailed under the respective items in Attachment 2.

Part 5 - Community Consultation

The Department of Planning and Infrastructure'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 28 days. It is therefore proposed that the planning proposal be publicly exhibited for a minimum of 28 days.

Part 6 - Project Timeline

The following table provides an indicative timeline for the planning proposal for DP&E's consideration.

Project Phase	Indicative time target
1. Project Commencement	Date of gateway determination received by Council
2. Completion of technical information prior to government agency consultation	4 weeks
3. Government agency consultation	6 weeks
4. Preparation of written advice to the adjoining/affected property owners, public notice in local newspaper, and exhibition material	3 weeks
5. Public consultation period	4 weeks
6. Public Hearing for reclassification of land	8 weeks

7. Consideration of submissions and a report to Council	12 weeks
8. Submission to DP & E draft LEP be prepared and made	4 weeks

List of Attachments

1. Schedule of written instrument amendments to LEP 2012
2. Schedule of mapping Amendments to LEP 2012
3. Schedule of additional land uses
4. Site specific reclassification of land
5. Council Report and Resolution, 31 March 2015
6. Council Report and Resolution, 9 December 2014
7. Wilberforce Subdivision and Development Policy, 31 July 2012
8. Hawkesbury Floodplain Risk Management Plan, adopted 11 December 2012
9. Department of Planning's LEP Practice Note PN 09-003 *Classification and reclassification of public land through a local environmental plan*, 12 June 2009
10. Hawkesbury Local Environmental Plan 1989 Clause 13 Subdivision by adjustment or relocation of boundaries
11. Council Report and Resolution, 8 December 2015 regarding a proposed amendment to Clause 4.1E

Attachment 1

Schedule of written instrument amendments to Hawkesbury LEP 2012

Written Instrument Amendments	
Item No.	Description of Amendment
1.1	Amend Clause 2.8 Temporary Use of Land
1.2	Insert a new clause relating to boundary adjustments
1.3	Amend Clause 4.1D Exceptions to minimum subdivision lot size for certain land
1.4	Amend Clause 4.1E Exceptions to minimum subdivision lot size for Grose Wold
1.5	Amend Clause 4.1D Exceptions to minimum subdivision lot size for certain land and Clause 4.1F Exceptions to minimum subdivision lot size for certain land in North Richmond
1.6	Amend Clause 4.2A Residential development and subdivision prohibited on certain land
1.7	Insert a new provision, in Schedule 2 Exempt Development, relating to the subdivision of land for the purposes of granting a lease, licence or other estate over Council owned or managed land in accordance with the <i>Local Government Act 1993</i>
1.8	Amend the signage provisions in Schedule 2 Exempt Development
1.9	Amend the LEP to identify relevant acquisition authority of land to be acquired or change the zone of certain lands
1.10	Amend Clause 5.1A Development on land intended to be acquired for public purposes
1.11	Insert additional controls relating to <i>bed and breakfast accommodation</i>
1.12	Amend Clause 6.10 Certain development on Lot 1, DP 827148, Richmond Road, Clarendon
1.13	Amend Clause 6.11 Residential accommodation at Johnston and New Streets, Windsor
1.14	Amend property description of Item 11 in Schedule 1 Additional Permitted Uses
1.15	Amend listings in Schedule 4 Classification and reclassification of public land
1.16 (a) - (n)	Amend heritage item listings in Schedule 5 Environmental heritage
1.17	Deleted due to Gateway determination 19 February 2016
1.18	Insert a local provision for temporary events on public land
1.19	Insert <i>storage structure</i> into Schedule 2 Exempt development

Item 1.1	
Description	Amend Clause 2.8 Temporary Use of Land
Proposed Amendment	Amend Clause 2.8 subclause (2) to extend the maximum period of temporary uses of land to 52 days in any 12 month period
Explanation: This clause currently allows for the temporary use of land for a maximum period of 28 days within any period of 12 months. The 28 day limit has restricted Council from considering longer form temporary events such as weekly markets. In order to enable Council to consider such longer form temporary events it is proposed that the maximum number of days of a temporary use be increased to 52 days.	

Item 1.2	
Description	Insert a new clause relating to boundary adjustments
Proposed Amendment	Insert a new clause in LEP 2012 to permit boundary adjustments between undersize allotments
<p>Explanation:</p> <p>The drafting of LEP 2012 resulted in the removal of Clause 13 of LEP 1989 which permitted subdivision between existing undersized allotments provided that no additional allotments were created.</p> <p>At the time of drafting LEP 2012 the removal of Clause 13 of LEP 1989 was acceptable given that <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> allowed for boundary adjustments between existing undersized allotments as exempt development.</p> <p>However, since the commencement of LEP 2012 the provisions of <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> have been amended and as result boundary adjustments between undersize allotments are no longer exempt development.</p> <p>Furthermore, Clause 4.6 of LEP 2012 prevents Council from considering the subdivision of land which would result in more than one lot less than 90% of the minimum area specified for rural and environmental zones. Thus Council is unable to consent to a boundary adjustment between undersize allotments in rural areas and environmental protection zones.</p> <p>It is proposed that a new clause, similar to Clause 13 of LEP 1989, be inserted in LEP 2012 to allow for boundary adjustments between existing undersized lots. Clause 13 of LEP 1989 is included in Attachment 10 of this planning proposal.</p>	

Item 1.3	
Description	Amend Clause 4.1D Exceptions to minimum subdivision lot size for certain land
Proposed Amendment	Delete the word “previously” from Clause 4.1D subclause (2)
<p>Explanation:</p> <p>Clause 4.1D subclause (2) currently reads as follows:</p> <p><i>(2) Despite subclause (1) and subject to subclause (3), development consent may be granted for the subdivision of land in the following zones into separate lots for the purpose of dual occupancies, multi dwelling housing, residential flat buildings or shop top housing, if the development for that purpose has been previously approved:</i></p> <p><i>(a) Zone R1 General Residential,</i></p> <p><i>(b) Zone R2 Low Density Residential,</i></p> <p><i>(c) Zone R3 Medium Density Residential.</i></p> <p>The equivalent clause in LEP 1989 did not include the word “previously” however during the drafting of LEP 2012 the word “previously” was inserted in this clause.</p> <p>The addition of this word suggests that the subdivision of the types of residential development listed in the clause can only be approved <u>after</u> the relevant residential development is approved. This creates difficulty when considering a single development application for both construction and subdivision and hence it is proposed that “previously” be deleted from Clause 4.1D subclause (2).</p>	

Item 1.4	
Description	Amend Clause 4.1E Exceptions to minimum subdivision lot size for Grose Wold
Proposed Amendment	Amend Clause 4.1E to clarify its relationship with Clause 4.1 Minimum subdivision lot size and clarify the intention of the term “original lot”
<p>Explanation:</p> <p>The drafting of LEP 2012 has raised doubt as to how the provisions of Clause 4.1 and 4.1E may be interpreted.</p> <p>Recent development applications received by Council have questioned the relationship between Clause 4.1 Minimum subdivision lot size and Clause 4.1E Exceptions to minimum subdivision lot size for Grose Wold and suggested that land within the Grose Wold area can be subdivided in a manner previously not envisaged by LEP 1989. In this respect applicants have suggested that Clause 4.1E(3) is an alternative clause to Clause 4.1 not an additional clause and that:</p> <ul style="list-style-type: none"> land previously subdivided under Clause 41AA of LEP 1989 can be further subdivided under Clause 4.1 if the proposed lots meet the minimum lot size requirements without having regard to the matters of consideration or the term “original lot” contained under Clause 4.1E, and/or land that does not contain an environmental constraint area can be subdivided with an unrestricted lot size as Clause 4.1E provides an exception to the minimum lot size requirements and Clause 4.1E subclause (4) only provides a maximum lot yield for land which contains an environmental constraint area. <p>The points of contention raised by applicants have the potential to significantly increase the number of lots for dwellings that were envisaged under LEP 1989.</p> <p>In order to avoid any doubt as to the intention and application of Clauses 4.1 and 4.1E it is proposed that the wording be modified to clarify the relationship between these clauses.</p> <p>On 8 December 2015 Council considered a report regarding the proposed amendment to Clause 4.1E. The Council report and resolution and a proposed amendment to Clause 4.1E is included in Attachment 11 of this planning proposal.</p>	

Item 1.5	
Description	Amend Clause 4.1D Exceptions to minimum subdivision lot size for certain land and Clause 4.1F Exceptions to minimum subdivision lot size for certain land in North Richmond
Proposed Amendment	Amend Clauses 4.1D and 4.1F to exclude the area of access handles when calculating lot sizes
Explanation: Clause 4.1 subclause (3A) excludes the area of access handles in determining the area of battle-axe or other lots with an access handle. Clauses 4.1D and 4.1F however do not contain such exclusions. In order to ensure fairness and consistency in calculating lot sizes throughout the residential zones of the Hawkesbury it is proposed that clauses 4.1D and 4.1F be amended to exclude the area of access handles when calculating lot sizes.	

Item 1.6	
Description	Amend Clause 4.2A Residential development and subdivision prohibited on certain land
Proposed Amendment	Amend Clause 4.2A to reinforce that <i> dwellings </i> are prohibited on land subdivided for the purposes of <i> primary production </i> under Clause 4.2.
Explanation: Clause 4.2 Rural Subdivision does not allow dwellings to be erected on lots created for the purpose of primary production. However, as this clause falls under the heading of “Rural Subdivision” confusion or oversight may arise when considering applications for dwellings under provisions elsewhere in the LEP. That is, there is nothing in the rest of the LEP that directs persons to Clause 4.2 when considering an application for a dwelling. Clause 4.2A identifies certain land where dwellings are prohibited and it is therefore proposed that Clause 4.2A be amended to reinforce that dwellings are prohibited on land subdivided for the purposes of primary production under Clause 4.2 of this plan.	

Item 1.7	
Description	Insert a new provision, in Schedule 2 Exempt Development, relating to the subdivision of land for the purposes of granting a lease, licence or other estate over Council owned or managed land in accordance with the <i>Local Government Act 1993</i>
Proposed Amendment	<p>Insert in Schedule 2 Exempt Development the following:</p> <p>Subdivision</p> <p>(1) Must be for the propose to grant a lease, licence or other estate over Council owned or managed land in accordance with the <i>Local Government Act 1993</i>.</p>
<p>Explanation:</p> <p>When Council grants a lease, licence or other estate over Council owned or managed land in accordance with the <i>Local Government Act 1993</i>, Council is also required, in certain circumstances outlined under the <i>Real Property Act 1900</i>, to recognise same by way of the registration of the lease, licence or other estate. Such registration may be contingent on the subdivision of the subject land.</p> <p>Difficulty in subdividing such land arises when the lot(s) to be created are in rural or environment protection zones and are less than the respective minimum lot size.</p> <p>It is therefore recommended that the exempt development criteria be extended to include subdivisions of Council owned or managed land if the subdivision is for the purposes of granting a lease, license or other estate.</p>	

Item 1.8	
Description	Amend the signage provisions in Schedule 2 Exempt Development
Proposed Amendment	<p>Amend the signage provisions to:</p> <p>Signs—business identification signs for businesses other than sex services premises in business and industrial zones</p> <p>(1) Under awning sign</p> <ul style="list-style-type: none"> (a) Must be attached to the underside of an awning other than a fascia or return end. (b) Must meet the general requirements for signs. (c) 1 sign per ground floor premises with street frontage. (d) Maximum length—2.5m. (e) Maximum height—0.5m. <p>(2) Flush wall sign</p> <ul style="list-style-type: none"> (a) Must be attached to the wall of a building (other than the transom of a doorway or display window) and not projecting more than 300mm. (b) Must meet the general requirements for signs. (c) Maximum area—2.5m². (d) 1 sign per elevation. <p>(3) Top hamper sign</p> <ul style="list-style-type: none"> (a) Must be attached to the transom of a doorway or display window of a building. (b) Must meet the general requirements for signs. (c) Maximum area—2.5m². (d) 1 sign per elevation. <p>(4) Fascia signs</p> <ul style="list-style-type: none"> (a) Must be attached to the fascia or return of the awning. (b) Must meet the general requirements for signs. (c) Must not project over, or more than 50mm out from, the fascia or return end of the awning to which it is attached. (d) 1 sign per awning. <p>(5) Pylon signs</p> <ul style="list-style-type: none"> (a) Must meet the general requirements for signs. (b) 1 pole or pylon sign per premises (including any directory board for multiple occupancies). (c) Maximum height of sign—6m. (d) Must be within 5m of any public entry point to the premises.
<p>Explanation:</p> <p>Schedule 2 Exempt Development currently specifies a maximum of one sign for under awning signs and pylon signs however no such limitation is included for flush wall signs, top hamper signs and fascia signs. It is proposed that the LEP be amended to specify a maximum of one sign per elevation for flush wall signs, top hamper signs and fascia signs to ensure consistency across the signage provisions.</p>	

Note this proposed amendment only affects the **Signs—business identification signs for businesses other than sex services premises in business and industrial zones** part of Schedule 2 Exempt Development

Item 1.9	
Description	Amend the LEP to identify relevant acquisition authority of land to be acquired or change the zone of certain lands
Proposed Amendment	Insert a new clause where land to be acquired is not zoned RE1 Public Recreation, SP2 Infrastructure or E1 National Parks and Nature Reserves or change the zoning of these lands
<p>Explanation:</p> <p>The identification of relevant land acquisition authorities is dealt with by Clause 5.1 Relevant acquisition authority.</p> <p>This clause only relates to land that is shown on the Land Reservation Acquisition Map and that is also zoned RE1, SP2 or E1.</p> <p>Some lands that are shown on the Land Reservation Acquisition Map are not zoned RE1, SP2 or E1. These lands, and their respective zones, include:</p> <p>Lot 1, DP 879449, 315 St Albans Road, Lower Macdonald - E4 Environmental Living</p> <p>Lot 2, DP 879449, 377 St Albans Road, Lower Macdonald - E4 Environmental Living</p> <p>Lot 3, DP 879449, 316 St Albans Road, Lower Macdonald - E4 Environmental Living</p> <p>Part Lot 10, DP 540848, 440 St Albans Road, Lower Macdonald - E4 Environmental Living</p> <p>Lot 1, DP 228068, 241 St Albans Road, Lower Macdonald - E4 Environmental Living</p> <p>Lot 1, DP 1121876, 203A Blacktown Road, Freemans Reach - RU2 Rural Landscape</p> <p>It is proposed that these lands be either rezoned as appropriate to RE1, SP2 or E1 or that an additional clause be added similar to clause 5.1 that will cater for such lands.</p> <p>It is anticipated that the preferred mechanism to deal with this matter will be determined after consultation with the Department of Planning and Environment and relevant acquisition authorities.</p>	

Item 1.10	
Description	Amend Clause 5.1A Development on land intended to be acquired for public purposes
Proposed Amendment	<p>Amend Clause 5.1A to:</p> <p>5.1A Development on land to be acquired for public purposes</p> <p>(1) <i>The objective of this clause is to protect land that is intended to be acquired for a public purpose.</i></p> <p>(2) <i>Development consent must not be granted to any development on land identified on the <u>Land Reservation Acquisition Map</u> unless the consent authority is satisfied that:</i></p> <p style="padding-left: 40px;">(a) <i>the development is of a kind, or is compatible with development of a kind, that may be carried out on land in an adjoining zone, and</i></p> <p style="padding-left: 40px;">(b) <i>the development will not prejudice the future public purpose use of the land by the relevant public authority concerned,</i></p> <p style="padding-left: 40px;">(c) <i>the development and its use will cease no later than 5 years after development consent is granted.</i></p> <p>(3) <i>In determining whether to grant development consent under subclause (2), the consent authority must consider the following:</i></p> <p style="padding-left: 40px;">(a) <i>any impact the development will have on traffic movement and parking,</i></p> <p style="padding-left: 40px;">(b) <i>any impact the development will have on existing pedestrian movement,</i></p> <p style="padding-left: 40px;">(c) <i>any visual impact the development will have (including the installation of any advertisements),</i></p> <p style="padding-left: 40px;">(d) <i>the need to carry out development on the land for the purpose for which it is to be acquired,</i></p> <p style="padding-left: 40px;">(e) <i>the timing of the acquisition by the relevant public authority,</i></p> <p style="padding-left: 40px;">(f) <i>any likely additional cost to the public authority resulting from the carrying out of the development.</i></p>
<p>Explanation:</p> <p>The current clause restricts development of affected land to only roads and recreation areas. The purpose of this amendment is to make the existing clause less restrictive and subject to merit assessment.</p> <p>Note 1: The proposed Clause 5.1A has been redrafted since the amendment was presented to Council at the Ordinary Meeting of 31 March 2015. This redrafting is due to consideration of recent versions of this clause prepared by other councils and to provide greater direction</p>	

to applicants and Council regarding the manner in which subsequent development applications are to be considered. The proposed clause does not change the intent of the amendment suggested to Council at the Ordinary Meeting of 31 March 2015.

Note 2: Subclause 2(c) was added to this proposed amendment as a result of condition 2 of the Gateway determination dated 19 February 2016.

Item 1.11	
Description	Insert additional controls relating to <i>bed and breakfast accommodation</i>
Proposed Amendment	<p>Insert the following specific controls in Clause 5.4 sub-clause (1) <i>Bed and Breakfast accommodation</i>:</p> <p><i>The development must:</i></p> <ul style="list-style-type: none"> (a) <i>be contained within an existing dwelling house, and</i> (b) <i>consist of not more than 4 guest bedrooms, and</i> (c) <i>have at least 1 guest bathroom, and</i> (d) <i>have a fire extinguisher and fire blanket in the kitchen, and</i> (e) <i>have at least 1 off-road car parking space per guest bedroom, and</i> (f) <i>not display any advertisement on the premises (other than a notice or sign indicating the name and occupation of the resident), and</i> (g) <i>if the dwelling house is subject to the <u>Strata Schemes Management Act 1996</u> or the <u>Community Land Management Act 1989</u> prior approval of the owners corporation, or the community, precinct or neighbourhood association must be obtained, and</i> (h) <i>comply with relevant provisions of Planning for Bush Fire Protection 2006, NSW Rural Fire Service.</i> <p><i>Note. Separate development consent may be required for the removal of trees or vegetation associated with establishing Asset Protection Zones under Planning for Bush Fire Protection 2006</i></p>
<p>Explanation:</p> <p>LEP 2012 currently permits <i>bed and breakfast accommodation</i> without consent. Recent changes to <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> has resulted in <i>bed and breakfast accommodation</i> being moved from exempt development to complying development. This has resulted in an inconsistency between the SEPP and LEP 2012.</p> <p>In order to ensure that <i>bed and breakfast accommodation</i> under the LEP is consistent with the SEPP controls it is proposed that a new clause be inserted in LEP 2012 specifying requirements for this type of development.</p>	

Item 1.12	
Description	Amend Clause 6.10 Certain development on Lot 1, DP 827148, Richmond Road, Clarendon
Proposed Amendment	Amend Clause 6.10 to refer to “Hawkesbury Valley Way” instead of “Richmond Road”
Explanation: The road name has changed since drafting of LEP 2012.	

Item 1.13	
Description	Amend Clause 6.11 Residential accommodation at Johnston and New Streets, Windsor
Proposed Amendment	Amend Clause 6.11 sub-clause (2) to refer to 25 Johnston Street, Windsor instead of 23-27 Johnston Street, Windsor
Explanation: The property address has changed since the drafting of LEP 2012.	

Item 1.14	
Description	Amend property description of Item 11 in Schedule 1 Additional Permitted Uses
Proposed Amendment	Amend property description in Item 11 to Lots 11 and 12, DP 1184975, 739 – 741 George Street, South Windsor.
Explanation: Property description has changed since the drafting of LEP 2012.	

Item 1.15	
Description	Amend listings in Schedule 4 Classification and reclassification of public land
Proposed Amendment	<p>Change street name for the following lands from “West Market Street” to “East Market Street”.</p> <p>Lot 18, DP 236567 - 11 East Market Street, Richmond</p> <p>Lot 17, DP 236567 - 11A East Market Street, Richmond</p> <p>Lot 2, DP 561996 - 11B East Market Street, Richmond</p> <p>Lot 15, DP 236567 - 11C East Market Street, Richmond</p> <p>Lot 12, DP 236567 - 11D East Market Street, Richmond</p> <p>Lot 11, DP 236567 - 11E East Market Street, Richmond</p> <p>Lot 10, DP 236567 - 11F East Market Street, Richmond</p> <p>Lot 9, DP 236567 - 11G East Market Street, Richmond</p> <p>Lot 14, DP 236567 - 11H East Market Street, Richmond</p> <p>Lot 13, DP 236567 - 11I East Market Street, Richmond</p>
<p>Explanation:</p> <p>The current property descriptions refer to the incorrect street name.</p>	

Item 1.16	
Description	Amend heritage item listings in Schedule 5 Environmental heritage
Proposed Amendment	Each proposed amendment is identified in the following items 1.16(a) to 1.16(n)
Explanation: A number of changes are required to Schedule 5 of LEP 2012 to correct and update heritage item numbers, descriptions, addresses and heritage significance.	

Item 1.16 (a)	
Description	Delete listing of item i24 due to fire damage and demolition of residence
Proposed Amendment	Delete item i24 being “The Pines” (residence and trees) at Lot 21, DP 659030, 149 Edwards Road, Richmond Lowlands
<p>Explanation:</p> <p>The heritage significance of this item has been lost due to fire damage.</p> <p>In October 2010 Council issued a demolition order for the fire damaged residence. Prior to issuing the demolition order the matter was referred to the NSW Office of Environment and Heritage where no objection was raised to the demolition of the building.</p> <p>An assessment into the heritage significance of the site has been undertaken by Council's Heritage Advisor and it has been determined that the heritage significance of the building and surrounding trees has been lost due to extensive fire damage.</p>	

Item 1.16 (b)	
Description	Amend property address of item i292
Proposed Amendment	Amend property address of item i292 to: <i>Lot 1, DP 1180284, 26a Buckingham Street, Pitt Town.</i>
Explanation: The property description and address of item 292 is currently shown as Lot 4, DP 746764, 26 Buckingham Street, Pitt Town. Lot 4, DP 746764 was subdivided in 2014 and this has resulted in the heritage listed slab barn being located solely on the newly created Lot 1, DP 1180284.	

Item 1.16 (c)	
Description	Amend item name of item i513
Proposed Amendment	Amend the item name of item i513 to: <i>Main hospital block, brick fence and Ashlar morgue building.</i>
Explanation During the drafting of LEP 2012 the item name was shown as to <i>Ashlar Morgue Building</i> and reference to the <i>main hospital block</i> and <i>brick fence</i> was not included. It is proposed that the description be amended to be consistent with the previous description in LEP 1989 to ensure all significant parts of the local listing are identified.	

Item 1.16 (d)	
Description	Amend item i0091 to be consistent with State Heritage Register listing number i00991
Proposed Amendment	Amend item number <i>i0091</i> to <i>i00991</i>
Explanation: The item number for Old Great North Road, St Albans is incorrectly shown as i0091. The correct item number is the State Heritage Register item number i00991.	

Item 1.16 (e)	
Description	Amend property address of part of item i00126
Proposed Amendment	Amend property address of part item i00126, <i>3 Old Bridge Road Windsor</i> to <i>3 Old Bridge Street, Windsor</i>
Explanation: The address for item i00126 Public Reserve is shown as 3 Old Bridge Road, Windsor. The correct address is 3 Old Bridge Street, Windsor.	

Item 1.16 (f)	
Description	Amend significance of item i00005
Proposed Amendment	Amend significance of item i00005 from <i>Local</i> to <i>State</i>
Explanation: State Heritage Register listed item i00005, Lot 1, DP 745036, 5 Thompson Square is incorrectly shown as an item of “Local” significance.	

Item 1.16 (g)	
Description	Amend street address of item i00045 to be consistent with State heritage listing
Proposed Amendment	Delete reference to <i>Lot 50 DP 1039235, 128 Windsor Street Richmond</i> from State Heritage Register listed item i00045
Explanation: State Heritage Register listing i00045 does not apply to Lot 50, DP 1039235, 128 Windsor Street, Richmond. This property contains a modern supermarket. The State Heritage Register item is located wholly on Lot 21, DP 713157, 126 Windsor Street.	

Item 1.16 (h)	
Description	Amend item name of item i00598 to be consistent with State Heritage Register listing description
Proposed Amendment	Amend the item name of i00598 “Stannix Park”, Lot 11, DP 789975, 103 Stannix Park Lane to: <i>Stannix Park House, cattle tanks and site</i>
Explanation: This amendment is to ensure consistency between the State Heritage Register item name and LEP item name.	

Item 1.16 (i)	
Description	Delete reference to <i>Section 10</i> in property description of item i01018
Proposed Amendment	Delete reference to <i>Section 10</i> in property description of item i01018
Explanation: State Heritage Register listed item is located on Lot 7017, DP 1030415 and Lot 11, DP 759096.	

Item 1.16 (j)	
Description	Amend significance of item i01836
Proposed Amendment	Change significance of item i01836 to <i>Part Local and Part State</i>
Explanation: The State Heritage Register listing only applies to part of Lot 1, DP 771362, 43 Macquarie Road, Wilberforce. In order to ensure consistency between the State Heritage Register and LEP 2012 it is proposed to change significance of item i01836 to <i>Part Local and Part State</i> .	

Item 1.16 (k)	
Description	Amend significance of item i01837
Proposed Amendment	Change significance of item i01837 to <i>Part Local and Part State</i>
Explanation: The State Heritage Listing only applies to part of 39–55 Clergy Road, Wilberforce. In order to ensure consistency between the State Heritage Register listing and LEP 2012 it is proposed to change significance of item i01836 to <i>Part Local and Part State</i>	

Item 1.16 (I)	
Description	Insert State Heritage Register listed item i01817 “Scheyville National Park”
Proposed Amendment	Insert State Heritage Register listed item i01817 “Scheyville National Park”
Explanation: The Scheyville National Park was listed on the State Heritage Register on 9 April 2010. In order to ensure consistency between the State Heritage Register and LEP 2012 it is proposed include this item in Schedule 5.	

Item 1.16 (m)	
Description	Amend property address of item i435.
Proposed Amendment	Amend property address of item i435, to refer to <i>Lot 571, DP 1057735, 252 Wollombi Road, St Albans</i> .
<p>Explanation:</p> <p>Heritage item i435 (“The Glen” Homestead and “Governor Bailey’s” burial ground) is listed as being located on Lots 53 and 54, DP 740571, 238–250A Wollombi Road. A search into the location of this item has found that the remains of the homestead and the burial ground are located on Lot 571, DP 1057735, 252 Wollombi Road.</p> <p>It is proposed that the schedule be amended to refer to the correct property.</p> <p>This amendment has been proposed following a site inspection of the property after the general amendment planning proposal was presented to Council. The proposed amendment does not change the intent of changes adopted by Council at the Ordinary Meeting of 31 March 2015 and seeks to correct an error in Schedule 5 of the LEP.</p>	

Item 1.16 (n)	
Description	Amend property description for item i515
Proposed Amendment	Amend Deposited Plan number for item i515 from <i>DP 153901</i> to <i>DP 1153901</i>
Explanation: The deposited plan number for item i515, 1033 Grose Vale Road, Kurrajong is shown as Lot 1, DP 153901. The correct DP reference is 1153901. This change has been proposed following a review of LEP 2012 after the general amendment planning proposal was presented to Council. The proposed amendment does not change the intent of changes adopted by Council at the Ordinary Meeting of 31 March 2015 and seeks to correct an error in Schedule 5 of the LEP.	

Item 1.17	
Description	Deleted due to Gateway determination 19 February 2016
Proposed Amendment	
Explanation:	

Item 1.18	
Description	Insert a local provision for temporary events on public land
Proposed Amendment	Insert a clause which permits temporary events such as exhibitions, meetings, concerts on public reserves and roads without development consent provided that the organiser obtains the appropriate permission in accordance with Council's operational requirements.
Explanation: Clause 2.8 of LEP 2012 currently specifies that development consent is required for all temporary uses of all land. In order to reduce the need for development applications to be lodged for minor temporary events on Council owned or managed land it is proposed that a new clause be included in LEP 2012 which allows temporary events on public land without consent provided it is undertaken in accordance with Council's relevant Plan of Management. This would reflect previous provisions of LEP 1989.	

Item 1.19	
Description	Insert <i>storage structures</i> into Schedule 2 Exempt development
Proposed Amendment	<p>Insert the following in Schedule 2 Exempt development</p> <p>Storage Structures</p> <p>(1) <i>The standards specified for this development are that the development:</i></p> <ul style="list-style-type: none"> (a) <i>must not be located in a residential zone, and</i> (b) <i>the cumulative total of all storage structures on the land shall not exceed 170m², and</i> (c) <i>must not have a maximum roof height greater than 5m above ground level (existing), and</i> (d) <i>must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent, and</i> (e) <i>must not involve cut or fill of more than 600mm below or above ground level (existing), and</i> (f) <i>must not involve the importation of fill to the site, and</i> (g) <i>must be used of the storage of the property of the owners and/or occupiers of the land and not be used for commercial or industrial purposes, and</i> (h) <i>must be a Class 10 building, not be habitable and comply with any deemed-to-satisfy provisions of the National Construction Code - Building Code of Australia, and</i> (i) <i>must be located behind the building line of any road frontage, and</i> (j) <i>must not be closer than 10m to a side or rear adjoining boundary, and</i> (k) <i>must be constructed or installed so that roofwater is disposed of without causing a nuisance to adjoining owners, and</i> (l) <i>must not be located on a property containing a heritage item, and</i> (m) <i>be located so that it does not reduce vehicular access to, or parking or loading or unloading on, or from, the land, and</i> (n) <i>must be coloured in recessive colours sympathetic to the existing natural landscape and built form, and</i> (o) <i>if the development is a shipping container, there must not be more than 2 shipping containers on the land, and</i> (p) <i>if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material.</i>
<p>Explanation:</p> <p>LEP 1989 previously included the definition of <i>rural shed</i> which allowed Council to approve buildings and structures for the storage of property regardless of whether the land was vacant or built upon.</p> <p>This definition was not carried over to LEP 2012 and as a result Council can now only approve buildings and structures for the storage of property that are ancillary to an existing</p>	

Item 1.19

development.

The removal of the *rural shed* land use has created difficulty in considering the erection of buildings and structures for the storage of property on vacant land. This is particularly apparent in rural and environmental areas. Furthermore, whilst *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* allows for certain types of garden sheds to be exempt development, the area and height of structures required by property owners/occupiers is typically greater than that permitted by the SEPP.


In order to reintroduce Council's ability to allow these structures it is proposed that "*storage structures*" be permitted as exempt development in LEP 2012.

Attachment 2

Schedule of Mapping Amendments to Hawkesbury LEP 2012

Map Amendments	
Item No.	Description of Amendment
2.1 (a) - (k)	Heritage Map amendments
2.2	Amend LEP maps to resolve inconsistency between Land Reservation Acquisition Map 008DB and Land Zoning Map 008DB
2.3	Amend the map legend and correct the reference symbols on Lot Size Map
2.4	Amend minimum lot sizes within Wilberforce township
2.5	Amend Land Zoning Map for "Pound Paddock", Richmond
2.6	Amend LEP maps relating to Lot 16, DP 1205408, 916 Settlers Road, Central Macdonald

Item 2.1	
Description	Heritage Map amendments
Proposed Amendment	Each proposed amendment is identified in the following items 2.1(a) to 2.1(k).
Explanation: A number of amendments are required to the heritage map sheets in respect to incorrect heritage item numbering or incorrectly identified properties. Changes are also required to ensure that the maps are consistent with the written instrument and State Heritage Register items.	

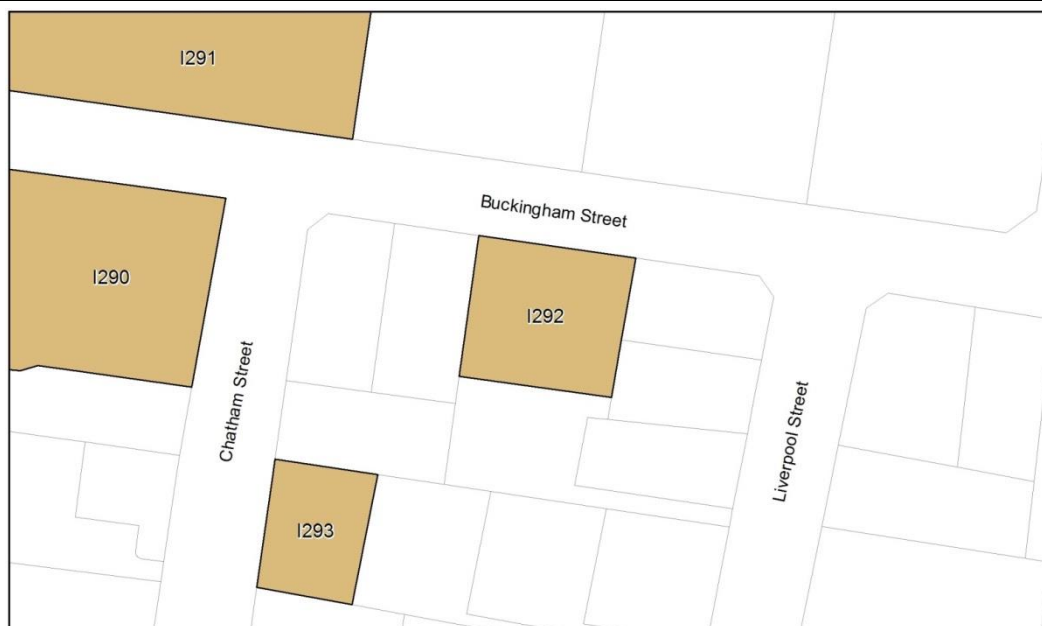
Item 2.1 (a) – Heritage Map amendment	
Affected Property	Lot 1, DP 1180284, 26A Buckingham Street, Pitt Town
Heritage Item Number and Name	i292 - Slab barn
	
Proposed Amendment	Amend Heritage Map sheet HER_008C to reflect recent subdivision
<p>Explanation:</p> <p>The original Lot 4, DP 746764 was subdivided in 2014 and resulted in the heritage listed slab barn being located on newly created Lot 1, DP 1180284.</p>	

Item 2.1 (a) - Heritage Map amendment


Existing Heritage Map




Proposed Heritage Map



Heritage (HER)

 Item - General

Item 2.1 (b) – Heritage Map amendment	
Affected Property	Lot 1, DP 771362, 43 Macquarie Road, Wilberforce
Heritage Item Number and Name	i01836 - St John's Anglican Church and schoolhouse
	
Proposed Amendment	Amend Heritage Map sheet HER_008C to show item i385 as i01836
Explanation: HER_008C incorrectly shows item i01836 as i385	

Item 2.1 (b) - Heritage Map amendment


Existing Heritage Map



Proposed Heritage Map



Heritage (HER)
 Item - General

Item 2.1 (c) – Heritage Map amendment	
Affected Property	Lots 7015 and 7016, DP 1032360; land adjoining and to the south west of Lot 7016, DP 1032360; 39–55 Clergy Road Wilberforce
Heritage Item Number and Name	i01837 - St John's General Cemetery (former Anglican Cemetery)
	
Proposed Amendment	Amend Heritage Map sheet HER_008C to show item i387 as i01837.
Explanation: HER_008C incorrectly shows item i01837 as i387	

Item 2.1 (c) - Heritage Map amendment

Existing Heritage Map




Proposed Heritage Map




Heritage (HER)
 Item - General

Item 2.1 (d) – Heritage Map amendment	
Affected Property	Lot 50, DP1 039235, 128 Windsor Street Richmond
Heritage Item Number and Name	i00045 - House
	
Proposed Amendment	Delete Lot 50, DP 1039235, 128 Windsor Street Richmond from HER_008DA map
<p>Explanation:</p> <p>State Heritage Register listing i00045 does not apply to Lot 50, DP 1039235, 128 Windsor Street, Richmond shown above. This property contains a modern supermarket with the State Heritage Register item being located wholly on Lot 21, DP 713157, 126 Windsor Street, Richmond.</p>	



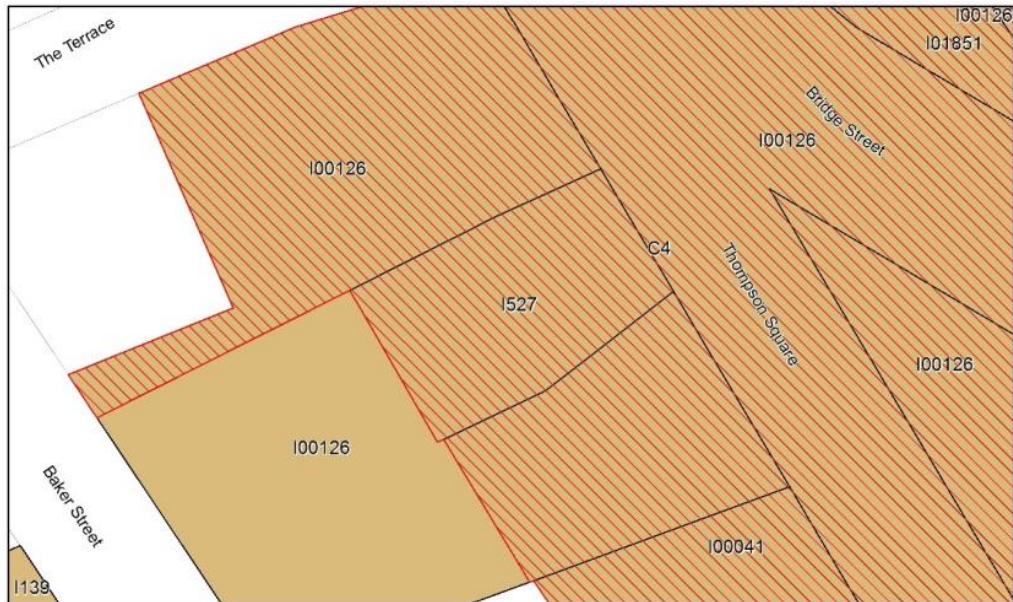
Item 2.1 (e) – Heritage Map amendment	
Affected Property	Lot 1, DP 800664, 25 Johnston Street Windsor
Heritage Item Number and Name	i00075 - House
	
Proposed Amendment	Amend Heritage Map sheet HER_008DB to show item i00598 as i00075
<p>Explanation:</p> <p>HER_008DB incorrectly shows item i00075 as i00598</p>	



Item 2.1 (f) – Heritage Map amendment	
Affected Property	Lot 1, DP 745036, 5 Thompson Square Windsor
Heritage Item Number and Number	i00005 - House
	
Proposed Amendment	Amend Heritage Map sheet HER_008DB to show item i527 as i00005
<p>Explanation:</p> <p>HER_008DB incorrectly shows i00005 as i527</p>	

Item 2.1 (f) - Heritage Map amendment



Existing Heritage Map




Proposed Heritage Map



Heritage (HER)

-  Conservation Area - General
-  Item - General

Item 2.1 (g) – Heritage Map amendment	
Affected Property	Lot 7017, DP 1030415 and Lot 11, DP 759096, 32 Bridge Street Windsor
Heritage Item Number and Name	i01018 - Stables at rear of police station
	
Proposed Amendment	Amend Heritage Map sheet HER_008DB to show item i149 as i01018
<p>Explanation:</p> <p>HER_008DB incorrectly shows i01018 as i149</p>	

Item 2.1 (g) - Heritage Map amendment



Existing Heritage Map




Proposed Heritage Map



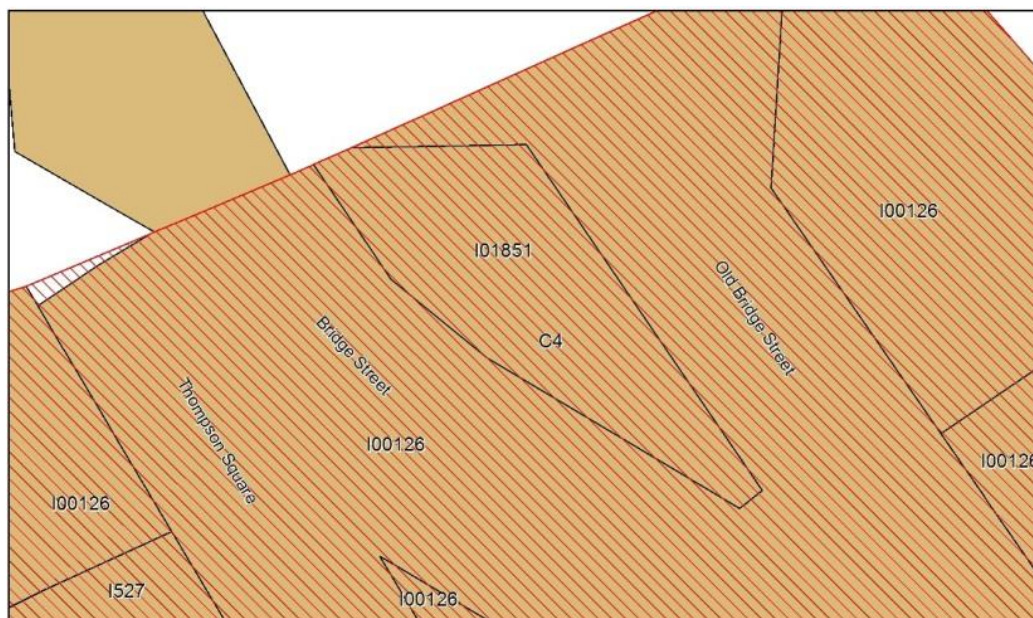
Heritage (HER)

-  Conservation Area - General
-  Item - General

Item 2.1 (h) – Heritage Map amendment	
Affected Property	Lot 345, DP 752061, 3 Old Bridge Street, Windsor
Heritage Item Number and Name	Part of i00126 - Public reserve
	
Proposed Amendment	Amend Heritage Map sheet HER_008DB to show item i01851 as i00126
Explanation: HER_008DB incorrectly shows i00126 as i01851	

Item 2.1 (h) - Heritage Map amendment



Existing Heritage Map




Proposed Heritage Map



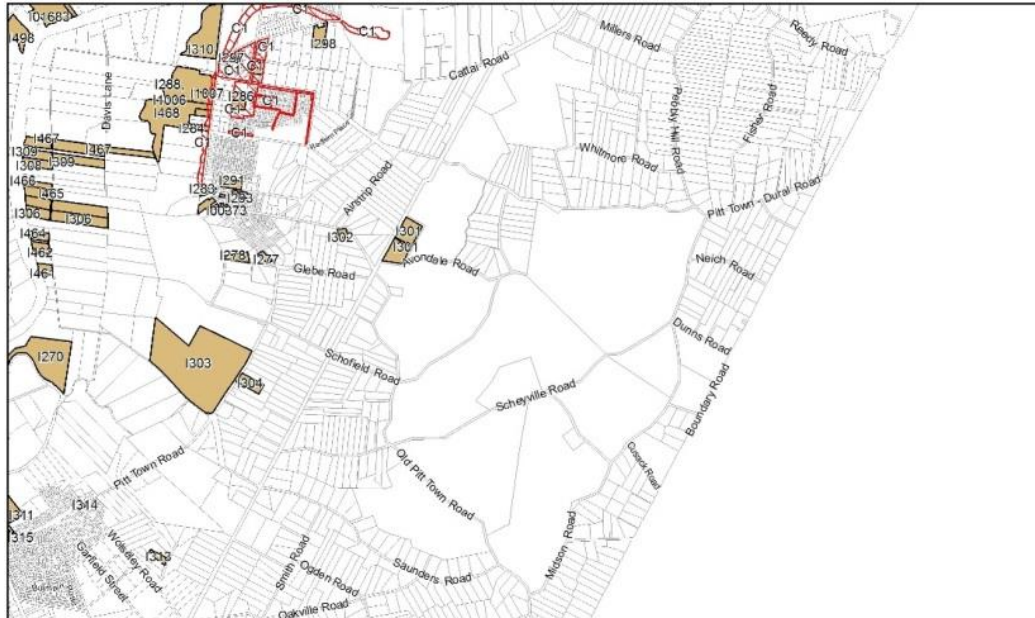
Heritage (HER)

-  Conservation Area - General
-  Item - General

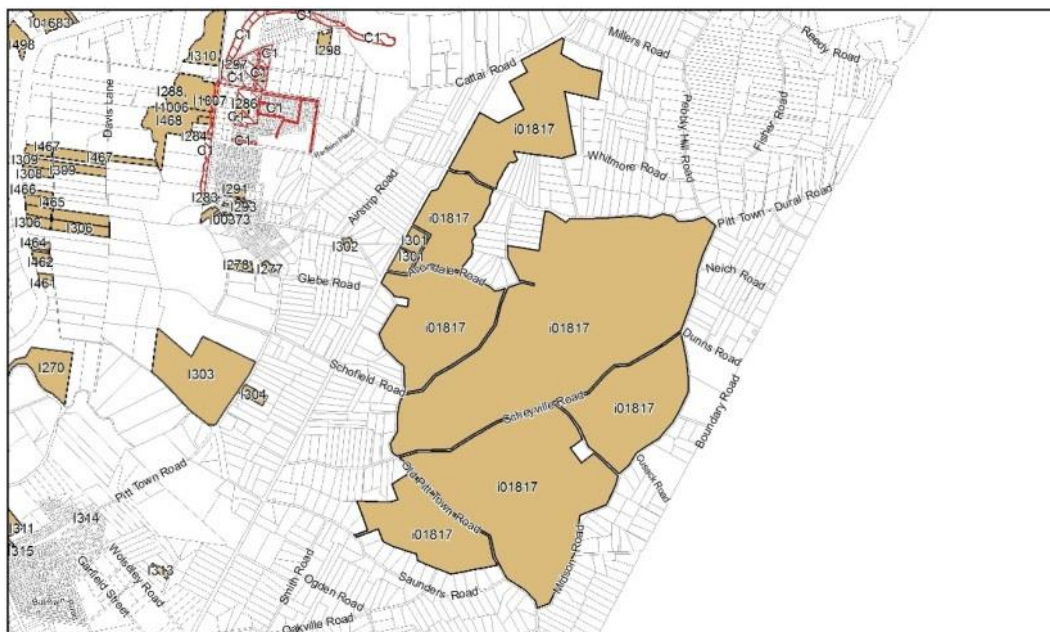
Item 2.1 (i) – Heritage Map amendment	
Affected Property	Scheyville National Park
Heritage Item Number and Name	i01817 - Scheyville National Park
	
Proposed Amendment	Insert State Heritage Register listed Scheyville National Park on maps HER_0013, HER_008DB and HER_008C
<p>Explanation:</p> <p>The Scheyville National Park was listed on the State Heritage Register on 9 April 2010. In order to ensure consistency between the State Heritage Register and LEP 2012 it is proposed include this item in the maps.</p>	


Item 2.1 (i) - Heritage Map amendment

Existing Heritage Map



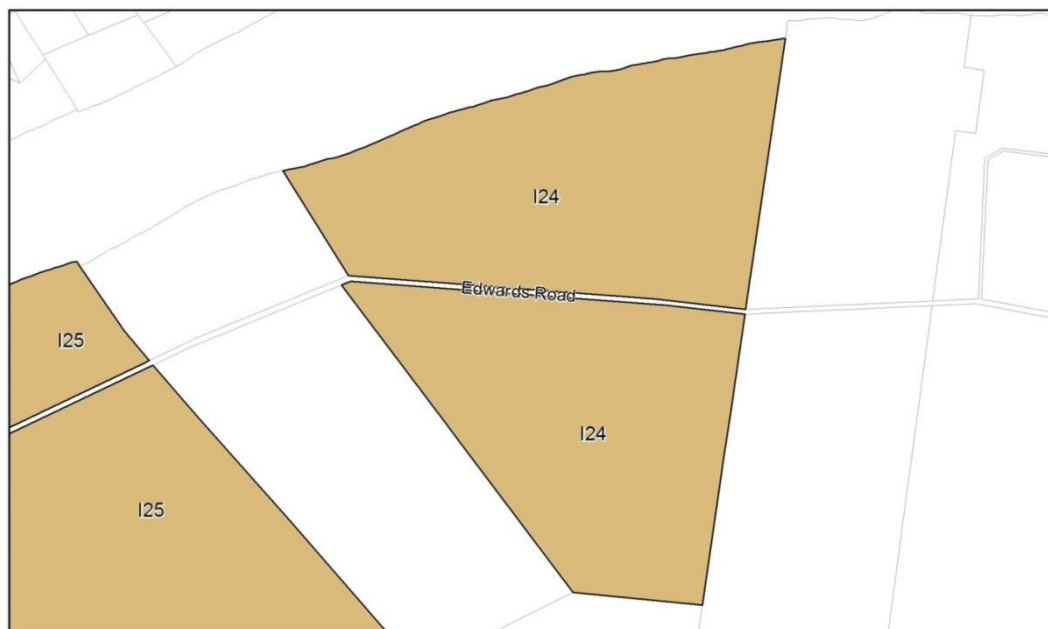
Proposed Heritage Map



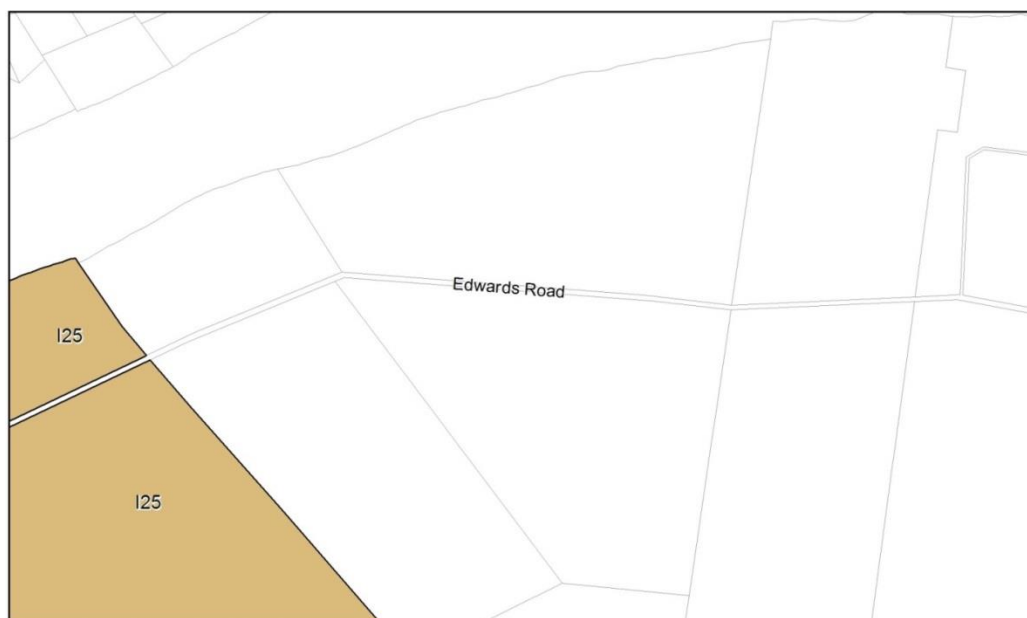
Item 2.1 (j) – Heritage Map amendment	
Affected Property	Lot 21, DP 659030, 149 Edwards Road, Richmond Lowlands
Heritage Item Number and Name	i24 - "The Pines" (residence and trees)
	
Proposed Amendment	Delete item i24 from sheet HER_008C
<p>Explanation:</p> <p>The heritage significance of this item has been lost due to fire damage.</p> <p>In October 2010 Council issued a demolition order for the fire damaged residence. Prior to issuing the demolition order the matter was referred to the NSW Office of Environment and Heritage where no objection was raised to the demolition of the building.</p> <p>An assessment into the heritage significance of the site has been undertaken by Council's Heritage Advisor and it has been determined that the heritage significance of the building and surrounding trees has been lost due to extensive fire damage.</p>	

Item 2.1 (j) - Heritage Map amendment

Existing Heritage Map



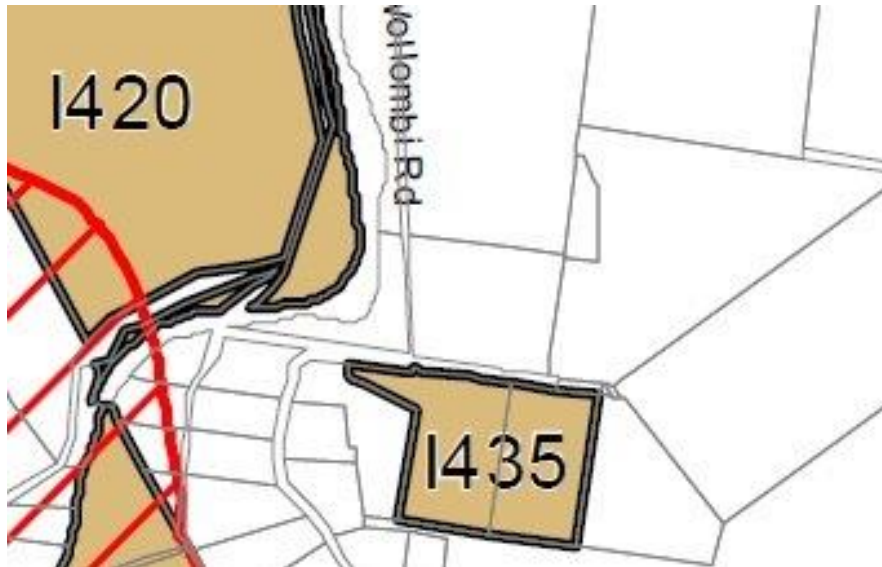
Proposed Heritage Map



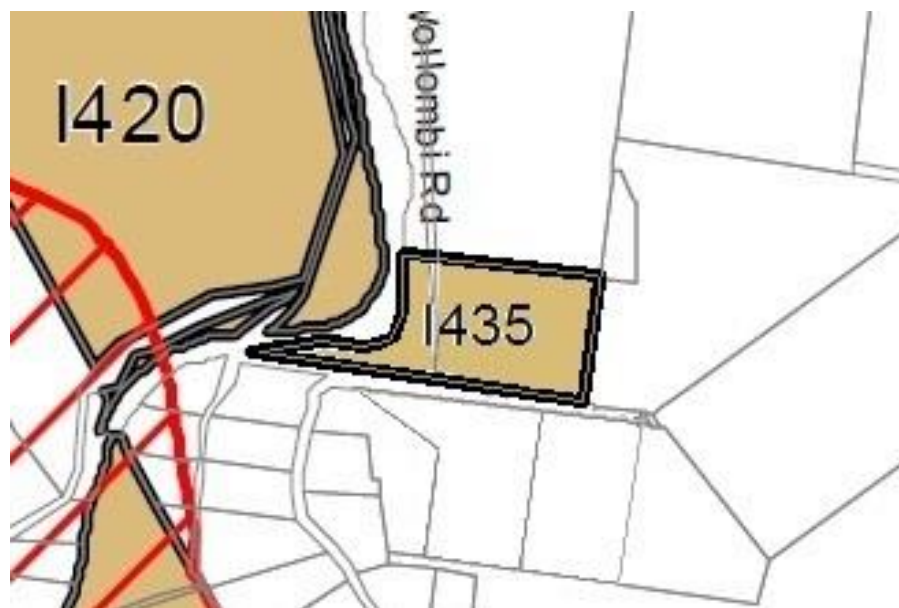
Heritage (HER)
 Item - General

Item 2.1 (j) - Heritage Map amendment



Existing Heritage Map




Proposed Heritage Map



Heritage (HER)

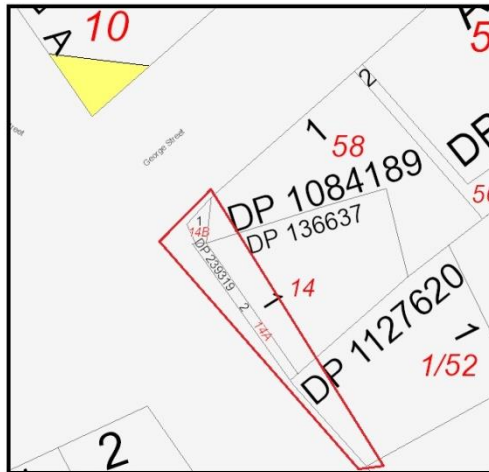
-  Conservation Area - General
-  Item - General

Item 2.2	
Description	Amend LEP maps to resolve inconsistency between Land Reservation Acquisition Map 008DB and Land Zoning Map 008DB
Affected Property	Lot 1, DP 1084189, 58 George Street; Lot 1, DP 239319, 14B Bridge Street; Lot 2, DP 239319, 14A Bridge Street; Lot 1, DP 136637, 14 Bridge Street; Lot 1, DP 1127620, 1/52 George Street; Lot 1, DP 719156, 46A Court Street and Lot 1, DP 196752, 46 Court Street; Windsor
	
Proposed Amendment	Amend LEP maps to resolve inconsistency between Land Reservation Acquisition Map 008DB and Land Zoning Map 008DB
<p>Explanation:</p> <p>At present there is an inconsistency in the land shown on the Land Reservation Map 008DB and land zoned SP2 Infrastructure on the Land Zoning Map 008DB for the above mentioned properties.</p> <p>It is proposed that as part of the planning proposal process Council staff consult with RMS and NSW Heritage Office to resolve these inconsistencies and amend the LEP maps as needed. Maps showing the current inconsistency are shown below.</p>	

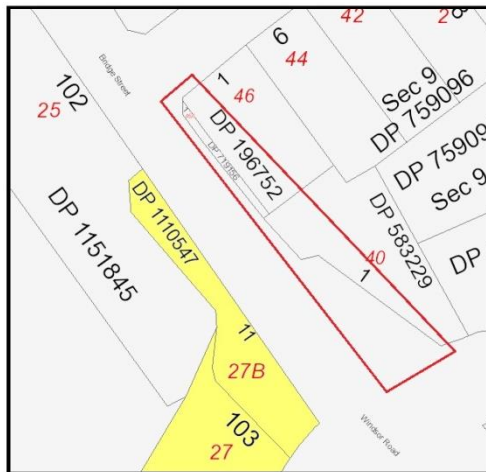
Item 2.2

Existing Land Reservation Acquisition Map

Bridge Street and George Street



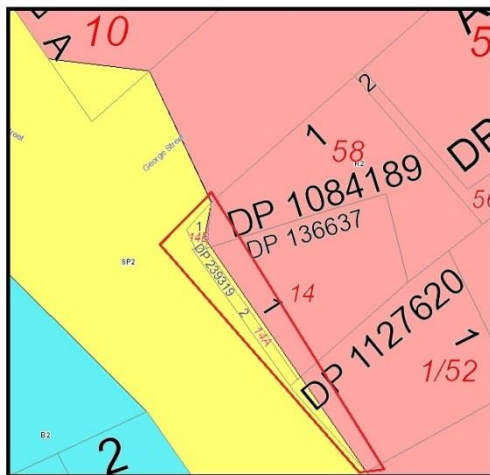
Bridge Street and Court Street



- Classified Road (SP2)
- Local Open Space (RE1)
- Local Road (SP2)

Existing Land Zoning Map

Bridge Street and George Street



Bridge Street and Court Street

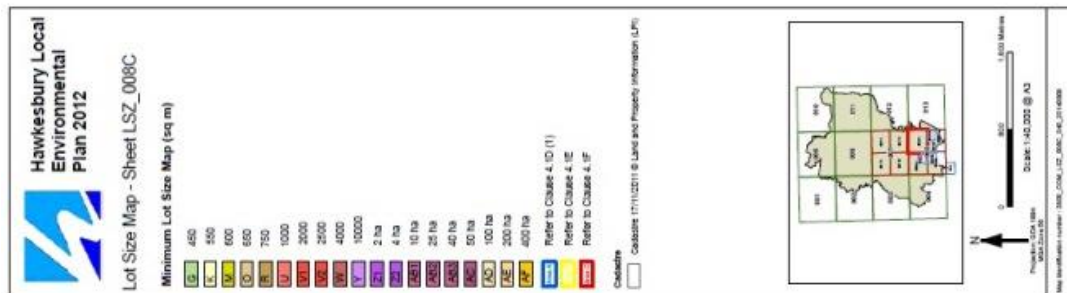
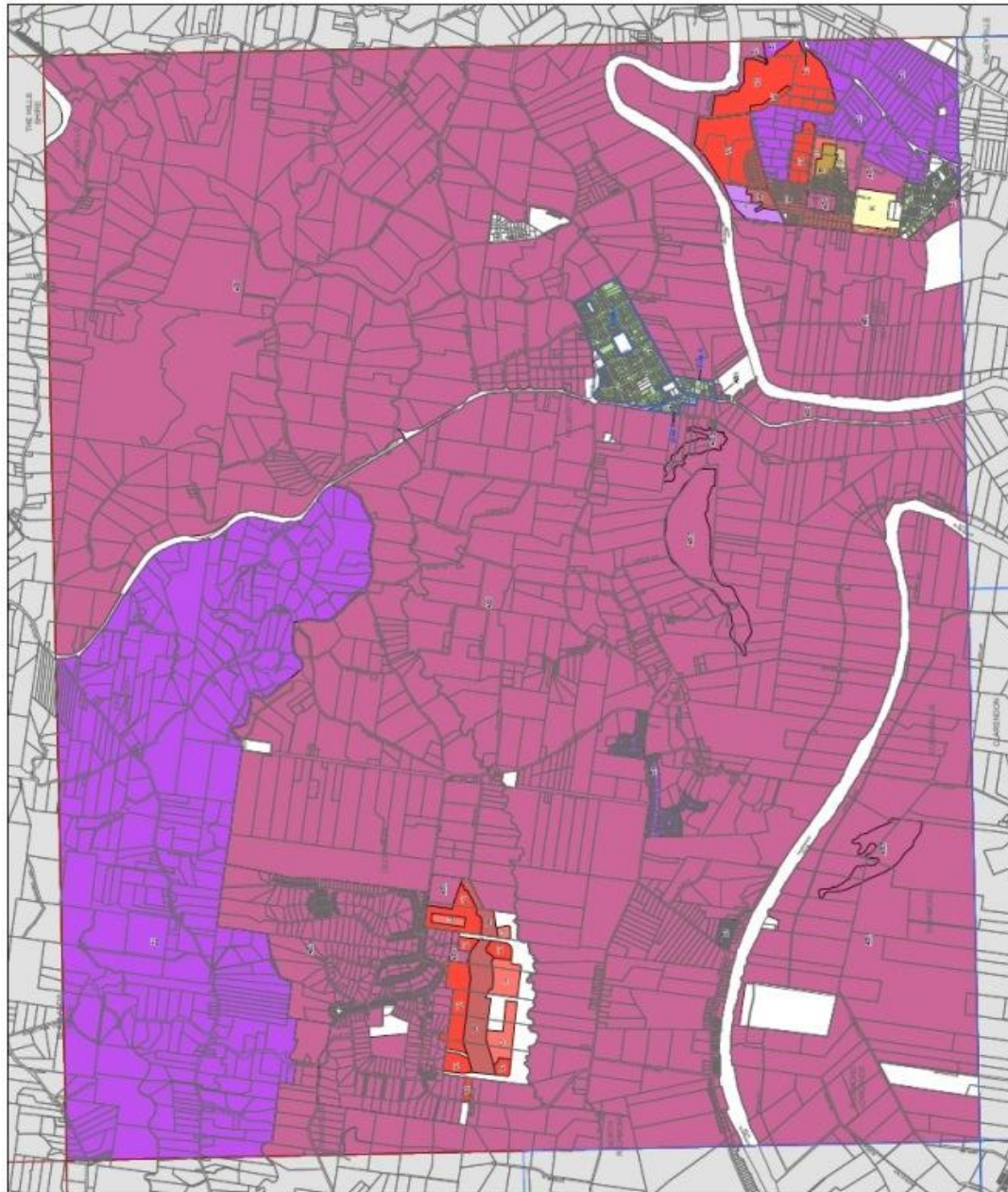


- | Zone | |
|---|-------------------------|
| B2 | Local Centre |
| R2 | Low Density Residential |
| RE1 | Public Recreation |
| RE2 | Private Recreation |
| SP1 | Special Activities |
| SP2 | Infrastructure |

Item 2.3	
Description	Amend the map legend and correct the reference symbols on Lot Size Map
Proposed Amendment	Amend the map legend and correct the reference symbols on Lot Size Map 008C
Explanation: Amendment 5 to LEP 2012 caused changes to the legend and symbols shown on Lot Size Map 008C that are inconsistent with other Lot Size Maps in the LEP. It is proposed that the legend and symbols on map 008C be amended to include the same legend as shown on other lot size maps.	

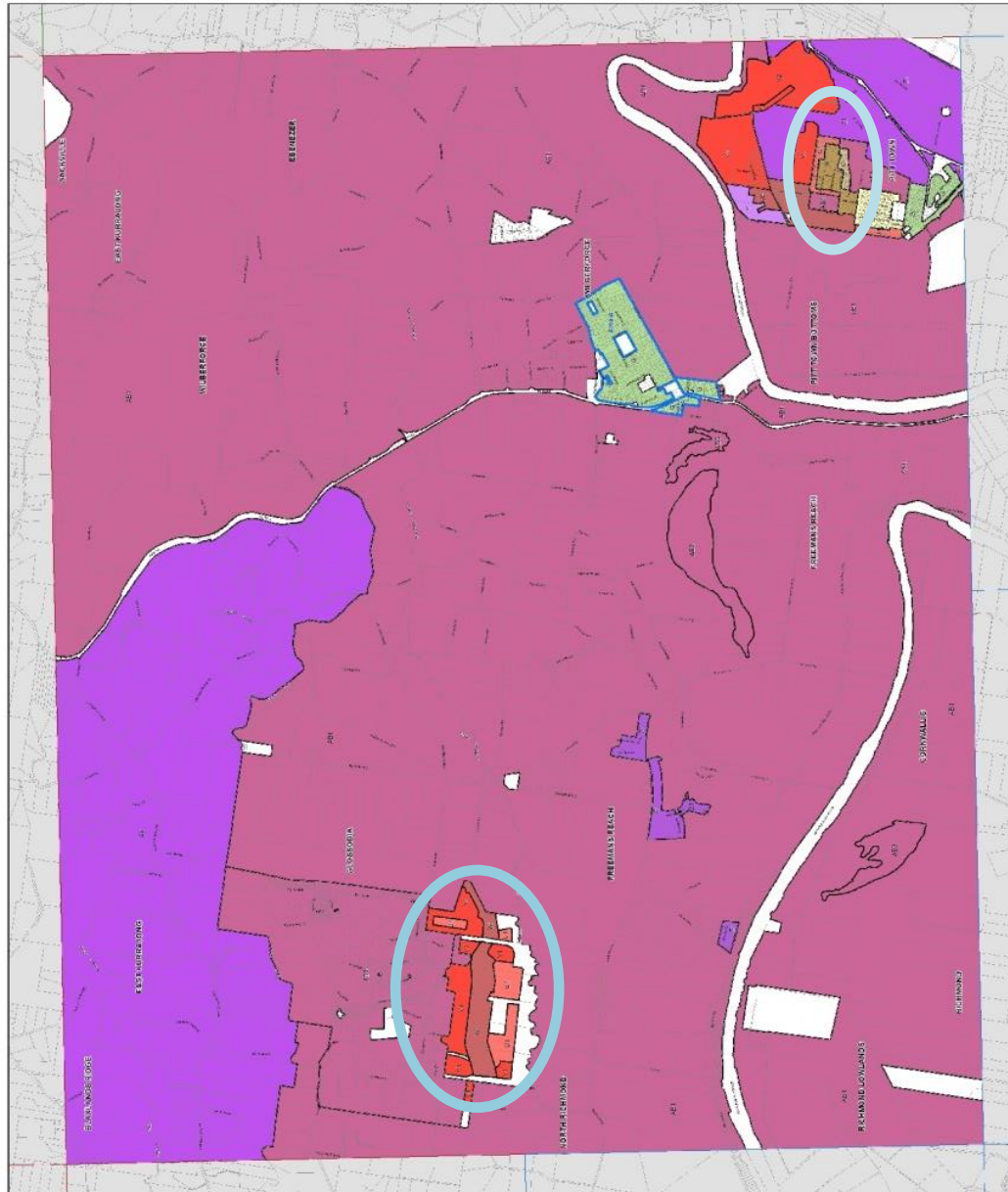
Item 2.3

Existing Lot Size Map



Item 2.3

Proposed Lot Size Map



Hawkesbury Local Environmental Plan 2012
Map - Sheet LSZ_008C

Minimum Lot Size (sq m)



Refer to Clause 4.10(1)
Refer to Clause 4.11
Refer to Clause 4.12

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Scale: 1:10,000 @ A3
North Arrow
Property: LEP003/15
Date: 15/05/2015
Page: 23 of 23

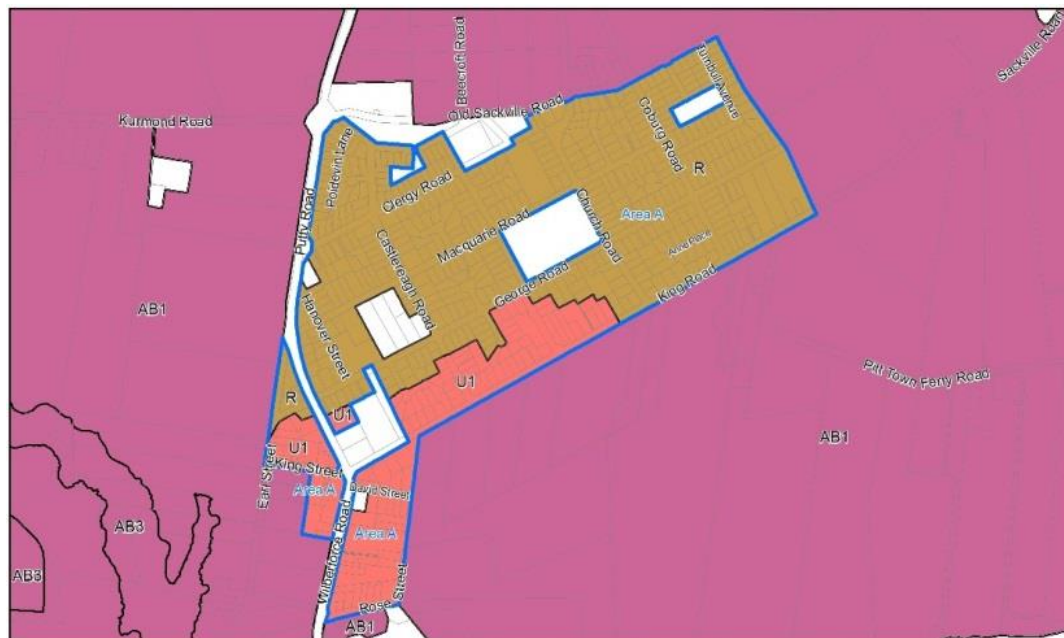
Item 2.4	
Description	Amend minimum lot sizes within Wilberforce township
Proposed Amendment	Amend minimum lot size on Lot Size Map 008C
Explanation: Minimum allotment size map to be amend to comply with Council's <i>Wilberforce Subdivision and Development Policy</i> , adopted 31 July 2012.	

Item 2.4

Existing Lot Size Map




Proposed Lot Size Map



Lot Size (LSZ) (sq m)

G	450	AB1	10 ha
R	750	AB3	40 ha
U1	1000	Area A	Refer to Clause 4.1D (1)

Item 2.5	
Description	Amend Land Zoning Map for “Pound Paddock”, Richmond
Affected Property	“Pound Paddock”, Lot 1, DP 1041524, 46 Bourke Street, Richmond
	
Proposed Amendment	Amend Land Zoning Map 008DA to rezone “Pound Paddock”, Lot 1, DP 1041524, 46 Bourke Street, Richmond from RE2 Private Recreation to RE1 Public Recreation
<p>Explanation:</p> <p>This property is owned by Council and is not used for private recreation purposes.</p>	

Item 2.5

Existing Zone Map

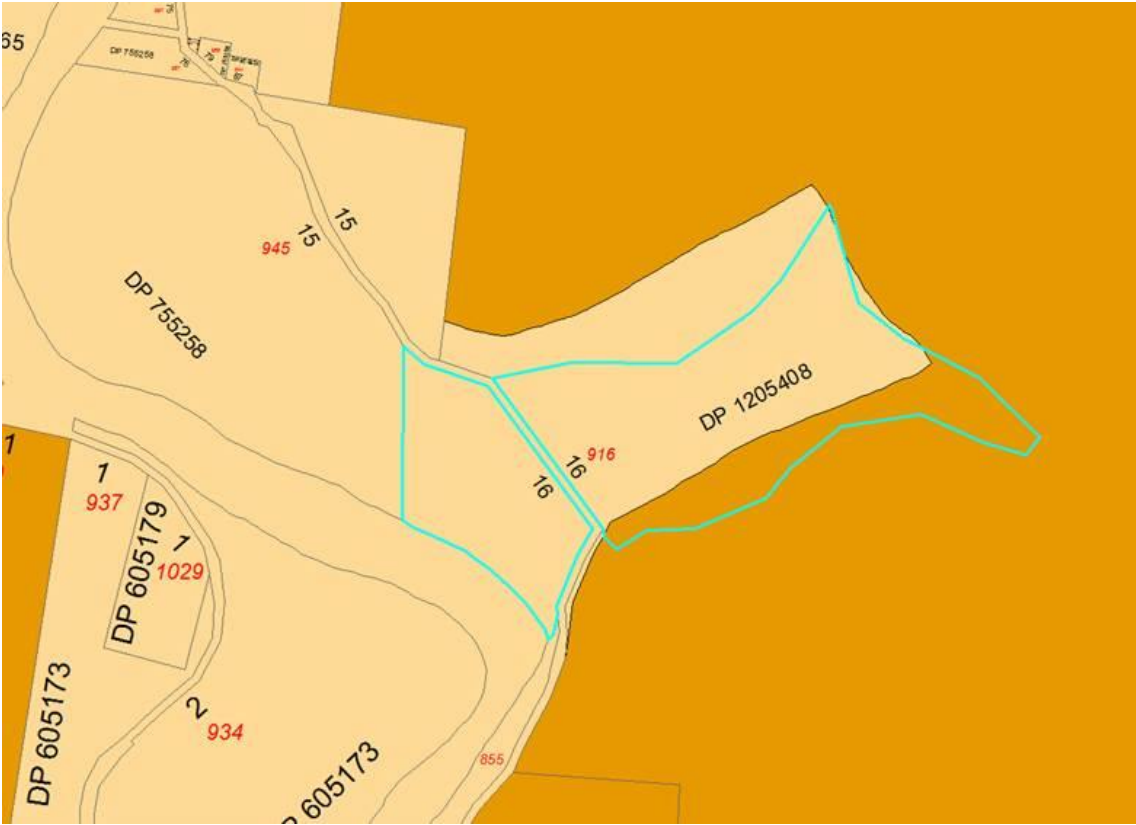


Proposed Zone Map



Land Zoning (LZN)

R3	Medium Density Residential	SP1	Special Activities
RE1	Public Recreation	SP2	Infrastructure
RE2	Private Recreation		

Item 2.6	
Description	Amend LEP maps relating to Lot 16, DP 1205408, 916 Settlers Road, Central Macdonald
Affected Property	Lot 16, DP 1205408, 916 Settlers Road, Central Macdonald
	
Proposed Amendment	Amend Land Zoning Map 012 and associated LEP maps to match cadastral information for Lot 16, DP 1205408, 916 Settlers Road, Central Macdonald
<p>Explanation:</p> <p>Council has received a new deposited plan (DP 1205408) that better describes the boundaries of 916 Settlers Road, Central Macdonald. This property was previously described and registered under Old System title. The redefinition of the property has resulted in part of the land now being zoned E1 National Parks and Nature Reserves and as a result LEP maps may need amendment.</p> <p>It is proposed that as part of the planning proposal process Council staff consult with the Office of Environment and Heritage to resolve these inconsistencies and amend the LEP maps as needed.</p> <p>This change has been proposed following receipt of additional information after the general amendment planning proposal was presented to Council. The proposed amendment does not change the intent of changes adopted by Council at the Ordinary Meeting of 31 March 2015 and seeks to correct an error in the LEP mapping.</p>	

Attachment 3

Schedule of additional land uses

Land Use Table Amendments	
Item No.	Description of Amendment
3.1	Permit <i>function centres</i> with consent in certain zones
3.2	Permit <i>eco-tourist facilities</i> with consent in certain zones
3.3	Deleted due to Gateway determination 19 February 2016
3.4	Permit <i>veterinary hospitals</i> with consent in the RU2 Rural Landscape zone
3.5	Permit <i>community facilities</i> and <i>public administration buildings</i> in the SP2 Infrastructure zone

Item 3.1	
Description	Permit <i>function centres</i> with consent in certain zones
Proposed Amendment	<p>Permit <i>function centres</i> with consent in the following zones:</p> <p>RU1 Primary Production</p> <p>RU2 Rural Landscape</p> <p>RU4 Primary Production Small Lots</p> <p>RU5 Village</p> <p>E4 Environmental Living</p>
<p>Explanation:</p> <p><i>Function centres</i> are not permitted in the RU1, RU2, RU4, RU5 and E4 zones because at the time of drafting LEP 2012 <i>function centres</i> were a new land use within the standard instrument and they were considered to be outside the scope of the like for like conversion of LEP 1989 landuses to LEP 2012 land uses. LEP 2012 does however permit the similar land use of <i>restaurants</i> in the RU1, RU2, RU4, RU5 and E4 zones.</p> <p>Council has become aware of circumstances whereby existing <i>restaurants</i> are being used for hosting functions such as wedding receptions. Due to the above mentioned prohibition Council is not able to consider the use of <i>restaurants</i> for the purposes of hosting functions.</p> <p>In order to resolve this matter it is proposed that <i>function centres</i> be permitted in the RU1, RU2, RU4, RU5 and E4 zones.</p>	

Item 3.2	
Description	Permit <i>eco-tourist facilities</i> with consent in certain zones
Proposed Amendment	<p>Permit <i>eco-tourist facilities</i> with consent in the following zones:</p> <p>RU1 Primary Production</p> <p>RU2 Rural Landscape</p> <p>RU4 Primary Production Small Lots</p> <p>RU5 Village</p> <p>R1 General Residential</p> <p>R2 Low Density Residential</p> <p>R3 Medium Density Residential</p> <p>R5 Large Lot Residential</p> <p>E3 Environmental Management</p> <p>E4 Environmental Living</p>
<p>Explanation:</p> <p>During the preparation of LEP 2012 Council did not have opportunity to consider <i>eco-tourist facilities</i> as this land use was added to the standard instrument after Council forwarded the draft of LEP 2012 to the DP&E for finalisation and gazettal.</p> <p>As a result an anomaly currently exists in the LEP 2012 whereby in the RU1, RU4, RU5, R1, R2, R3, R5, E3 and E4 zones <i>tourist and visitor accommodation</i> is permitted with consent however <i>eco-tourist facilities</i> are prohibited.</p> <p>It is proposed that <i>eco-tourist facilities</i> be made permissible with consent in the above mentioned zones and, due to their likely lesser environmental impact than <i>tourist and visitor accommodation</i>, they also be made permissible with consent in the RU2 zone.</p>	

Item 3.3	
Description	Deleted due to Gateway determination 19 February 2016
Proposed Amendment	
Explanation:	

Item 3.4	
Description	Permit <i>veterinary hospitals</i> with consent in the RU2 Rural Landscape zone
Proposed Amendment	Permit <i>veterinary hospitals</i> in the RU2 Rural Landscape zone
<p>Explanation:</p> <p>LEP 1989 previously permitted <i>veterinary hospitals</i> under the general definition of <i>professional and commercial chambers</i>. The adoption of the standard instrument definitions resulted in activities such as <i>veterinary hospitals</i> being individually defined as opposed to being categorised under the previous definition of <i>professional and commercial chambers</i>.</p> <p><i>Veterinary hospitals</i> are considered to be a typical and appropriate use in rural and environmental zones and compatible with other uses such as <i>animal boarding or training establishments</i> and <i>agricultural</i> uses.</p> <p>It is therefore proposed that <i>veterinary hospitals</i> be permitted with consent in the RU2 zone to be consistent with the permissibility of this land use in the RU1, RU4, RU5, R1, R2, R3, R5, B1, B2, B5, B6, IN1, IN2, E3, E4 zones.</p>	

Item 3.5	
Description	Permit <i>community facilities</i> and <i>public administration buildings</i> in the SP2 Infrastructure zone
Proposed Amendment	Permit <i>community facilities</i> and <i>public administration buildings</i> with consent in the SP2 Infrastructure zone
Explanation: <p>The Land Use Table specifies that development is only permitted in the SP2 zone for the purpose shown on the land zoning map including development that is ordinarily incidental or ancillary to development for that purpose.</p> <p>Council owns and manages a number of properties zoned SP2 Infrastructure that could potentially be used for purposes in addition (but not incidental or ancillary) to the purpose shown on the Land Zoning Map. These potential uses are typically community and public administration type uses.</p>	

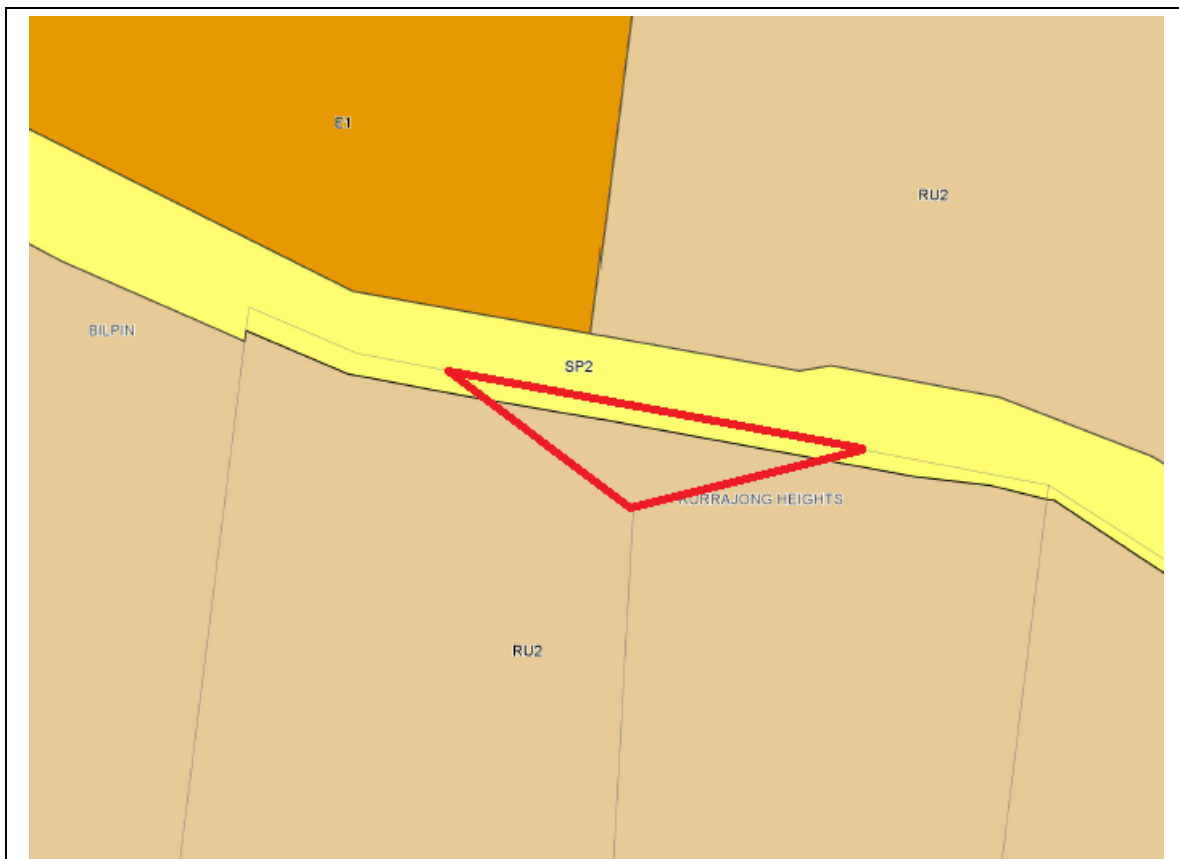
Attachment 4

Site specific reclassification of land

Item 4.1

Description	Amend Schedule 4 Classification and reclassification of public land
Affected Property	Land known as Lots 2 and 3 in DP 582878, 1913 & 1905 Bells Line of Road, Kurrajong Heights.



**Proposed Amendment**

Insert Lots 2 and 3 in DP 582878, 1913 & 1905 Bells Line of Road, Kurrajong Heights in Schedule 4 Classification and reclassification of public land as “operational land”.

Explanation:

This property is in the control of Council and classified as “community land”.

The land is currently part zoned RU2 Rural Landscape and SP2 Infrastructure and is used for a combination of *extensive agriculture* (orcharding) and informal parking/access in association with a *restaurant* at 1917 Bells Line of Road, Kurrajong Heights. In addition the *restaurant* building encroaches onto part of the land subject to reclassification.

In response to certain matters required by the Department of Planning’s LEP Practice Note PN 09-003 *Classification and reclassification of public land through a local environmental plan*, dated 12 June 2009 and the Department of Planning’s *A guide to preparing local environmental plans* the following information is provided.

What is the current and proposed classification of the land?

The land is currently classified as “community” and is proposed to become “operational”.

What is the reason for the planning proposal being prepared and the land being reclassified? What are the merits of the proposal?

DP 582878 (shown at the end of this Attachment) identifies Lots 2 and 3 as intended to be used for future road purposes.

The land is currently part zoned RU2 Rural Landscape and SP2 Infrastructure and is used for a

combination of *extensive agriculture* (orcharding) and informal parking/access in association with a *restaurant* at 1917 Bells Line of Road, Kurrajong Heights. In addition the *restaurant* building encroaches onto part of the land subject to reclassification.

It is considered that Lots 2 and 3 are no longer required for road purposes. Council has no strategic or operational plan to use Lots 2 and 3 for road purposes.

The owners of 1917 Bells Line of Road, Kurrajong Heights have submitted a development application to Council seeking approval to use Lots 2 and 3 for a *restaurant* and ancillary vehicle access and parking.

A merit of the proposed reclassification to “operational” is that it will allow Council the opportunity to consider the above mentioned development application.

What is the nature of Council’s ownership or interest in the land?

It is understood that Council has been the owner of Lots 2 and 3 in DP 582878 since 23 March 1983.

How and when the interest was first acquired?

On 18 March 1970 plans of acquisition were registered under the *Main Roads Act* Section 27E (6), Registered dealing L758309 (shown at the end of this Attachment).

DP 582878 was registered on 19 March 1976 with a notation that *Lots 2 and 3 are intended to be used for future road purposes and there is no objection to their being shown as a road after acquisition by Dept. Main Roads.*

It is understood that on 23 March 1983 Council became the owner of Lots 2 and 3 in DP 582878 under transfer T387144.

Why did Council acquire an interest in the land?

For future widening of the Bells Line of Road by the Department of Main Roads, now known as Roads and Maritime Services.

What is the justification/explanation as to why such interests are being extinguished?

In 2010 verbal advice was received from the then named Roads and Traffic Authority that they had no immediate intentions to acquire the land for road widening purposes. The owner of the land adjoining Lots 2 and 3 has expressed an interest in purchasing these lots. As Council has no need for the land for community purposes reclassifying the land and selling it would relieve Council of any ongoing maintenance issues.

Are there any agreements over the land, if so, what is their duration, terms, controls. Is there an agreement to dispose of the land?

There are no agreements over the land aside from dealing L758309, which may remain on the titles if the land were sold. There are no agreements to dispose of the land.

What is the magnitude of any financial gain or loss from the reclassification and the type(s) of benefit that could arise?

The land is currently zoned RU2 and SP2 and the reclassification will not change these zones. It is currently estimated that the reclassification to operational land might allow Council to sell the land for approximately \$200 per square metre. Given that the adjoining land owners orchard and car park is already on the land it is likely that there will only be one prospective purchaser to sell the land to and this may well lower the achievable market value.

Council expenditure will be saved by the land not being developed for road purposes.

What asset management objectives are being pursued? What is the manner in which they will be achieved and the type of benefits Council wants? How will Council benefit financially?

The reclassification would allow Council to sell land that is no longer required for road purposes and is surplus to Council's needs. It is anticipated that the proceeds from the sale would be spent on infrastructure and/or services within the Hawkesbury local government area.

Is there or has there been an agreement for the sale or lease of the land? If so what are the basic details of any such agreement and, if relevant, when does Council intend to realise its asset?

There is currently no agreement for the sale or leasing of the land to any parties now or any time in the future. Council has only received a request to purchase the land but no negotiations or agreements have been entered into.

How is the reclassification to be exhibited and considered by Council? What is required in plan making under the Environmental Planning and Assessment Act 1979?

The planning proposal will be exhibited in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and *Local Government Act 1993* and respective Regulations as well as the provisions of Department of Planning's LEP Practice Note PN 09-003 *Classification and reclassification of public land through a local environmental plan*, dated 12 June 2009.

A copy of the Department of Planning's LEP Practice Note PN 09-003 *Classification and reclassification of public land through a local environmental plan*, dated 12 June 2009 will be included in the exhibition material as Attachment 9 of this planning proposal. The second column of Attachment 1 of LEP Practice Note PN 09-003 applies to this reclassification. This column also provides a summary of the plan making requirements the *Environmental Planning and Assessment Act 1979*. Further details of the plan making requirements can be found in *Part 3 Environmental Planning Instruments of the Environmental Planning and Assessment Act 1979*.

Following public exhibition, Council will arrange for a public hearing to be held in relation the proposed reclassification in accordance with the provisions of the above mentioned Acts, Regulations and Practice Note.

Council will then consider any submissions made concerning the proposed reclassification and the report of the public hearing.

Council may, at any time, vary its proposals as a consequence of its consideration of any submission or report during community consultation or for any other reason.

If it does so, Council is to forward a revised planning proposal to the Minister for Planning. Further community consultation is not required unless the Minister so directs.

Council may also, at any time, request the Minister for Planning to determine that the planning proposal or a matter within a planning proposal not proceed.

If the planning proposal is to proceed Council and Department of Planning and Environment staff will make arrangements for the drafting of the local environmental plan to give effect to the planning proposal.

The Minister for Planning may, following completion of community consultation:

- (a) make a local environmental plan (with or without variation of the proposals submitted by Council) in the terms the Minister considers appropriate, or
- (b) decide not to make the proposed local environmental plan.

The Minister for Planning may defer the inclusion of a matter in a proposed local environmental plan.

If the Minister for Planning does not make the proposed local environmental plan or defers the inclusion of a matter in a proposed local environmental plan, the Minister may specify which procedures under the *Environmental Planning and Assessment Act 1979* Council must comply with before the matter is reconsidered by the Minister.

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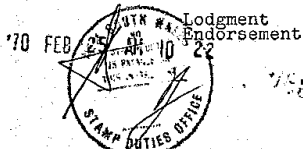
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* L758309

No.....

Fees -

70 FEB 22
Lodgment Endorsement
\$10.00REQUEST TO ENTER NOTIFICATION OF RESTRICTION ON USER -MAIN ROADS ACT, 1924-1967

GEOFFREY CLIFFORD SHELTON
I, ~~JOHN ANTHONY MCCARTNEY~~, Principal Legal Officer, Department of Main Roads, HEREBY CERTIFY that -

- (1) the printed sheet hereunto annexed and marked "A" is a true copy of a Gazette notification published in the Government Gazette of the Fifth..... day of December..... 1969, notifying that a plan of a proposal to cause the alignment of portion of Main Road No. 184 - Bell's Line of Road, between 29M.2000' to 31M.3480' from Mount Victoria, at Bilpin, within the Shire of Cole,..... to be re-aligned pursuant to Division 1 of Part VB of the Main Roads Act, 1924-1967, and to apply the re-alignment method of acquisition to the land affected by such re-alignment was approved by the Governor on the fifteenth..... day of October.....1969;
- (2) notice has been served upon the owners of land affected by the re-alignment and upon the Council of the area; and
- (3) a plans of the re-alignment (Nos. 184, S.308 and 184, S.309.....) have been lodged in the Office of the Registrar General and registered as Deposited Plans. 237512 and 237509 respectively.....

AND HEREBY REQUEST that you enter in the register book a notification of the restrictions on user imposed by Section 27E(6), Main Roads Act, 1924-1967, in respect of the land set out in the annexure hereto marked "B".

IT IS HEREBY CERTIFIED that this instrument is correct for the purposes of the Real Property Act, 1900.

DATED this ..seventeenth..... day of ..February..... 1970.

SIGNED by GEOFFREY CLIFFORD SHELTON
~~JOHN ANTHONY MCCARTNEY~~
Principal Legal Officer,
Department of Main Roads, in the
presence of:

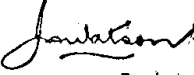
G.O'Connor
J.P.

To: The Registrar General,
SYDNEY.

G.C. Sheldon

Req:R475703 /Doc:DL L758309 /Rev:01-May-1997 /Sts:OK.OK /Pgs:ALL /Prt:06-Apr-2016 09:59 /Seq:2 of 5

Ref: /Src:U

* L758309	
No.	LODGED BY THE DEPARTMENT OF MAIN ROADS
REQUEST TO NOTE	File No. 91-1379
RESTRICTION ON USER.	
Checked by	Particulars entered in Register Book Vol..... Fol..... as per schedule
Passed by S.S.70 S.D.B.	the 18 th day of March.... 19.70 at o'clock in the after.... noon
Signed by	 Registrar General.

Req:R475703 /Doc:DL L758309 /Rev:01-May-1997 /Sts:OK.OK /Pgs:ALL /Prt:06-Apr-2016 09:59 /Seq:3 of 5

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" A "



Fol. 5012

[Published in Government Gazette No. 142 of 5th December, 1969.]

MAIN ROADS ACT, 1924-1967

NOTIFICATION OF APPROVAL OF GOVERNOR TO PLANS OF A PROPOSAL FOR REALIGNMENT UNDER DIVISION 1 OF PART Vb OF THE MAIN ROADS ACT, 1924-1967

Shire of Colo. Main Road No. 184—Bell's Line of Road. Proposed widening between 29m. 2,000' to 31m. 3,480' from Mount Victoria, at Bilpin

IN pursuance of the provisions of section 27e of the Main Roads Act, 1924-1967, The Commissioner for Main Roads who proposes to cause the alignment of parts of Main Road No. 184—Bell's Line of Road between 29m. 2,000' to 31m. 3,480' from Mount Victoria, at Bilpin, within the Shire of Colo. to be realigned pursuant to Division 1 of Part Vb of the Main Roads Act, 1924-1967, and to apply the realignment method of acquisition to the lands affected by such realignment, being the lands described in the Schedule hereto, hereby notifies that plans of the proposal have been approved by His Excellency the Governor, with the advice of the Executive Council, and that such plans (catalogued as 184.S.308 and 184.S.309 in the Department of Main Roads and lodged with the Registrar General's Department on 29th January, 1969, and numbered as Deposited Plans 237512 and 237509 respectively) may be inspected at the Department of Main Roads, and copies of such plans may be inspected at Colo Shire Council Chambers, Wilberforce.

SCHEDULE -

Lots 1, 5, 6, 7, 10, and 11, Deposited Plan 237512.

Lots 1, 2, 4, and 5, Deposited Plan 237509.

Signed and sealed at Sydney, this 19th day of November, one thousand nine hundred and sixty-nine.

I, RUSSELL JOHN STARR THOMAS, The Commissioner for Main Roads, have hereto affixed the Official Seal of The Commissioner for Main Roads, in the presence of:

(L.S.)

R. J. S. THOMAS.

C. W. MANSFIELD, Secretary.

(D.M.R. No. 91-1379)

(6426)

B

V. C. N. Wright, Government Printer, New South Wales—1969

This is the annexure marked "A" referred to in the annexed Request to Enter Notification of Restriction on User dated this twenty-third day of February One thousand nine hundred and seventy.

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2752309

" B "

<u>County</u>	<u>Parish</u>	<u>Reference to Title</u>			<u>Description</u>
		<u>Part</u>	<u>Volume</u>	<u>Folio</u>	
Cook	Wheeny	Part	8424	157	Lot 1, Deposited Plan 237512.
"	"	"	6528	84 P	Lot 5, Deposited Plan 237512.
"	Burralow	"	7183	71	Lot 6, Deposited Plan 237512.
"	"	"	7183	72	Lot 6, Deposited Plan 237512.
"	"	"	6904	95	Lot 7, Deposited Plan 237512.
"	"	"	7586	198 C	Lot 1C, Deposited Plan 237512.
"	"	"	7681	98	Lot 11, Deposited Plan 237512.
"	Wheeny	"	9898	85	Lot 1, Deposited Plan 237509.
"	"	"	7295	150 P	Lot 2, Deposited Plan 237509.
"	Burralow	"	2706	124	Lot 4, Deposited Plan 237509.
"	"	"	5279	185	Lot 5, Deposited Plan 237509.

B

This is the annexure marked "B" referred to in the annexed Request to Enter Notification of Restriction on User dated this twenty-third day of February. One thousand nine hundred and seventy.

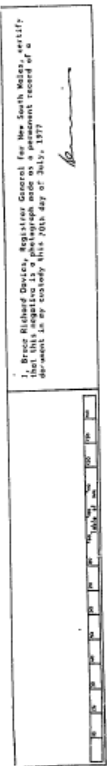
Req:R475703 /Doc:DL L758309 /Rev:01-May-1997 /Sts:OK.OK /Pgs:ALL /Pri:06-Apr-2016 09:59 /Seq:5 of 5

Ref: /Src:U

LODGED BY THE DEPARTMENT OF MAIN ROADS, N.S.W.

FILE NO. 91.379

W²



Attachment 5

Council Report and Resolution, 31 March 2015

ORDINARY MEETING
Meeting Date: 31 March 2015

Item: 41 **CP - Proposed General Amendments to Hawkesbury Local Environment Plan 2012 - (95498, 124414)**

REPORT:

Executive Summary

This purpose of this report is to seek Council's endorsement to prepare a planning proposal to amend Hawkesbury Local Environmental Plan 2012 (LEP 2012).

The proposed amendment is generally procedural as it relates to matters such as updating general wording and referencing; amending the LEP due to provisions of State planning policies; adding certain land uses as permissible development; changes to minimum lot size provisions; site specific rezonings and land reclassifications; and correcting some minor drafting and mapping errors.

It is recommended that Council resolve to prepare a planning proposal and that the resultant planning proposal be forwarded to the Department of Planning & Environment (DP&E) for a gateway determination.

Background

LEP 2012 was gazetted on 21 September 2012 and at the same time repealed Hawkesbury Local Environmental Plan 1989 (LEP 1989). The primary objective in preparing LEP 2012 was to convert the provisions of LEP 1989 into the Department of Planning and Environment's standardised local environmental plan (known as the "standard instrument") without making substantial or significant changes to underlying land use permissibility's or minimum lot size provisions.

However, since the gazettal of LEP 2012 a number of matters have arisen, including the permissibility of certain land uses; Policy for minimum lot sizes within the township of Wilberforce; the interpretation and application of clauses; and minor drafting and mapping errors. In addition, Council has received some requests to make amendments to the LEP.

Proposed Amendments to LEP 2012

The proposed amendments to LEP 2012 are briefly described below. However, the attachments to this report outline the proposed amendments in more detail.

1. Written Instrument Amendments

These amendments primarily relate to the interpretation and application of some clauses. The proposed changes primarily relate to minor wording corrections and changes to development criteria, particularly in respect to exempt development requirements and standard dictionary terminology. In a small number of cases, the intent of clauses previously in LEP 1989 and converted into new wording under the standard instrument approach have become open to alternative interpretation. The intent is to clarify the intended interpretation of those clauses.

2. Mapping Amendments

These amendments include changes to the mapping relating to heritage items, land reserved for acquisition, minimum lot sizes and land zoning. The following headings summarise the proposed changes:

Heritage Map

The heritage map sheets are required to be updated to refer to the correct heritage item numbers and properties that contain a heritage item. Most of the proposed changes relate to updating the identification numbers of current State listed items.

ORDINARY MEETING
Meeting Date: 31 March 2015

Land Reservation Acquisition Map

The Land Reservation Acquisition Map is required to be amended to be consistent with the current Land Zoning Map in respect to a number of properties adjacent to Bridge Street, Windsor. This amendment ensures that the current maps are consistent with the previous LEP 1989. This amendment is not related to the proposed Windsor Bridge development.

Lot Size Map

Changes include correcting minor errors in the legend of map 008C and changing the minimum allotment size map to comply with the requirements of Council's *Wilberforce Subdivision Policy* - adopted 31 July 2012.

Rezoning Amendment

It is proposed that Lot 1 DP 1041524, 46 Bourke Street, Richmond (known as "Pound Paddock") be rezoned from RE2 Private Recreation to RE1 Public Recreation in order to allow for uses more in line with public purposes such as public administration buildings.

3. Adoption of additional Land Uses

Since the gazettal of LEP 2012, Council has received a number of submissions relating to certain definitions in the DP&E's governing standard instrument that were not previously considered by Council.

In particular, interest has been raised with respect to the permissibility of new definitions that were not previously included in LEP 1989, such as *function centres* and *eco-tourist facilities* and Council resolved at the Ordinary meeting of 9 December 2014 to permit *secondary dwellings* and *dual occupancies (detached)* within all rural zones and E3 and E4 environmental zones.

It is proposed that this amendment adopt some of the newly defined land uses included in the standard instrument and change the permissibility of some existing development contained in LEP 2012 to better reflect the existing approved uses in the relevant zones and localities.

4. Site Specific Reclassification

Council has received a request to reclassify two parcels of Council owned land being Lots 2 and 3 in DP582878. The request has been made by the owners of the Tutti Frutti Café at 1917 Bells Line of Road, Kurrajong Heights in order to use this land for vehicular access and car parking.

This request also relates to a current development application (DA0660/08) which Council is unable to determine, as Council is prevented from issuing owner's consent for the proposed use of the land for carparking given that it is classified as "community" land and the applicant proposes to use it for private use.

Reclassifying the land would give Council the opportunity to consider the use of the land for vehicular access and parking proposed. The development application would then be separately considered.

Other proposed future Planning Instrument amendments

The abovementioned amendments may result in the requirement to amend the DCP to complement the changed provisions or to clarify any new provisions. This would relate particularly to the proposed changes to detached dual occupancy and intended amendments to the operations relating to tree removal (currently only requiring DCP rather than LEP changes). However, there may be other unforeseen changes that may be required. When all these matters are identified a proposed amendment to the DCP would be the subject of a separate report to Council.

ORDINARY MEETING

Meeting Date: 31 March 2015

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together strategy;

- Achieve community respect through good corporate governance and community leadership and engagement.

Financial Implications

No financial implications, apart from use of staff resources are applicable to 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.

Conclusion

The amendments outlined in this report have been recommended in order to ensure that LEP 2012 is an accurate and up to date document that can be used to appropriately govern and guide development within the Hawkesbury.

The proposed amendments to LEP 2012 will require approval by the DP&E and Parliamentary Counsel. Due to the requirements of these agencies the proposed amendments may be modified (whilst still achieving the same intent) or rejected. Furthermore in preparing the planning proposal other minor amendments may be identified by staff for inclusion in the planning proposal. If required, Councillors will be advised of these occurrences.

RECOMMENDATION:

That a planning proposal be prepared and forwarded to the Department of Planning & Environment seeking a Gateway Determination to:

1. Adopt newly defined uses and change the permissibility of current uses under LEP 2012 as outlined in this report and attachment.
2. Re-draft clauses within LEP 2012 which are unclear or have lost the intent of the clauses previously included under LEP 1989.
3. Make minor corrections to particular wording or referencing identified in the written instrument and maps of LEP 2012.
4. Rezone Lot 1 DP 1041524, 46 Bourke Street Richmond (known as "Pound Paddock") to RE1 Public Recreation.
5. Reclassify two parcels of Council managed land being Lots 2 and 3 in DP582878, 1913 and 1905 Bells Line of Road, Kurrajong Heights from 'community' land to 'operational' land.

ORDINARY MEETING
Meeting Date: 31 March 2015

ATTACHMENTS:

- AT - 1 Written Instrument Amendments to Hawkesbury Local Environmental Plan 2012
- AT - 2 Mapping Amendments to Hawkesbury Local Environmental Plan 2012
- AT - 3 Adoption of Additional Land Uses
- AT - 4 Site Specific Reclassification

ORDINARY MEETING

Meeting Date: 31 March 2015

AT - 1 Written instrument Amendments to Hawkesbury Local Environmental Plan 2012

Written Instrument Amendments (Summary)	
Item No.	Description of Amendment
1.1	Modify Clause 2.8 Temporary Use of Land
1.2	Addition of new Clause concerning boundary adjustments
1.3	Modify Clause 4.1D Exceptions to minimum subdivision lot size for certain land
1.4	Modify Clause 4.1E Exceptions to minimum subdivision lot size for Grose Wold
1.5	Modify Clause 4.1D Exceptions to minimum subdivision lot size for certain land and Clause 4.1F Exceptions to minimum subdivision lot size for certain land in North Richmond
1.6	Modify Clause 4.2A Residential development and subdivision prohibited on certain land
1.7	Addition of new clause permitting subdivision without development consent on Council owned or managed land
1.8	Specify provisions in respect to exempt advertising signage
1.9	Amendment LEP to identify relevant acquisition authority of land to be acquired
1.10	Reword Clause 5.1A Development on land intended to be acquired for public purposes
1.11	Addition of controls relating to <i>Bed and Breakfast accommodation</i>
1.12	Modification to Clause 6.10 Certain development on Lot 1, DP 827148, Richmond Road, Clarendon
1.13	Modification to Clause 6.11 Residential accommodation at Johnston and New Streets, Windsor
1.14	Update property description of Item 11 in Schedule 1 Additional Permitted Uses
1.15	Amendments to heritage item listings in Schedule 5 Environmental heritage
1.16	Amendments to listings in Schedule 4 Classification and reclassification of public land

Item 1.1 - Modify Clause 2.8 Temporary Use of Land

Proposed Amendment	Change Clause 2.8 to allow for a maximum of 52 days in a 12 month period.
Explanation	<p>Council adopted this clause as part of the conversion to the standard instrument and nominated that development consent may be granted for development on land in any zone for a temporary use for a maximum period of 28 days within a 12 month period.</p> <p>Since the adoption of this clause Council has received requests concerning temporary events such as weekly markets on land which prohibits these activities. In order to accommodate such activities it is recommended that the maximum period be extended to 52 days.</p>

ORDINARY MEETING

Meeting Date: 31 March 2015

Item 1.2 - Addition of new clause concerning boundary adjustments	
Proposed Amendment	Addition of a new clause which allows for minor boundary adjustments to be considered between existing lots which are below the minimum subdivision lot size criteria.
Explanation	<p>Since the adoption of LEP 2012 the requirements for boundary adjustments has changed a number of times under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</p> <p>This has resulted in Council not being able to consider boundary adjustments between existing lots which are below the minimum subdivision lot size. Previously LEP 1989 recognised boundary adjustments between undersize allotments. The change in state legislation has led to complications when considering minor boundary adjustments, particularly in rural and environmental protection zones that have larger minimum lot size provisions.</p>
Item 1.3 - Modify Clause 4.1D Exceptions to minimum subdivision lot size for certain land	
Proposed Amendment	Remove the reference to the word 'previously' in subclause (2).
Explanation	<p>During the drafting of LEP 2012 the word 'previously' appeared in this clause which provides exemptions to the minimum subdivision lot size for various types of residential developments.</p> <p>The equivalent clause in LEP 1989 did not include the word 'previously' and the addition of this word suggests that a subdivision of the residential developments specified could only be considered after the development is approved. This creates difficulty when considering a single development application for both construction and subdivision.</p>
Item 1.4 - Modify Clause 4.1E Exceptions to minimum subdivision lot size for Grose Wold	
Proposed Amendment	Modify Clause 4.1E to clarify its relationship with Clause 4.1 Minimum subdivision lot size and its application with respect to current and original lots, Cumberland Plain Woodland, and Environmental Constraint Areas.
Explanation	<p>Recent development applications received by Council have resulted in questions how this clause is to be interpreted and applied.</p> <p>Council has received legal advice suggesting that the clause be re-drafted to remove any doubt as to the clause intent and application.</p>
Item 1.5 - Modify Clause 4.1D Exceptions to minimum subdivision lot size for certain land and Clause 4.1F Exceptions to minimum subdivision lot size for certain land in North Richmond	
Proposed Amendment	Ensure consistency in calculation of the area of battle-axe lots or other lots with an access handle within residential zoned land by amending subclause (1) of Clause 4.1D Exceptions to minimum subdivision lot size for certain land and Clause 4.1F Exceptions to minimum subdivision lot size for certain land in North Richmond.
Explanation	Clause 4.1 (3A) excludes the area of access handles in determining the area of battle-axe or other lots with an access handle. In order to ensure consistency in area calculations it is recommended that similar wording be added to subclause (1) of Clause 4.1D and Clause 4.1F.

ORDINARY MEETING

Meeting Date: 31 March 2015

Item 1.6 - Modify Clause 4.2A Residential development and subdivision prohibited on certain land	
Proposed Amendment	Amend subclause (3) to reinforce that <i>residential development</i> is prohibited on land which has been subdivided for the purposes of <i>agriculture</i> under Clause 4.2 of this plan.
Explanation	Whilst Clause 4.2 does not allow for dwellings to be erected on lots created for <i>agriculture</i> this clause falls under the heading of "Rural Subdivision". This could potentially lead to confusion or an oversight when considering <i>residential development</i> that does not involve subdivision. It is recommended that Clause 4.2A (3) be amended to reinforce that <i>residential development</i> is prohibited on land subdivided for the purposes of <i>agriculture</i> under Clause 4.2 of this plan.

Item 1.7 - Addition of new clause permitting subdivision without development consent on Council owned or managed land	
Proposed Amendment	Addition of a new clause permitting the subdivision of Council owned or managed land without consent if the subdivision is for the purposes of granting a lease, license or other estate.
Explanation	Currently LEP 2012 prevents Council from subdividing land smaller than the minimum lot size map in instances where Council propose to grant a lease, licence or other estate over Council owned or managed land in accordance with the Local Government Act.

Item 1.8 - Specify provisions in respect to exempt advertising signage	
Proposed Amendment	Change provisions in respect to exempt signage identifying how many signs are permitted without consent on building elevations in commercial areas.
Explanation	Currently the exempt provisions specify a maximum of one sign as permitted without consent for under awning signs and pylon signs. It is recommended that the LEP be amended to specify a maximum of one sign (flush wall signs, top hamper signs and fascia signs) per elevation.

Item 1.9 - Amend the LEP to identify relevant acquisition authority of land to be acquired	
Proposed Amendment	Change the zoning of certain lands or add a clause where land to be acquired is not zoned RE1 Public Recreation, SP2 Infrastructure or E1 National Parks and Nature Reserves.
Explanation	The identification of relevant land acquisition authorities is dealt with by Clause 5.1 Relevant acquisition authority. This clause only relates to land that is shown on the Land Reservation Acquisition Map that is also zoned RE1, SP2 or E1. Some lands that are shown on the Land Reservation Acquisition Map are not zoned RE1, SP2 or E1. It is proposed that these lands be either rezoned as appropriate to RE1, SP2 or E1 or that an additional clause be added similar to clause 5.1 that will cater for such lands.

ORDINARY MEETING
Meeting Date: 31 March 2015

Item 1.10 - Reword Clause 5.1A Development on land intended to be acquired for public purposes	
Proposed Amendment	<p>Amended the clause to read as follows:</p> <p>5.1A</p> <p>(1) The objective of this clause is to protect land that is intended to be acquired for a public purpose.</p> <p>(3) Development consent must not be granted to any development on land identified on the <u>Land Reservation Acquisition Map</u> to be acquired for a public purpose unless the consent authority is satisfied that the development is likely to be consistent with the public purpose identified on that map for that land.</p>
Explanation	The current clause restricts development of affected land to only roads and recreation areas. The purpose of this amendment is to make the existing clause less restrictive and subject to merit assessment.

Item 1.11 - Addition of controls relating to <i>Bed and Breakfast accommodation</i>	
Proposed Amendment	Add <i>Bed and Breakfast accommodation</i> controls to be consistent with similar provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
Explanation	<p>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 has changed <i>Bed and Breakfast accommodation</i> from being exempt development to development requiring a complying development certificate.</p> <p>The SEPPs complying development provisions also specify additional requirements for <i>Bed and Breakfast accommodation</i>. This has resulted in inconsistencies between the SEPP and LEP 2012.</p> <p>In order to ensure that there is consistency between both planning instruments, additional controls are required to be included the LEP particularly in respect to fire safety and building code requirements.</p>

Item 1.12 - Modification to Clause 6.10 Certain development on Lot 1, DP 827148, Richmond Road, Clarendon	
Proposed Amendment	Change Clause 6.10 to refer to "Hawkesbury Valley Way" instead of "Richmond Road"
Explanation	The road name has changed since drafting of LEP 2012.

Item 1.13 - Modification to Clause 6.11 Residential accommodation at Johnston and New Streets, Windsor	
Proposed Amendment	Modify Clause 6.11 subclause (2) to refer to 25 Johnston Street, Windsor instead of 23-27
Explanation	The property address has changed since the drafting of LEP 2012.

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Item 1.14 - Update property description of Item 11 in Schedule 1 Additional Permitted Uses	
Proposed Amendment	Update property description in Item 11 to Lots 1 and 2, SP 1148514, 739 – 741 George Street, South Windsor.
Explanation	Property description has changed since the drafting of LEP 2012.

Item 1.15 - Amendments to listings in Schedule 4 Classification and reclassification of public land	
Proposed Amendment	Change street name for the following lands from "West Market Street" to "East Market Street". Lot 18 DP 236567, Lot 17 DP 236567, Lot 2 DP 561996, Lot 15, DP 236567, Lot 12 DP 236567, Lot 11 DP 236567, Lot 10 DP 236567, Lot 9 DP 236567, Lot 14 DP 236567 and Lot 13 DP 236567.
Explanation	The current property descriptions refer to the incorrect street name.

Item 1.16 - Amendments to heritage item listings in Schedule 5 Environmental heritage	
Proposed Amendment	<p>Make the following changes to the heritage listed items:</p> <ul style="list-style-type: none"> - Review listing of item I24 due to fire damaged residence - Update street address of item I292 - Update item description of item I513 - Correct item I0091 to be consistent with State listing number I00991 - Update street address number of item I00126 - Update significance of item I00005 to "State" significance - Update street address of item I00045 to be consistent with State heritage listing - Updated description of item I00598 to be consistent with State heritage listing description - Remove reference to "Section 10, DP 759096" on item I01018 to be consistent with State heritage listing - Modify description of item I01836 to refer to State and Local status - Update description of item I01837 to "State" significance - Addition of state listed item I01817 'Scheyville National Park' to schedule <p><i>Note: The item numbering is specified in the Standard Instrument format and the first character in the item numbering is the capitalised version of the letter "I" (I) and is NOT the numeral one (1).</i></p>
Explanation	The change to Schedule 5 of LEP 2012 is required to correct and update heritage item numbers, descriptions, addresses and heritage significance.

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AT - 2 Mapping Amendments to Hawkesbury Local Environmental Plan 2012

Map Amendments (Summary)	
Item No.	Description of Amendment
2.1	Heritage Map amendments
2.2	Land Reservation Acquisition Map amendments
2.3	Lot Size Map amendments
2.4	Rezoning amendment

Item 2.1 - Heritage Map amendments	
Proposed Amendment	<p>Make changes to the following heritage map sheets:</p> <ul style="list-style-type: none"> - Modify location of item I292 on HER_008C map to reflect newly subdivided lot - HER_008C incorrectly shows item I01836 as I385 on map - HER_008C incorrectly shows item I01837 as I387 on map - Remove 128 Windsor Street from HER_008DA map as property does not contain heritage item - HER_008DB incorrectly shows item I00075 as I00598 - HER_008DB incorrectly shows I00005 as I527 - Remove reference to I149 on HER_008DB map where I01018 is located - Remove reference to I01851 on HER_008DB map where I00126 is located - Identify the state listed Scheyville National Park as a heritage item on map HER_0013, HER_008DB and HER_008C - Review mapping of item I24 on HER_008C due to fire damaged residence <p><i>Note: The item numbering is specified in the Standard Instrument format and the first character in the item numbering is the capitalised version of the letter "I" (I) and is NOT the numeral one (1).</i></p>
Explanation	The map sheets listed above refer to incorrect heritage item numbering or identify properties which do not contain a heritage item.

Item 2.2 - Land Reservation Acquisition Map amendments	
Proposed Amendment	Land Reservation Acquisition Map 008DB to be amended to be consistent with the Land Zoning Map.
Explanation	Land Reservation Acquisition Map to be updated to be consistent with the Land Zoning Map which shows land zoned SP2 Infrastructure over Lot 1 DP 1084189, 58 George Street; Lot 1 DP239319, 14B Bridge Street; Lot 2 DP239319, 14A Bridge Street; Lot 1 DP 136637, 14 Bridge Street; Lot 1 DP1127620, 1/52 George Street; Lot 1 DP719156, 46A Court Street and Lot 1 DP196752, 46 Court Street.

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Item 2.3 - Lot Size Map amendments	
Proposed Amendment	<ul style="list-style-type: none"> i. Update the map legend and correct the reference symbols on Lot Size Map 008C. ii. Change Minimum residential Lot Size Map for Wilberforce on Lot Size Map 008C
Explanation	<ul style="list-style-type: none"> i. Amendment 5 to LEP 2012 has resulted in changes to the legend and symbols shown on lot size map 008C that are inconsistent with other lot size maps in the LEP. It is required that the legend and symbols on map 008C be amended to include the same legend as shown in all lot size maps. ii. Minimum allotment size map to be changed to comply with the requirements of Hawkesbury City Council's <i>Wilberforce Subdivision Policy</i> – Adopted 31 July 2012.

Item 2.4 - Rezoning amendment	
Proposed Amendment	Rezone Lot 1 DP 1041524, 46 Bourke Street, Richmond "Pound Paddock" from RE2 Private Recreation to RE1 Public Recreation.
Explanation	This property is owned by Council and not used for private recreation purposes. The RE1 zone is therefore the appropriate zone and would allow for additional uses such as public administration buildings.

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AT - 3 Adoption of Additional Land Uses

Land Use Amendments (Summary)	
Item No.	
3.1	Function centres
3.2	Eco-tourist facilities
3.3	Secondary dwellings and dual occupancies in rural areas
3.4	Permit Community facilities and public administration buildings in the SP2 Infrastructure zone and review permitted uses in the SP1 zone relating to the University of Western Sydney lands.
3.5	Addition of local provision for temporary events on public land
3.6	Addition of local provision for secondary dwellings and detached dual occupancies in rural areas
3.7	Addition of garden sheds to Schedule 2 - Exempt development

Item 3.1 – Permit function centres within certain zones

Proposed Amendment	<p>Permit <i>function centres</i> with consent in the following zones:</p> <ul style="list-style-type: none"> - RU1 Primary Production - RU2 Rural Landscape - RU4 Primary Production Small Lots - RU5 Village - E4 Environmental Living
Explanation	<p>During the preparation of LEP 2012 Council did not consider the permissibility of <i>function centres</i> because this was a new land use within the standard instrument and was considered to be outside the scope of the like for like conversion of LEP 1989 land uses to LEP 2012 landuses.</p> <p>It is however noted that LEP 2012 permits <i>restaurants</i> with consent in the RU1, RU2, RU4, RU5 and E4 zones.</p> <p>Council has become aware of circumstances whereby <i>restaurants</i> are also being used as <i>function centres</i> e.g. wedding receptions. This is particularly the case in localities such as Bilpin, Kurrajong Hills and Richmond.</p> <p>To rectify to this inconsistency it is recommended that <i>function centres</i> be permitted with consent in the RU1, RU2, RU4, RU5 and E4 zones. This change will only make those uses permissible with development consent and does not allow operation. A development consent must be obtained, after consideration of the merits of that application, prior to those uses being allowed to operate.</p>

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Item 3.2 – Eco-tourist facilities within certain zones	
Proposed Amendment	Permit <i>eco-tourist facilities</i> in the in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, RU5 Village, R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R5 Large Lot Residential, E3 Environmental Management and E4 Environmental Living zones.
Explanation	<p>During the preparation of LEP 2012 Council did not have opportunity to consider <i>eco-tourist facilities</i> as this land use was added to the standard instrument after Council forwarded the draft LEP 2012 to the DP&E for finalisation and gazettal</p> <p>As a result an anomaly currently exists in the LEP 2012 whereby in the RU1, RU4, RU5, R1, R2, R3, R5, E3 and E4 zones <i>tourist and visitor accommodation</i> is permitted with consent, however, <i>eco-tourist facilities</i> are prohibited.</p> <p>It is recommended that <i>eco-tourist facilities</i> be permitted with consent in the above mentioned zones, and due to their likely lesser environmental impact than <i>tourist and visitor accommodation</i> they also be permitted with consent in the RU2 zone.</p>

Item 3.3 - Secondary dwellings and dual occupancies in rural areas	
Proposed Amendment	Adoption of <i>secondary dwellings</i> and <i>dual occupancies (detached)</i> in zones which currently permit <i>dual occupancies (attached)</i> .
Explanation	Council resolved at the Ordinary meeting of 9 December 2014 that Council officers prepare a planning proposal to permit <i>secondary dwellings</i> and <i>dual occupancies (detached)</i> within all rural zones and E3 and E4 environmental zones.

Item 3.4 - Permit Community facilities and public administration buildings in the SP2 Infrastructure zone and review permitted uses in the SP1 zone relating to the University of Western Sydney lands.	
Proposed Amendment	Permit <i>community facilities</i> and <i>public administration buildings</i> in the SP2 Infrastructure zone and possible additional uses to the SP1 zoned land owned by UWS.
Explanation	<p>The land use table specifies that development is only permitted in the SP2 zone for the purpose shown on the land zoning map including development that is ordinarily incidental or ancillary to development for that purpose.</p> <p>Council owns and manages a number of properties zoned SP2 Infrastructure that could potentially be used for purposes other than that purpose shown on the land zoning map (or incidental or ancillary to that purpose). These potential uses are typically community and public administration type uses.</p> <p>The University of Western Sydney land is currently under review by the University and there are a number of additional uses that, whilst related to the University activities, are not covered by the current zone description. The details of these potential changes are the subject of further discussions with the University. Should these discussions be delayed this aspect of the planning proposal will be separated and be the subject of a separate planning proposal.</p>

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Item 3.5 - Addition of local provision for temporary events on public land	
Proposed Amendment	Introduce a local provision which permits temporary events such as exhibitions, meetings, concerts on public reserves and roads without development consent provided that the organiser obtains the appropriate permission in accordance with Council's operational requirements.
Explanation	LEP 2012 currently permits temporary events with development consent. The addition of a new local provision would mean organisers would not have to lodge a development application for temporary events which are proposed on public reserves in accordance with Council's relevant Plan of Management. This would reflect the previous LEP 1989 situation.
Item 3.6 - Addition of local provision for secondary dwellings and detached dual occupancies in rural areas	
Proposed Amendment	Develop local provisions relating to <i>detached dual occupancy</i> developments in all rural zones and E3 Environmental Management and E4 Environmental Living zones.
Explanation	Council resolved at the Ordinary meeting of 9 December 2014 to develop a set of rules concerning <i>detached dual occupancies</i> , particularly in respect to minimum lot sizes.
Item 3.7 - Addition of garden sheds to Schedule 2 - Exempt development	
Proposed Amendment	Amend Schedule 2 to allow for garden sheds as exempt development on vacant land subject to the requirements specified under the previous complying development provisions of LEP 1989.
Explanation	<p>Previously LEP 1989 permitted the erection of a <i>rural shed</i> on vacant land in rural areas.</p> <p>Currently LEP 2012 requires any outbuilding to be ancillary to a permitted land use such as agriculture or a dwelling house.</p> <p>This has resulted in Council not being able to consider outbuildings on vacant land greater than what is specified as exempt development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</p> <p>It is recommended that Council add local provisions for garden sheds under Schedule 2 of LEP 2012 to allow for outbuildings consistent with the previous complying development provisions of LEP 1989.</p>

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AT - 4 Site Specific Reclassification

Item 4.1 - Reclassification of Lot 2 and 3 in DP582878, 1913 & 1905 Bells Line of Road, Kurrajong Heights.	
Proposed Amendment	Reclassify Lot 2 and 3 in DP582878, 1913 & 1905 Bells Line of Road, Kurrajong Heights from "community land" to "operational land".
Explanation	This property is in the control of Council and classified as "community land". However, Council is prevented from allowing the use of the land for private purposes such as allowing for car parking and access. Tutti Frutti café located on at 1917 Bells Line of Road has sought approval to use the land for this purpose.

oooO END OF REPORT Oooo

ORDINARY MEETING
Minutes: 31 March 2015

MOTION:

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

Refer to RESOLUTION

63 RESOLUTION:

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

That a planning proposal be prepared and forwarded to the Department of Planning & Environment seeking a Gateway Determination to:

1. Adopt newly defined uses and change the permissibility of current uses under LEP 2012 as outlined in this report and attachment.
2. Re-draft clauses within LEP 2012 which are unclear or have lost the intent of the clauses previously included under LEP 1989.
3. Make minor corrections to particular wording or referencing identified in the written instrument and maps of LEP 2012.
4. Rezone Lot 1 DP 1041524, 46 Bourke Street Richmond (known as "Pound Paddock") to RE1 Public Recreation.
5. Reclassify two parcels of Council managed land being Lots 2 and 3 in DP582878, 1913 and 1905 Bells Line of Road, Kurrajong Heights from 'community' land to 'operational' land.

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 Calvert	Councillor Rasmussen
Councillor Conolly	Councillor Williams
Councillor Creed	
Councillor Ford	
Councillor Mackay	
Councillor Porter	
Councillor Reardon	
Councillor Tree	

Councillors Lyons-Buckett and Paine were not in the Chamber when the vote was taken.

Attachment 6

Council Report and Resolution, 9 December 2014

ORDINARY MEETING

Meeting Date: 09 December 2014

Item: 239 CP - Permissibility of Rural "Secondary Dwellings" and "Detached Dual Occupancy" in the Hawkesbury Local Government Area - (95498, 124414)

REPORT:**Executive Summary**

The purpose of this report is to discuss options for making "secondary dwellings" and detached dual occupancy (DDO) development types permitted within the rural zones of the Hawkesbury area under the Hawkesbury Local Environmental Plan (LEP 2012). The current provisions of the Hawkesbury's Local Environmental Plan 2012 (LEP 2012) prohibit both "secondary dwellings" and "detached dual occupancy" development in rural and environmental zones. The previous Plan, LEP 1989, also had the same prohibitions in place. This report responds to various requests relating to this matter from councillors.

Based on previous council reports, briefings, and resolutions, the options discussed in this report are as follows:

1. Locational criteria for permitted "secondary dwellings".
2. Citywide permissibility of "secondary dwellings" in all rural and environmental zones.
3. Locational criteria for permitting "detached dual occupancy".
4. Citywide permissibility of "detached dual occupancy" in all rural and environmental zones.

The report recommends that both Option 1 and Option 3 be pursued that involves a planning proposal being prepared that seeks to amend Clause 2.5 of Local Environmental Plan 2012 to permit "secondary dwellings" and "detached dual occupancy" within certain rural areas and zones.

The report also recommends that accompanying development controls (via a new DCP chapter) and a contributions plan (a new Section 94 Plan) be prepared.

Further, the report suggests that an amendment to Council's enforcement policy include a 12 month moratorium on orders after the gazettal of a planning amendment. This will assist with the regulation of unauthorised development and to encourage the submission of development applications for converting existing unauthorised land uses or buildings to either "secondary dwellings" or "dual occupancy" development.

Background

There have been a variety of discussions at Council meetings relating to dual occupancy and these include:

On 26 June 2012, Council considered a Notice of Motion and then a subsequent report and briefing on the following:

"That a report be submitted to Council regarding the possible amendment of the Hawkesbury Local Environmental Plan to incorporate provisions, similar to those utilised by The Hills and Penrith City Councils, allowing second dwellings on appropriately sized lots and the possible implementation of an associated infrastructure levy where a second dwelling is approved to contribute to the cost of upgrading infrastructure, including roads, affected by such approvals."

On 24 June 2014, a report on the "Progress and Review of Hawkesbury Residential Land Strategy" was considered and Council resolved:

ORDINARY MEETING**Meeting Date: 09 December 2014***"That:*

1. *The areas identified in the Hawkesbury Residential Land Strategy for large lot residential investigation be mapped to align with cadastral boundaries and form an addendum to that Strategy.*
2. *The investigation area for Kurmond identified by Council on 5 February 2013 be reviewed and be the first area to have a development/structure plan (as described in the report) prepared.*
3. *A report be brought back to Council in September 2014 identifying priority areas for the preparation of structure plans and Section 94 Plans.*
4. *Future planning proposals for residential development must be consistent with any structure plan and/or Section 94 Plan prepared for the locality. If no such plan is in place the applicant is to work with Council to prepare same as part of the planning proposal. Existing planning proposals currently submitted to Council will continue to be processed.*
5. *A Voluntary Planning Agreement Policy, which includes a template agreement and Clauses, be drafted and reported to Council for consideration.*
6. *Existing Council Policies in relation to development be reviewed to be consistent with the Hawkesbury Residential Land Strategy.*
7. *The suggested action for the introduction of Second dwellings on rural properties as outlined in this report be commenced and reported back to Council in the fourth quarter of 2014.*
8. *Once the addendum mentioned in part 1 of the resolution has been added, that the Hawkesbury Residential Land Strategy be placed on public exhibition to allow the Community to comment.*
9. *The review of the Hawkesbury Residential Land Strategy be referred to a Councillor Briefing Session."*

In response to the resolution above, on 7 October 2014 a Councillor Briefing Session was held about the Residential Land Strategy Review.

At the Ordinary Meeting of 28 October 2014, Council considered a Notice of Motion from Councillor Porter as follows:

"Council amend the Hawkesbury LEP 2012 in the following manner to permit detached dual occupancies in certain rural and environmental zones with an area of two hectares or greater:

1. *Dual Occupancy (detached) as currently defined in the LEP be permitted with consent in the following zones:*
 - *RU1 Primary Production*
 - *RU2 Rural Landscape*
 - *RU4 Primary production small lots*
 - *E3 Environmental Management*
 - *E4 Environmental Living.*
2. *Insert the following additional clause:*

Dual Occupancies (detached) in certain rural and environmental zones.

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- a) *The objective of this clause is to ensure that effluent generated by dual occupancies is managed on-site to protect waterways and the amenity of the adjoining lots.*
- b) *This clause applies to land in the following zones:*
 - *RU1 Primary Production*
 - *RU2 Rural Landscape*
 - *RU4 Primary production small lots*
 - *E3 Environmental Management*
 - *E4 Environmental Living.*
- c) *Development consent must not be granted for a dual occupancy detached on a lot to which this clause applies unless the lot has an area of at least two hectares.*
- d) *Development consent must not be granted for the erection of more than two dwellings on a lot to which this clause applies.*
- e) *Development consent must not be granted for the subdivision of a dual occupancy on a lot to which this clause applies into a strata, company or community title."*

In relation to this Motion Council resolved the following:

"That this Notice of Motion be included in the report on detached dual occupancies on certain rural properties to be brought to Council in December 2014."

This report seeks to consider that option as well as detail alternative approaches for consideration.

At the Human Services Advisory Committee meeting of 6 November 2014, the Committee resolved:

"That staff prepare a report to the Committee on the provision of affordable rental housing and that report be subsequently reported to Council."

Whilst this matter did not arise from the discussion about dual occupancy development at the Committee level, both affordable housing and housing affordability have been raised by Council during debates and briefings on dual occupancy.

It should be noted that affordable housing and housing affordability are not issues that would drive the permissibility of dual occupancy in rural areas as they are very separate issues that need careful consideration. For that reason this issue will not be addressed in this report. The abovementioned report is expected to be submitted to the Committee in the first half of 2015.

Consultation

The issues raised in this report do not trigger the community consultation requirements of Council's Policy. However, should Council resolve to proceed to prepare a planning proposal and accompanying changes to the Residential Land Strategy, the DCP, a draft development (S94) Contributions Plan and an amendment to Council's enforcement policy, there will be a separate report to Council proposing a community engagement strategy for those processes.

What is the Difference Between a "Secondary Dwelling" and "Dual Occupancy?"

Both secondary dwellings and dual occupancy involves two separate, self-contained permanent dwellings for permanent residents and each has their own kitchen, bathroom and laundry. However the size and scale of these dwellings are quite different as defined in LEP 2012.

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A “secondary dwelling” only has a maximum floor space of a 60 square metres or no more than 10% of the total floor area of the principal dwelling whichever is greater (e.g. a one bedroom granny flat). Currently “secondary dwellings” are only permitted within residential areas under State Environmental Planning Policy (Affordable Rental Housing) 2009 and LEP 2012.

Secondary dwellings are designed to complement the design of the principal dwelling and be subservient to the principal dwelling in terms of visual bulk and scale (e.g. siting, height, setbacks, materials, roof pitch). A secondary dwelling can be attached or detached as shown below.

A secondary dwelling shares the same water meter and sewer connection as the principal dwelling and is rated as one land holding so no additional garbage service is provided or charged. Subdivision of “secondary dwellings” on residential land is prohibited by the SEPP.

A “dual occupancy” involves two separate dwellings, has no maximum floor space and both dwellings can be of any floor space and any number of bedrooms. In dual occupancy development where an original cottage is retained, the second (new) dwelling is often substantially larger in floor space, number of occupants and number of bedrooms, bathrooms and living areas.

Currently only attached “dual occupancy” (i.e. dwellings that are joined or closely connected) are permitted in the rural and environmental zones under LEP 2012. The Development Control Plan (DCP) requires the appearance of one dwelling to be achieved with an integrated design of the two buildings. In residential zones both attached and detached “dual occupancy” is permitted with no floor space limits under LEP 2012.

Any rural “dual occupancy” is required to have individual water tanks and onsite systems for each dwelling but the development would be rated as one land holding. An additional garbage service is provided if requested and charged accordingly. Subdivision of an attached dual occupancy is prohibited.

What is not a “secondary dwelling” or “detached dual occupancy”?

- An “attached dual occupancy” - two dwellings joined by a common wall (or floor) or by a connection no more than six metres apart
- The approved temporary use of a “farm building” whilst building a “dwelling” that is converted back to a “farm building” later on (this is a staged development approval to ensure there is only one “dwelling” on the land at any time)
- Dwelling “alterations and additions” to create more living areas or bedrooms but does not include second kitchen, laundry and separate entry.
- An approved “rural workers dwelling”, “rural tourist facility” or “bed and breakfast”.
- A structure that is currently being used for residential purposes but has not obtained approval.

Existing Statutory Situation - “Secondary Dwellings”

Currently, the construction of a second dwelling, even of small scale (e.g. one bedroom) on a rural or environmental zone would be categorised as an “attached dual occupancy”. Hence it would be subject to the full requirements applicable to a dual occupancy development including S94A payments and bushfire requirements etc.

Options for Permitting “Secondary Dwellings” within LEP 2012

- **Option 1** - Amend the Land Use Table of LEP 2012 to permit “secondary dwellings” with consent within all rural zones and the E3 and E4 environmental zones.
- **Option 2** - Amend “*Clause 2.5 - Additional permitted uses for particular land*” of LEP 2012 to allow “secondary dwellings” as an additional permitted use in certain areas and circumstances (using locational criteria).

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Option 1 - Secondary dwellings permitted in all rural and environmental zones	Option 2 - Secondary dwellings permitted in certain areas and circumstances
The Hills, Penrith and some other councils use this option.	This is a new approach subject to consultation with the Department of Planning and Environment.
Proliferation of detached dual occupancy throughout the rural and environmental zones in an ad-hoc fashion.	Proliferation is controlled with the identification of selected land within a certain distance of rural village/neighbourhood centres, transport and facilities.
May adversely affect the rural character and rural resource lands.	Does not affect the rural character.
There may be an unreasonable demand for additional services and facilities.	There may not be a large demand.
Conflicts with the Residential Land Strategy which aims to concentrate rural residential development within and around existing rural villages and neighbourhood centres. i.e., requires an amendment to the Strategy as resolved on 24 June 2014.	Generally consistent with the Residential Land Strategy, but may still require an amendment to the Strategy as resolved on 24 June 2014.
Requires an amendment to the existing Land Use Table and land use definitions.	Requires an amendment to Schedule 1 and inclusion of an additional LEP map layer to identify land suitable for 'detached dual occupancy'.

Table 1 - Implications for Permitting "Secondary Dwellings" within Rural and Environmental Zones

Recommendation for "Secondary Dwellings" in Rural Areas

It is recommended that:

- "Clause 2.5 of LEP 2012 be amended with an accompanying map layer to permit "secondary dwellings" within the RU1, RU2, RU4, RU5 and E3 and E4 zones on a minimum lot size of 2 hectares subject to development consent.
- Add the words "secondary dwelling" into the RU1, RU2, RU4, E3 and E4 zones of LEP 2012 as required to make that land use permitted with development consent. The definition is already included in LEP 2012.

Options for Permitting Detached Dual Occupancy within Rural and Environmental Zones

Option 3 - Amend "Clause 2.5 - Additional permitted uses for particular land" of LEP 2012 to allow "detached dual occupancy" as an additional permitted use in certain areas and circumstances (using locational criteria).

Option 4 - Amend the Land Use Table of LEP 2012 to permit "detached dual occupancy" with consent within all rural zones and the E3 and E4 environmental zones.

Option 3 - Location criteria for Detached Dual Occupancy

In Council's report of 24 June 2014 regarding the Residential Land Strategy (RLS), the following information was included:

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"...It is suggested that investigation be undertaken into permitting detached dual occupancy dwellings in a variety of locations that are defined by certain criteria that is set in the RLS. In this regard the criteria used for the consideration of large lot residential proposals, i.e. Section 3.3.8 Role of Rural Residential Development, should be used to consider the permissibility of detached dual occupancy. The suggested criteria proposed is the same as in the above mentioned Section 3.3.8 with changes shown in italics (NOTE: the following criteria is a suggestion only and is subject to further consultation):

All future detached dual occupancy residential development in rural locations must:

- *Be able to have separate onsite sewerage disposal systems*
- *Cluster around or on the periphery of villages*
- *Cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within 1.5 – 2.0 km radius)*
- *Address environmental constraints and with minimal environmental impacts and*
- *Be within the servicing capacity of the rural village*
- *Have a minimum allotment size of 2.0ha.*

If outside the above criteria and is located on a heritage listed property, detached dual occupancy permitted where attachment to the main dwelling would be detrimental to the significance of the heritage item.

Suggested Action

That when mapping the location for rural residential development proposals as an addendum to the RLS an additional map, accompanied by defined criteria as mentioned above, be prepared to indicate the locations where detached dual occupancies can be considered for rezoning.

Detached Dual Occupancy development should only be permitted once an appropriate infrastructure contribution plan (Section 94 Plan) is in place. Additionally, whilst Council has existing Policies to address retrospective development, there is a need for Policy/procedure clarification to guide how existing illegal dual occupancy dwellings, if found, will be addressed in relation to building controls (BCA matters), compliance action and contribution payments by these developments..."

Council resolved at that time that the suggested action for the introduction of second dwellings (detached dual occupancies) on rural properties as outlined in that report be commenced and reported back to Council in the fourth quarter of 2014. This report now discusses these matters in more detail below.

Comment:*Separate Onsite Sewerage Disposal Systems*

The increase from a single dwelling to a dual occupancy increases the number of occupants on a site and therefore the demand on a disposal system. Typically original on-site wastewater systems are not designed to accommodate significantly larger dwellings and a doubling of occupants. For a dual occupancy (particularly larger dwellings with more bedrooms) new separate systems would need to be required to be installed to ensure that potentially adverse environmental impacts in sensitive rural areas are avoided or at least the risk is minimised.

Cluster around or on the Periphery of Villages

This is consistent with the identified areas for growth around existing centres nominated in the Residential Land Strategy. To change this approach will require a change to the Residential Land Strategy and also Council would need to justify in its planning proposal to the Department of Planning and Environment a strategic rationale for increasing housing in rural areas (away from rural villages) that would be isolated from services, facilities and would also need to meet bushfire, flooding and rural access requirements. This is because housing targets and housing diversity options for the Hawkesbury are already planned for within the Residential Lands Strategy and by already permitting attached dual occupancy.

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Cluster around Villages with Services that Meet Existing Neighbourhood Criteria Services as a Minimum (within 1.5 - 2.0 km radius)

The distance from services is a critical planning consideration for future development in areas that have limited public transport. Housing affordability and affordable housing are intrinsically linked to these criteria. In this regard, should a detached dual occupancy be developed on a rural property it is not likely to have access to public transport, will be required to have a private vehicle and is likely to have medium to high rental costs (due to the amenity of the 2 hectare property) as Council does not have any control over the rents charged for these developments. It is clear that the suggestion of "1.5km -2.0km radius" can be amended. However the proximity of services is the most important factor in locational criteria.

The location criteria is also an important consideration in relation to future growth options. The permissibility of dual occupancy development in an ad-hoc fashion will also limit medium to long term growth options. In this regard, uncontrolled development will limit future growth patterns or may "sterilise" land in the longer term for future development options.

Address Environmental Constraints and with Minimal Environmental Impacts and be within the Servicing Capacity of the Rural Village

This is consistent with the identified areas for growth around existing centres nominated in the Residential Land Strategy.

Have a Minimum Allotment Size of 2.0ha.

Presumably the minimum lot size of 2 hectares was selected as being of sufficient size to cater for most onsite wastewater systems, however it is suggested that the additional subclauses be added to address other potentially significant environmental matters that need to be considered. A proposed wording is:

"The objective of this clause is to ensure that:

- a) effluent generated by dual occupancies is managed on-site to protect waterways and the amenity of the adjoining lots; and*
- b) sufficient evacuation for major bushfire events and 1:100 flood events is provided; and*
- c) legal access to a public road is provided; and*
- d) vegetation removal to accommodate the curtilage of a dwelling/s and outbuildings is minimised; and*
- e) additional demand on emergency services is minimised."*

Option 4 - Amend the land use table in LEP 2012 to permit "Detached Dual Occupancy" in all rural zones subject to a minimum lot size of 2 hectares

Option 3 - Detached dual occupancy permitted in all rural and environmental zones	Option 4 - Detached dual occupancy permitted in certain areas and circumstances
The Hills and Penrith permit detached dual occupancy. However Blacktown and Camden only permit attached dual occupancy in the same fashion as Hawkesbury.	This is a new approach subject to consultation with the Department of Planning and Environment.
Proliferation of detached dual occupancy throughout the rural and environmental zones in an ad-hoc fashion.	Proliferation is controlled with the identification of selected land within a certain distance of rural village/neighbourhood centres.
May adversely affect the rural character and rural resource lands.	Does not affect the rural character.
There may be an unreasonable demand for additional services and facilities.	There may not be a large demand.

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Option 3 - Detached dual occupancy permitted in all rural and environmental zones	Option 4 - Detached dual occupancy permitted in certain areas and circumstances
Conflicts with the Residential Land Strategy which aims to concentrate rural residential development within and around existing rural villages and neighbourhood centres, i.e., requires an amendment to the Strategy as resolved on 24 June 2014.	Generally consistent with the Residential Land Strategy, but may require a minor amendment.
Requires an amendment to the existing Land Use Table and land use definitions.	Requires an amendment to Schedule 1 and inclusion of an additional LEP map layer to identify land suitable for 'detached dual occupancy'.

Table 2 - Implications for Permitting "Detached Dual Occupancy" within rural and environmental zones

Aligning Detached Dual Occupancy with Minimum Lot Sizes for Subdivision

The current minimum lot sizes for the Hawkesbury are shown in Table 3. For comparison with other councils see Appendix 1. The Hills Council approach aligns the lot size for "detached dual occupancy" with the zoning. There is no specified minimum lot size for "secondary dwellings" as they are considered under the minimum lot size provisions for dwellings under Clause 4.1A. Whereas Camden Council's approach is similar to Hawkesbury in prohibiting "detached dual occupancy" and "secondary dwellings in rural areas."

The previous planning provisions that applied in Penrith (under Penrith LEP 201 (Rural Lands) required a minimum lot size of 2ha for the construction of a dwelling. The amended planning provisions for Penrith's new standard template LEP maintain this requirement and extend the 2 hectare minimum lot size to the construction of a "dual occupancy" or "secondary dwelling".

To simply transfer the 2 hectare minimum to the Hawkesbury area for every rural and environmental zone would actually be inconsistent with the Penrith approach as the 2 hectare minimum is currently the only size applicable. However, the only 2 hectare minimum lot size in the Hawkesbury is in E3 Environmental Management zone (see Table 3).

RU1 Primary Production	RU2 Rural Landscape	RU4 Primary production small lots	E3 Environmental Management	E4 Environmental Living
AB3 40 hectares including Bilpin, Putty, St Albans, Upper McDonald, Lower McDonald, Upper and Lower Colo, part of Wiseman's Ferry, part of Leets Vale, Kurrajong Heights, part of Yarramundi,	AB1 10 hectares including Lower Portland, East Kurrajong, Kurmond, Tennyson, Glossodia (rural areas), part of Agnes Banks, Richmond Lowlands, Cornwallis, Ebenezer	Z2 4 hectares including Blaxland's Ridge, Grose Vale, Grose Wold	Z1 2 hectares Including Kurrajong Hills, Bowen Mountain, part of Agnes Banks, part of Lower McDonald, part of Leets Vale, Cattai, Maraylya, Wilberforce (rural areas)	AF 400 hectares Including Kurrajong Hills (The Islands)

Table 3 - Current Minimum Lot sizes for Subdivision in Hawkesbury LEP 2012

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Recommendation for “Detached Dual Occupancy” in Rural Areas

As discussed above, a 2 hectare minimum does not correlate with the minimum lot sizes already chosen as being appropriate for the Hawkesbury area for dwellings. Hence, this approach is not appropriate. Instead it is proposed that the location criteria and Hawkesbury minimum lot sizes be used and that:

- a) *“Detached dual occupancy” only be permitted consistent with the minimum lot size for a dwelling in that zone.*
- b) *“Attached dual occupancy” continue to be permitted in all zones.*
- c) *Add the words “dual occupancy (detached)” into the RU1, RU2, RU4, E3 and E4 zones of LEP 2012 as required to make that land use permitted with development consent. The definition is already in LEP 2012.*

Development Controls for “Secondary Dwellings” and “Detached Dual Occupancy”

Permissibility is, however, only one step in the process of securing development consent. All development applications must meet the zone objectives and be assessed against the detailed development controls contained in Hawkesbury Development Control Plan and the matters identified by Section 79C of the *Environmental Planning and Assessment Act 1979*.

Example - Penrith City Council - Design & Siting of Rural Detached Dual Occupancy

Section D1 Rural Land Use within the Penrith DCP requires design and siting of rural detached dual occupancies to be:

1. *In close proximity to and associated with the existing dwelling on the site*
2. *Be behind the existing dwelling house*
3. *similar or sympathetic design to the existing dwelling on the site*
4. *detached with a minimum separate of 10m*
5. *the second dwelling must be significantly smaller than the existing dwelling (by approximately 50% in area)*
6. *similar external finishes*
7. *access is limited to one driveway only with shared access*
8. *one electricity line and meter serving both properties*
9. *minimum site area of 2 hectares*
10. *existing vegetation is retained*

Comment:

Development controls of a similar nature could be considered for Hawkesbury, however, currently attached dual occupancy is not subject to these types of restrictions.

The controls should be developed so that there are consistent controls for attached and detached dual occupancy development. In a review of a number of other Councils use of Local Provisions in their LEPs it is noted that they have added a clause to specifically facilitate dual occupancy development in rural areas.

Recommendation

That Council staff develop an additional local provisions clause for LEP 2012 to permit dual occupancy development in rural areas. This clause would then be used in the discussions with the Department of Planning and Environment. The clause will need to be specific to the Hawkesbury and would include the following:

- Planning considerations for local conditions relevant to the Hawkesbury such as infrastructure (including emergency services), flooding, bushfire, access, vegetation removal, on-site wastewater and heritage, and

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- Introduce location specific controls into the LEP via a map for "Lot sizes for dual occupancy development map",
- Subject to discussion with the Department, there may be a need to introduce provisions for development to be limited to an "Existing Holding" (A holding as defined at a certain date, as this is contained in some other Council dual occupancy provisions). Should that be required the details would be reported back to Council prior to formalising.

Funding for Infrastructure

Infrastructure includes drainage, roads, bridges, intersections, footpaths, roundabouts, community and cultural facilities such as neighbourhood centres and libraries and open space such as parks and playground equipment. New development (and the new residents) contributes to the demand on existing infrastructure in an incremental but cumulative way.

Typically councils provide for new infrastructure via the collection of a development contribution (a cash levy) on each additional dwelling or new lot. Currently in the Hawkesbury Local Government Area this is only done when the value of the new dwelling exceeds \$150,000. This has implications for the consideration of allowing existing buildings to be converted to dual occupancy and also for small scale dwellings to be used as a detached dual occupancy dwelling. Essentially under the current contributions plan virtually no additional funds could be collected for infrastructure as most conversions and small "granny flat" dwellings would fall below this threshold.

In this regard, the appropriate contributions for new, additional dwellings, including the conversion of existing structures whether legal or unauthorised, would need to be developed to ensure that these additional dwellings, and residents, make appropriate contributions to the provision of infrastructure.

Development Contributions Plans under Section 94 and Section 94A of the *Environmental Planning and Assessment Act 1979*

The purpose of development contributions (under either section) is, amongst other things, to ensure adequate public facilities are provided for additional development and prevent the existing community being financially burdened by having to provide extra public amenities and services required as a result of additional development.

The S94A levies do not apply in addition to S94 levies. The S94 Plans apply instead of S94A plans unless the contribution required to be paid under the S94 Plans is less than 1% of the value of the works in the Development Application (in which case the S94A Plan applies). If the plans are contradictory on how they relate to each other, the most recently adopted plan shall take precedence.

It is not possible to charge both S94 and S94A levies to the same development or property.

If a contribution has already been paid under a S94 Plan, then no contribution is payable on that portion of the land already levied and paid.

Hawkesbury City Council***Section 94 Contributions Plan 2008 (not currently applied to new development LGA wide)***

This Plan was a citywide plan (now only applies to Pitt Town and some minor other areas) applying to forms of development and had categories for:

- Community facilities
- Recreation facilities
- Park improvements
- Car parking
- Intersection improvements
- Road maintenance

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The Plan identified different rates for different 'catchment' areas across the LGA and applied different rates according to the nature of capital works required. It was prepared in conjunction with a comprehensive capital works program for which the levies contribute in a cumulative fashion over time.

Comment:

This type of Plan is useful for collection in relation to distinct catchment areas. In this regard, should detached dual occupancies be permitted more broadly, a S94 Plan would be the more appropriate contributions plan to apply.

Section 94A Plans

Section 94A Development Contributions Plan 2006 is a citywide plan that is applied based on the costs of construction works for new development. S94A levies paid to council are applied towards meeting the costs of provision or augmentation of new public facilities. A schedule of proposed facilities is included in the plan and includes toilets, community buildings, parks structures and landscaping.

- The existing plan does not provide for traffic related works such as upgrades intersections, road widening, traffic lights or roundabouts.
- The plan does not apply to dwellings or works with a value of less than \$150,000.

Comment:

This type of plan is useful for low to no growth areas and when the value of works exceeds the threshold amount. If the development falls below the threshold it may still have an impact on resources but no levy can be made.

Voluntary Planning Agreements

Under Section 93F of the *Environmental Planning and Assessment Act 1979*, Hawkesbury has agreed to Voluntary Planning Agreements (VPAs) for specific urban release areas (e.g. North Richmond and Glossodia).

Comment:

VPAs are not relevant to small, incremental developments as they cannot individually provide a valuable item of sufficient public benefit (e.g. bridge, road works) to warrant an agreement.

Other Development Contribution Options - Comparison with Penrith Council

Penrith Council has 4 development contributions plans that are citywide as well as more than 10 other contributions plans related to distinct locations for release areas for housing business and industrial release areas as well as separate plans for both Penrith CBD and St Marys CBD.

The citywide contribution plans are applied to all dual occupancy in both residential and rural areas (outside the new housing release areas) for the following categories:

1. Open space
2. Cultural facilities
3. Footpaths

To calculate the contribution the plan applies a rate of 3.1 persons for each additional dwelling. A credit is given for an existing dwelling hence the contribution is only payable on the new dwelling (regardless of size/number of bedrooms).

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Voluntary Planning Agreements

Under Section 93F of the *Environmental Planning and Assessment Act 1979*, Penrith City Council has multiple Voluntary Planning Agreements (VPAs) for specific urban release areas and large developments.

Works-in-Kind

Works in kind (WIK) means the developer doing work or providing something in lieu of a cash contribution that is levied in a S94 Plan. This is typically only used for larger development and major housing release areas and is not relevant to individual sites for "secondary dwellings" or "dual occupancy".

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Looking After People and Places Direction Statement:

- Offers residents a choice of housing options that meets their needs whilst being sympathetic to the qualities of the Hawkesbury
- Population growth is matched with the provision of infrastructure and is sympathetic to the rural, environmental, heritage values and character of the Hawkesbury
- Have development on both sides of the river supported by appropriate physical and community infrastructure

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

- Encourage affordable, diverse and quality housing solutions in serviced areas

Financial Implications

The preparation of a planning proposal could be accommodated within existing staff resources. However, the preparation of a developer contributions plan would require additional funds to provide resources for the plan and the supporting capital works program to be developed (as discussed in a separate report in the business paper on this matter). Ongoing specialist resources (staff, auditors, electronic systems) would be required to monitor the contributions plan, contributions register and allocation of funds.

Additional development assessment staff resources would be required to handle enquiries and processing of development applications and building upgrade requirements for both new detached dual occupancy applications and conversion of existing buildings.

In addition, after the 12 month moratorium there would need to be temporary additional regulatory staff resources for enforcement of unauthorised dual occupancy development.

Conclusion

In preparing standard template LEPs, the NSW Department of Planning and Environment (DPE) has indicated that if a council proposes to allow new dwellings within rural zones that early discussion with the relevant State Government officers should occur well before a planning proposal proceeds to the gateway.

The position that is discussed in this report in regards to the development of secondary dwellings and dual occupancies in the Hawkesbury signals a significant policy change. It is important that council is sure that the provisions of the LEP will result in the intended outcome, and is aware of, and accepts any potential outcomes that cannot be managed through the LEP/DCP and development contributions (S94) provisions.

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In addition, particularly in the process to authorise the apparent unauthorised development in rural areas, conditions of development consent may be applicable in relation to development contributions (S94) and may require upgrades to existing buildings to current Building Code of Australia (BCA), BASIX and other requirements.

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 report regarding the options for amending Hawkesbury Local Environmental Plan 2012 to permit "secondary dwellings" and "detached dual occupancy" be received and noted.
2. Council officers prepare a concept planning proposal for discussion with the Department of Planning in February 2015 based on the recommendations in this report for both Option 1 and Option 3 to amend Local Environmental Plan 2012 to permit 'secondary dwellings' and "detached dual occupancy" within certain rural zones.
3. Should the Department of Planning and Environment support the preliminary discussions about the concept planning proposal, a planning proposal be prepared and be referred to the Department for a gateway determination.
4. Council also amend the Residential Land Strategy to address the Policy change to permit Secondary Dwellings and Detached Dual Occupancy as described in this report.
5. A further report be presented to Council in the first quarter of 2015 providing an update on the status of the planning proposal, Development Contributions (Section 94) Plan, DCP chapter and Enforcement Policy chapter preparation.

ATTACHMENTS:

AT - 1 Permissibility of Rural "Secondary Dwellings" and "Dual Occupancy"

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AT - 1 Permissibility of Rural “Secondary Dwellings” and “Dual Occupancy”*Hawkesbury City Council**CURRENT*

Hawkesbury LEP (EXISTING)	RU1 Primary Production	RU2 Rural Landscape	RU4 Primary production small lots	E3 Environmental Management	E4 Environmental Living
Secondary Dwellings	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
ADO	Permitted	Permitted	Permitted	Permitted	Permitted
DDO	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Minimum Lot Size of DDO	40 hectares	10 hectares	4 hectares	40 hectares	400 hectares* (The Islands)

PROPOSED

Hawkesbury LEP (Option 1&3)	RU1 Primary Production	RU2 Rural Landscape	RU4 Primary production small lots	E3 Environmental Management	E4 Environmental Living
Secondary Dwellings	Permitted	Permitted	Permitted	Permitted	Permitted
ADO	Permitted	Permitted	Permitted	Permitted	Permitted
DDO	Permitted	Permitted	Permitted	Permitted	Permitted
Minimum Lot Size	40 hectares	10 hectares	4 hectares	40 hectares	400 hectares* (The Islands)

Comparison with other Councils

Penrith LEP 2010 (*cl 6.8)	RU1 Primary Production	RU2 Rural Landscape	RU4 Primary production small lots	E3 Environmental Management	E4 Environmental Living
Secondary Dwelling	Permitted*	Permitted*	Permitted*	Permitted*	Permitted*
ADO	Permitted*	Permitted*	Permitted*	Permitted*	Permitted*
DDO	Permitted*	Permitted*	Permitted*	Permitted*	Permitted*
Minimum Lot Size SD, ADO or DDO*	2 hectares	2 hectares	2 hectares	2 hectares	2 hectares

* “Clause 6.8 Dual occupancies and secondary dwellings in certain rural and environmental zones

- (1) The objective of this clause is to ensure that effluent generated by dual occupancies or secondary dwellings is managed on site to protect waterways and the amenity of adjoining lots.
- (2) This clause applies to land in the following zones:
 - (a) RU1 Primary Production,
 - (b) RU2 Rural Landscape,
 - (c) RU4 Primary Production Small Lots,

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- (d) E3 Environmental Management,
(e) E4 Environmental Living.

- (3) Development consent must not be granted for a dual occupancy on a lot to which this clause applies unless the lot has an area of at least 2 hectares.
- (4) Development consent must not be granted for a secondary dwelling on a lot to which this clause applies unless the lot has an area of at least 2 hectares or it can be demonstrated that the existing on-site effluent disposal system has sufficient capacity for the secondary dwelling.
- (5) Development consent must not be granted for the erection of more than 2 dwellings on a lot to which this clause applies.
- (6) Development consent must not be granted for the subdivision of a dual occupancy on a lot to which this clause applies into a strata, company or community title."

Hills LEP 2012	RU1 Primary Production	RU2 Rural Landscape	RU6 Transition	E4 Environmental Living
Secondary Dwellings	Permitted	Permitted	Permitted	Permitted
ADO	Permitted	Permitted	Permitted	Permitted
DDO	Prohibited	Prohibited	Prohibited	Prohibited
Minimum Lot size for DDO	10 hectares	10 hectares	2 hectares	2000 square metres

Camden LEP 2010	RU1 Primary Production	RU2 Rural Landscape	RU4 Primary production small lots	E4 Environmental Living
Secondary Dwellings	Permitted	Permitted	Permitted	Prohibited
ADO	Permitted	Permitted	Permitted	Permitted
DDO	Prohibited	Prohibited	Prohibited	Prohibited
Minimum Lot size for DDO	N/A	N/A	N/A	N/A

oooO END OF REPORT Oooo

ORDINARY MEETING
Minutes: 09 December 2014

MOTION:

RESOLVED on the motion of Councillor Porter, seconded by Councillor Creed.

*Refer to RESOLUTION***418 RESOLUTION:**

RESOLVED on the motion of Councillor Porter, seconded by Councillor Creed.

That:

1. The report regarding the options for amending Hawkesbury Local Environmental Plan 2012 to permit "secondary dwellings" and "detached dual occupancy" be received and noted.
2. Council officers prepare a concept planning proposal for discussion with the Department of Planning in February 2015 based on the recommendations in this report for both Option 1 and Option 4 (4 ha) to amend Local Environmental Plan 2012 to permit "secondary dwellings" and "detached dual occupancy" within all rural zones and E3 & E4 environmental zones.
3. Should the Department of Planning and Environment support the preliminary discussions about the concept planning proposal, a planning proposal be prepared and be referred to the Department for a gateway determination.
4. Council also amend the Residential Land Strategy to address the Policy change to permit Secondary Dwellings and Detached Dual Occupancy as described in this report.
5. A further report be presented to Council in the first quarter of 2015 providing an update on the status of the planning proposal, Development Contributions (Section 94) Plan, DCP chapter and Enforcement Policy chapter preparation.

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 Creed	Councillor Conolly
Councillor Ford	Councillor Lyons-Buckett
Councillor Porter	Councillor Rasmussen
Councillor Reardon	
Councillor Tree	
Councillor Williams	

Councillors Calvert, Mackay and Paine were absent from the meeting.

Attachment 7

Wilberforce Subdivision and Development Policy



Hawkesbury City Council
Policy

Wilberforce
Subdivision and
Development

Adopted: 31 July 2012

Hawkesbury City Council



HAWKESBURY CITY COUNCIL POLICY
Wilberforce Subdivision and Development Policy

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HAWKESBURY CITY COUNCIL POLICY

Wilberforce Subdivision and Development Policy

1.0 PURPOSE

The purpose of this policy is to guide decision making on applications for subdivision and development in the residential zoned area of Wilberforce village as covered by the Priority Sewerage Program.

This policy should be read in conjunction with:

- Glossodia, Freemans Reach and Wilberforce Sewerage Scheme Connection Policy
- Hawkesbury Local Environmental Plan 1989 (HLEP)
- Draft Hawkesbury Local Environmental Plan 2011 (LEP)
- Community Strategic Plan (CSP)

2.0 BACKGROUND

Wilberforce is part of the Priority Sewerage Program (the PSP). With the availability of sewer to properties there is an expectation that development (including subdivision), which was previously restricted through lack of sewer services, to proceed without further delay. Development applications (DAs) have been lodged for subdivision and other development in the expectation that approval can now be granted as Sydney Water has advised that services are, or will soon be, made available.

However, the PSP is a limited coverage scheme and does not provide for unlimited connections. It provides for a limited infill growth (approximately 100 Equivalent Tenements (ET)) but does not provide guidance on the location of that growth area. This policy seeks to provide guidance until such time as master plans are prepared for the villages under the CSP or until the actual capacity, as opposed to the design capacity, of the PSP system is fully understood. This is expected to be approximately the end of 2013.

Council has a responsibility to provide for the orderly use of scarce resources and to enable development to occur without unduly burdening the demand for public utilities. Equally it is important that the character of Wilberforce is managed carefully over time as intended by the Community Strategic Plan.

On 15 February 2011 Council resolved to prepare an interim policy that seeks to provide for a fair and equitable allocation of the Sydney Water service. This Policy seeks to provide an allocation approach based on impartial criteria.

3.0 SCOPE

This Policy applies to all residentially zoned land, serviced by the Priority Sewerage Program within the Wilberforce village as shown on Appendix A.

The objectives of this Policy are to:

- Ensure development decisions do not prejudice the orderly and economic use of scarce resources.
- Seek to avoid a "first-in-first served" allocation and instead enable development (including subdivision) to occur in a fair and equitable way.
- Provide efficient subdivision layouts that do not substantially alter the established character of Wilberforce.
- Establish criteria to enable the systematic approval of suitable development (including subdivision).

4.0 DEFINITIONS

- "Council" means the Hawkesbury City Council.
- "PSP" means the Priority Sewerage Program, provided by Sydney Water.
- "Development" has the meaning ascribed under the Environment Planning and Assessment Act 1979



HAWKESBURY CITY COUNCIL POLICY

Wilberforce Subdivision and Development Policy

5.0 ROLES AND RESPONSIBILITIES

Director City Planning	Provide a review of this policy on an annual basis
Manager Planning	Monitor development and subdivision approvals and implementation of the policy against PSP

6.0 PRIORITY SEWERAGE PROGRAM

"Sydney Water started construction of the Glossodia, Freemans Reach and Wilberforce Sewerage Scheme in March 2009. The scheme will provide improved wastewater services to about 1,660 properties in the three towns."

Source: <http://www.sydneywater.com.au/majorprojects/NorthWest/Glossodia/>

The available capacity of the PSP is limited. Each development application that Council endorses enables an applicant (subject to services being made available) to subdivide their land or develop it to a higher intensity than one dwelling. However, the PSP has a limited capacity for additional infill development as the primary purpose of the program is to provide improved wastewater services to existing properties.

7.0 DEVELOPMENT IN WILBERFORCE

Existing development

Council is the regulatory authority for on-site septic systems and are encouraging property owners to connect to the PSP. On 13 April 2010, Council adopted the "Glossodia, Freemans Reach and Wilberforce Sewerage Scheme Connection Policy" to encourage and guide the connection of existing premises to the PSP. However if a property owner wishes to retain an onsite sewage management system it will be required to meet 'best practice' onsite sewage management, under the *Local Government Act 1993*.

Ultimately all other existing premises will be required to connect and that policy includes the following information:

"If a property owner fails to make a commitment to connect to Sydney Water's sewerage system and does not upgrade their onsite sewage management system in accordance with 'best practice' the following forms of action may be taken by Council:

A Prevention Notice can be issued under the Protection of the Environment Operations Act 1997. This Prevention Notice will require the owner of the property to connect to the sewer or to upgrade the existing onsite sewage management system so it meets the requirements of 'best practice' onsite sewage management. The Prevention Notice carries an administration fee of \$320 as at the date of this policy.

An Order can be issued under the Local Government Act 1993, requiring the property owner to connect to the sewer or to upgrade the existing onsite sewage management system to meet the requirements of 'best practice' onsite sewage management."

Proposed Development

The PSP provides limited capacity for connections in excess of existing development for Wilberforce, Glossodia and Freemans Reach. In Wilberforce the minimum lot size in the residentially zoned land is currently 450m² and many of the existing lots are well in excess of 1000m². As such, there is widespread potential for subdivision and intensification of development. The PSP will not be able to cater for the full potential of that latent demand.

Council has taken the view that it is prudent to ensure that the allocation of that limited capacity occurs in a way that best serves the public interest. It is also important to not raise a false expectation that a DA approval guarantees that the service will be available when the development proceeds.



HAWKESBURY CITY COUNCIL POLICY

Wilberforce Subdivision and Development Policy

A development consent notice is valid for 5 years. As such, it is possible that one subdivision could be approved that does not commence until the fourth year. In the meantime other applications may be approved and connect to the system, thereby using the available capacity. When that original applicant is then ready to proceed they may be refused a Section 73 certificate from Sydney Water as the service capacity is no longer available as the supply has, by then, been exhausted.

8.0 FUTURE PLANNING FOR WILBERFORCE

As part of the Community Strategic Plan (CSP), the Hawkesbury residential Land Strategy and, hence, Council's Local Environmental Plan it is important to establish future character directions partly based on the availability of services and facilities. The allocation of the limited servicing has implications for the availability of sewer for future development (including subdivision).

For example if a school, community or emergency services facility was proposed then arguably these should be given priority access to the limited sewer capacity available ahead of subdivision of land for residential purposes. Similarly it is best practice to locate new development outside areas affected by the 1 in 100 year flood and close to existing services. However, Sydney Water's has no obligation to allocate the capacity on this basis. That responsibility is applied to the Consent Authority, in this case, Council

The character of Wilberforce has, in part, been established by the previous subdivision pattern. Overall the predominant lot size is about 1000m² with a few isolated pockets of lots at about 600m². The Housing Zone provisions in the LEP apply to residential land not just in Wilberforce but also to areas including Bligh Park, Windsor and Richmond. The provisions assume a standard residential layout and a range of services with a typical residential area.

The LEP assumes that in a Housing Zone there would be (over time) widespread development at the minimum lot size of 450m². However due to the absence of services until recently this has not been the actual situation. Instead for subdivision the minimum lot size has been the 4000m² minimum.

Regardless of services being available, a change in the lot sizes from 4000m² to 450m² would be significant. Also, given that lodgement of a subdivision proposal is a choice made by individual owners there is no guarantee that the remaining large parcels would be the ones to subdivide first. It may be that owners of existing lots of 900m² in size may seek to subdivide as well. Owners of any lot size could also seek to develop as outlined above for a range of purposes.

9.0 ALLOCATION OF CAPACITY

Until such time as additional sewer capacity is made available to all lots in the Housing, or R2 Low Density Residential, Zone of Wilberforce the following criteria is to be used to assess development applications for subdivision and other development proposals submitted to Council:

- a) Available capacity, based on the number of subdivision approvals that have proceeded to Subdivision Certificate stage and other approvals beyond a single dwelling on a single allotment, is to be recorded and considered upon lodgement of any new applications. In this regard, a tally is to be kept by Council and approvals are not to result in an allocation over 100 ET in the area covered by the PSP.
- b) Lot size - new lots to be created in the housing zone are to have a minimum area of 750m², in those areas not affected by the 1 in 100 year flood, or 1.1ha, in areas affected by the 1 in 100 year flood, as shown in Appendix A. Allotments in areas affected by the 1 in 100 year flood must have a building platform, suitable for the construction of a dwelling, at a level equal to or greater than the 1 in 100 year flood. This building platform must be either naturally occurring or may be obtained by filling, via a separate development approval, with a maximum fill depth of 1m.
- c) Residential development in excess of a single dwelling house (for the purposes of secondary dwellings, dual occupancies, seniors housing and for community purposes (if permitted by the relevant zoning or Legislation)) is encouraged within the 800m radius from existing community facilities, i.e., shops.



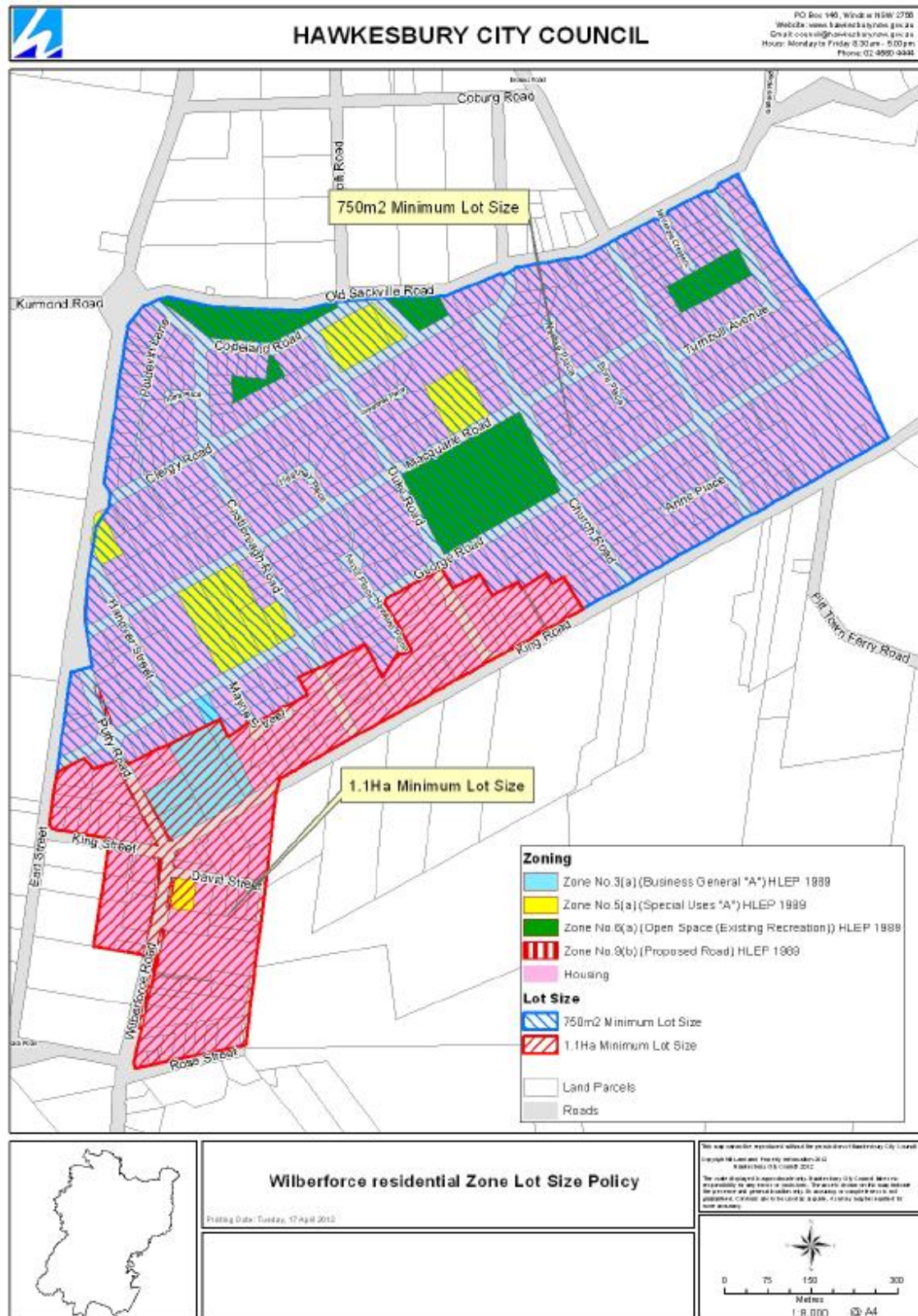
HAWKESBURY CITY COUNCIL POLICY
Wilberforce Subdivision and Development Policy

- d) Development applications lodged with Council prior to 15 February 2011 (as listed in the Council report dated 15 February 2011 and any subsequent related motions of Council) will not be subjected to this Policy.

10.0 Review of Policy

The Policy is to be reviewed within two years of adoption.

Appendix A - Residential Zoned Land and Lot Size Map for Land within the Wilberforce Village



Attachment 8

Hawkesbury Floodplain Risk Management Plan, adopted 11 December 2012

TABLE 3 – Floodplain Risk Management Plan

ITEM	CAPITAL COST	AGENCY	PRIORITY
1. Community Flood Education and Resilience (a) Review and evaluate Regional Public Awareness Program. (b) Issue flood certificates on regular basis. (c) Prepare suburb-specific FloodSafe guides. (d) Prepare flood tolerant housing poster and brochure. (e) Enhance flood information on Council's web-site. (f) Commission book and video production on Hawkesbury flooding and vital community responses. (g) 150 year commemoration of 1867 flood. (h) Install flood icons/markers at key locations. (i) Continue to host Business FloodSafe breakfasts.	\$300K	HCC, SES	High
2. Emergency Management (a) Implement dual outbound lanes on Jim Anderson Bridge during flood emergencies.	\$100K	SES, RTA	High
(b) Enhance emergency management assessment tools. Develop best practice traffic modelling to better assess implications of various evacuation scenarios. Integrate with flood modelling.	\$200K	SES	Medium
(c) Promote construction of community refuges within major new buildings on flood islands to service the existing communities.	–	HCC, State	High
(d) Continue to prepare and maintain flood emergency management plans for special uses and utilities. (e) Use caravan park emergency management plan template to raise awareness and increase preparedness.	–	Private Sector, HCC, SES, State	High
(f) Review and update Hawkesbury-Nepean Flood Emergency Sub Plan and NSW State Flood Sub Plan (Annex C).	–	SES, BoM, State	High
(g) Provide additional evacuation capacity possibly through a new crossing of South Creek at Eighth Ave, Llandilo.	(not costed)*	HCC, RTA, State	Low-Medium
(h) Identify local evacuation route upgrades and revise FRMP.	\$100K*	HCC, SES	Medium
(i) Investigate lane duplication options, east of Jim Anderson Bridge.	\$150K*	HCC, SES	High
3. Future Development – Flood Risk Advice to Consent Authorities (a) Provide advice to Council and State Government concerning severity of flood evacuation risks as per Tables 4 and 5.	–	HCC, State	High
4. Town Planning (a) Advise DPI of principal planning recommendations of this Plan. (b) Amend flood risk provisions of Council's existing DCP. (c) Amend LEP in accordance with Volume 3. (d) Prepare maps to guide application of Codes SEPP. (e) Revise S149 notifications in accordance with Volume 3. (f) Lodge application for 'exceptional circumstances' with DPI & OEH.	–	HCC, State	High
5. VHR and Redevelopment (a) Survey all houses inundated in 20 year ARI events. (b) Assess eligibility for voluntary house raising (VHR)/ redevelopment and possibly for voluntary house purchase (VP). (c) Report back to Council. Revise FRMP if required.	\$100K*	HCC	Medium
6. McGraths Hill (a) Feasibility study of 50 year levee including consultation. (b) Assess community attitudes to levee and refuge mound. (c) Report back to Council. Revise FRMP if required.	\$60K*	HCC	Medium
7. Updating Flood Behaviour Data in Valley (a) Utilise latest 2D flood modelling and latest topographical data. (b) Extend along main tributaries. (c) Include revised IFD rainfall. (d) Include for revised climate change influences. (e) Update data for smaller more frequent flood events.	\$500K	HCC, other Councils, State	Low
TOTAL (rounded)	\$1.5M*		

*Note: Construction costs are not included. Plan to be revised to include these costs once investigations are completed.

Attachment 9

**PN 09-003 Classification and reclassification of public land
through a local environmental plan, dated 12 June 2009**



LEP practice note

STANDARD INSTRUMENT FOR LEPs

Note	PN 09–003
Date	12 June 2009
Related	Supersedes (re)classification advice in Best Practice Guideline (1997)

Classification and reclassification of public land through a local environmental plan

The purpose of this practice note is to update (and supersede) previous guidance on the process to classify or reclassify public land through a local environmental plan including a principal plan in accordance with the Standard Instrument.

Introduction

'Public land' is any land (including a public reserve) vested in, or under the control of, council. Exceptions include roads, land to which the *Crown Lands Act 1989* applies, a common, or land to which the *Trustees of Schools of Arts Enabling Act 1902* applies.

'Community' land is generally open to the public, for example, parks, reserves or sports grounds.

'Operational' land may be used for other purposes, for example, as works depots or garages, or held by council as a temporary asset.

'Classification' of public land refers to the process when this land is first acquired and first classified as either 'operational' land or 'community' land.

'Reclassification' of public land refers to the process of changing the classification of 'operational' land to 'community' land or from 'community' land to 'operational' land.

How is public land classified or reclassified?

Depending on circumstances, this is undertaken by either:

- resolution of council under section 31, 32 or 33 of the *Local Government Act 1993* (LG Act) [through section 27(2)], or
- a local environmental plan (LEP) under the *Environmental Planning and Assessment Act 1979* (EP&A Act) [through section 27(1) of the LG Act].

In both cases, it is not possible for councils to delegate their decision to classify or reclassify public land [section 377(1) of the LG Act]. Councils are encouraged to classify or reclassify land through the LG Act wherever circumstances conform to sections 31, 32 or 33 of the LG Act.

The remaining parts of this practice note identify the key areas councils must consider when proposing to classify or reclassify public land by means of a local environmental plan (LEP) under the second option.

This practice note supersedes the sections relating to classification and reclassification in *LEPs and council land*, Best Practice Guideline (Department of Urban Affairs and Planning 1997).

Procedure under the EP&A Act

Where classification or reclassification is proposed through an LEP, council is advised to include the proposal as early as possible in the draft LEP or planning proposal. If the public land to be classified or reclassified is not owned by council, landowner's consent is required prior to either section 54 or section 56 of the EP&A Act (when the Part 3 amendment to the EP&A Act applies).¹

The proposal would then form part of the material presented through either section 54 or section 56 of the EP&A Act (when the Part 3 amendment to the EP&A Act applies).

¹ In relation to the Part 3 amendment, council should also check the changes to the EP&A Act and Regulation once these commence.

To assist councils, the steps in preparing material either as a draft LEP or planning proposal are summarised in Attachment 1. Column 1 of Attachment 1 sets out the requirements in accordance with the EP&A Act prior to the Part 3 amendment commencing. Column 2 of the attachment sets out the requirements after the Part 3 amendment commences. In relation to the Part 3 amendment, council should also check the savings and transitional arrangements under the EP&A Act, once these commence.

Where land is proposed to be reserved for a public purpose such as provision of public services and facilities, section 117 Direction 6.2—Reserving Land for Public Purposes applies. The Direction also sets out requirements when a reservation of public land for such purposes is no longer required.

A summary of relevant matters that need to be available at the time the planning proposal is first forwarded are listed in Attachment 2 under 'Exhibition'. Other matters for exhibition and later stages are listed separately in that attachment.

Provisions in the Standard Instrument

The following Standard Instrument provisions are relevant to the classification and reclassification of public land.

Clause 5.2—Classification and reclassification of public land

The purpose of this clause is to enable councils to classify or reclassify public land identified in Schedule 4 of the Standard Instrument. Only public land to be classified or reclassified by publication on the NSW legislation website of that principal LEP is to be identified in the schedule. Schedule 4 must not contain a reference to any land already classified or reclassified.

Part 1 Schedule 4—change to 'operational' land, no interest changes

Land is identified in Part 1 of Schedule 4 where the trusts, estates, interests, dedications, conditions, restrictions or covenants over the land are to remain after reclassification to 'operational land', i.e. where no interests will change.

Part 2 Schedule 4—change to 'operational' land and an interest will change

Land is identified in Part 2 of Schedule 4 where the land is to be classified or reclassified as 'operational land' and some of the trusts, estates, interests, dedications, conditions, restrictions, or covenants over the land remain. The interests to remain are identified in column 3 of this part of the schedule.

Part 3 Schedule 4—change to 'community' land

Land proposed to be classified or reclassified as 'community land' through the LEP is identified in Part 3 of the schedule.

Where there is no land to be classified or reclassified through the LEP, the clause remains with the schedule empty.

General requirements for exhibition

Public exhibition of the LEP occurs after certification of the LEP (in accordance with section 66 of the EP&A Act). Public exhibition of a planning proposal may occur in accordance with section 57(2) (when the Part 3 amendment to the EP&A Act commences). To assist the public in understanding an exhibited draft LEP or planning proposal to classify or reclassify land, requirements are summarised in Attachment 2.

A copy of council's response to these requirements together with a copy of this practice note is to be part of material displayed during public exhibition of an LEP or planning proposal to reclassify or classify public land.

Public hearing

A public hearing must be held when 'community land' is proposed to be reclassified as 'operational land'.

To ensure council and the community have sufficient time to consider relevant matters associated with the proposed change, the public hearing is held after the close of the exhibition period under section 68 of the EP&A Act (section 29 of the LG Act) for an LEP and in accordance with section 57(6) (when the Part 3 amendment to the EP&A Act commences).

Public hearing provisions are set out in the EP&A Regulation (clause 14) and public notice of a hearing must be sent or published at least 21 days before the start of the public hearing.

The independence of the person chairing the public hearing and requirements relating to the preparation and inspection of reports from the hearing are specified in section 47G of the LG Act.

Further information

A copy of this practice note, Standard Instrument, and other specific practice notes and planning circulars on using the Standard Instrument, can be accessed on the Department's website <http://www.planning.nsw.gov.au/lep/index.asp>

Authorised by:

Sam Haddad, Director-General

List of attachments:

1. Main steps (in sequence) for classifying and reclassifying public land under the *Environmental Planning and Assessment Act 1979*
2. General requirements for classification or reclassification of land through local environmental plans and planning proposals

Attachment 1. Main steps (in sequence) for classifying and reclassifying public land under the *Environmental Planning and Assessment Act 1979*

Requirements prior to commencement of the 2008 Part 3 amendment to the EP&A Act	Requirements after commencement of the 2008 Part 3 amendment to the EP&A Act when it applies to a proposal
<p>Council notifies the Department of a decision to prepare a draft LEP including a proposal to classify or reclassify public land (section 54 of the EP&A Act).</p> <p>This notification is accompanied by an appropriate level of information including for the following:</p> <ul style="list-style-type: none"> - a justification for the proposal - reasons why council acquired an interest - details that would also accompany a plan at exhibition stage (see Attachment 2) - any proposal to extinguish or retain other interests in the land through the reclassification - a justification /explanation as to why such interests are being extinguished - any rezoning associated with the classification/ reclassification - any preliminary comments by a relevant government agency, including agency's consent where land is vested or held by an agency other than council - consideration of any relevant directions e.g. section 117 Direction 6.2—Reserving Land for Public Purposes, where appropriate. 	<p>A planning proposal is forwarded by council to the Minister (new section 56 of the EP&A Act), including a proposal to classify or reclassify public land.</p> <p>This proposal contains an appropriate level of information including for the following:</p> <ul style="list-style-type: none"> - a justification for the planning proposal - reasons why council acquired an interest - details that would also accompany a plan at exhibition stage (see Attachment 2) - any proposal to extinguish or retain other interests in the land through the reclassification - a justification /explanation as to why such interests are being extinguished - any rezoning associated with the classification/ reclassification - any preliminary comments by a relevant government agency, including an agency in which the land is vested or held - consideration of any relevant directions, e.g. section 117 Direction 6.2—Reserving Land for Public Purposes, where appropriate.
Consultation with relevant public agencies and other stakeholders (section 62 of the EP&A Act).	See below.
After consultation, council submits a draft LEP to the Department and, subject to the issue of a section 65 certificate, the draft LEP is exhibited for a minimum of 28 days and the public invited to provide written submissions to the exhibited LEP within the exhibition period.	Following review, at the gateway, if the planning proposal is to proceed, requirements for the various stages of the proposal, including consultation requirements, will be provided to council (new section 56(1), 56(2) of the EP&A Act).
Where a draft LEP includes reclassification of 'community' land to 'operational' land, council holds a public hearing into the proposal in accordance with section 68 of the EP&A Act (section 29 of the Local Government Act). *	Where a planning proposal includes reclassification of 'community' land to 'operational' land, council holds a public hearing into the proposal in accordance with new section 57(6) of the EP&A Act. *
Such a hearing follows the requirements of clause 14 of the EP&A Regulation including that a notice of the details for the hearing must be published in a local newspaper and sent to any person requesting a hearing a minimum of 21 days prior to the hearing.	Such a hearing follows the requirements of clause 14 of the EP&A Regulation including that a notice of the details for the hearing must be published in a local newspaper and sent to any person requesting a hearing a minimum of 21 days prior to the hearing.
Where it is considered appropriate, the draft LEP is submitted to the Director-General together with details of all submissions and the report of the public hearing, together with a statement of other matters set out in section 68 of the EP&A Act.	<p>Consultation for a planning proposal under new section 57 of the EP&A Act is completed when council has considered any submissions made concerning the proposed instrument and the report of any public hearing.</p> <p>Where the planning proposal is to proceed, the Director-General makes arrangements for the drafting of the LEP to give effect to the final proposal (new section 59 of the EP&A Act).</p>
The Director-General furnishes a report to the Minister if the Director-General is satisfied that the draft LEP has been prepared in accordance with any applicable standard instrument under section 33A (section 69 of the EP&A Act).	
The Minister determines whether to make the LEP under section 70 of the EP&A Act. **	The Minister (or Minister's delegate) determines whether to make the LEP under new section 59 of the EP&A Act. **

Notes:

* Where a proposal includes a classification of 'operational' land to 'community' land, a public hearing is not generally required.

** Where a reclassification proposes to extinguish other interests in the land, the approval of the Governor is required in accordance with section 30 of the LG Act.

Attachment 2. General requirements for classification or reclassification of land through local environmental plans and planning proposals

Exhibition

When exhibiting a planning proposal or draft LEP to classify or reclassify public land, council must provide a written statement including the following:

- the reasons why the draft LEP or planning proposal is being prepared including the planning merits of the proposal, e.g. the findings of a centres' strategy, council's intention to dispose of the land, provision of open space in a town centre
- the current and proposed classification of the land
- the reasons for the reclassification including how this relates to council's strategic framework, council's proposed future use of the land, proposed zones, site specific requirements, e.g. heritage controls, anticipated physical or operational changes resulting from the reclassification
- council's ownership of the land, if this applies
- the nature of council's interest in the land, e.g. council has a 50 year lease over the site
- how and when the interest was first acquired, e.g. the land was purchased in 20XX through section 94
- the reasons council acquired an interest in the land, e.g. for the extension of an existing park; council was given responsibility for the land by a State agency
- any agreements over the land together with their duration, terms, controls, agreement to dispose of the land, e.g. whether any aspect of the draft LEP or planning proposal formed part of the agreement to dispose of the land and any terms of any such agreement
- an indication, as a minimum, of the magnitude of any financial gain or loss from the reclassification and of the type(s) of benefit that could arise e.g. council could indicate the magnitude of value added to the land based on comparable sites such as the land is currently valued at \$1500 per square metre, nearby land zoned for business development is valued at between \$2000 and \$5000 per square metre
- the asset management objectives being pursued, the manner in which they will be achieved and the type of benefits the council wants, i.e. without necessarily providing details of any possible financial arrangements, how the council may or will benefit financially
- whether there has been an agreement for the sale or lease of the land; the basic details of any such agreement and, if relevant, when council intends to realise its asset, either

immediately after rezoning/reclassification or at a later time

- Relevant matters required in plan making under the EP&A Act
- A copy of this practice note must be included in the exhibition material to assist the community in identifying information requirements. Council staff may wish to identify the column in Attachment 1 that applies.

Post-exhibition

Once a decision has been made regarding whether the draft LEP or planning proposal proceeds, everyone who made a written submission must be notified in writing of the decision.

Written notification must occur within 14 days of the decision and needs to clearly identify the reasons for council's decision. An explanation must be included of how issues raised in submissions were addressed including the reasons for council's decision.

The final report after exhibition to either the Director-General or the Minister should include:

- a brief summary of council's interest in the land
- issues raised in any relevant submissions
- the dates of the exhibition and the hearing
- an explanation of how issues raised were addressed or resolved.

Additional matters to be addressed when the Governor's approval is required

The Governor's approval is required for the extinguishment of public reserve status and other interests in land which a council proposes to reclassify from 'community' to 'operational' status under the LG Act.

Council must provide sufficient information in accordance with this practice note to inform the Minister of any public reserve and/or other third party property interests (e.g. trust, covenant, easement) that are proposed to be extinguished upon the making of such a draft LEP or planning proposal.

Important note

This note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this note.

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Attachment 10

Hawkesbury Local Environmental Plan 1989 Clause 13 Subdivision by adjustment or relocation of boundaries

13 Subdivision by adjustment or relocation of boundaries

- (1) Nothing in this plan prohibits consent being granted for a subdivision of land by adjustment or relocation of common boundaries provided that:
 - (a) no additional allotments are created, and
 - (b) no allotment becomes, as a consequence of the adjustment or relocation, capable of subdivision under this plan, and
 - (c) the number of undersized allotments resulting from the subdivision does not exceed the number of undersized allotments before the subdivision, and
 - (d) the number of dwelling-houses capable of being erected, as a consequence of the adjustment or relocation, does not exceed the total number permissible prior to that adjustment or relocation, and
 - (e) the number of additional allotments capable of being created, as a consequence of the adjustment or relocation, under this plan does not exceed the total permissible prior to that adjustment or relocation, and
 - (f) the land is not land shown on the map marked “State Environmental Planning Policy (Major Projects) Amendment (Pitt Town) 2008 Pitt Town Site Land Application Map”.
- (2) Subclause (1) does not apply to land that includes or consists of allotments smaller than 450 square metres.
- (3) Subclause (1) does not apply to land that includes or consists of allotments derived from or forming the whole or part of land resulting from the closure of part or all of a road, irrespective of when that closure occurred.
- (4) Subclause (1) does not apply to land within Zone No 7 (e).
- (5) Subclause (1) does not prevent the subdivision of any allotment that was, prior to the adjustment or relocation of boundaries of other lots, capable of subdivision under this plan.
- (6) In determining an application for consent for a subdivision in accordance with this clause the Council must consider:
 - (a) whether the size, shape, or topography of the land would restrict the erection of a dwelling on any of the lots created, and
 - (b) whether the land is capable of on-site effluent disposal where no reticulated sewerage system is available, and
 - (c) whether the proposed lots are similar in size to the surrounding lots, and
 - (d) whether the environment will be improved as a result of the subdivision, and
 - (e) whether appropriate environmentally sound, safe, low-cost access is available for the dwelling-house site proposed on each of the lots created by the subdivision, and
 - (f) whether the proposed lots will affect a historic subdivision pattern, and
 - (g) whether development that may occur as a result of the subdivision will affect a historically significant view or vista to or from a heritage item.
- (7) Nothing in this plan prohibits subdivision by the opening of a public road.

Attachment 11

**Council Report and Resolution, 8 December 2015
regarding a proposed amendment to Clause 4.1E**

ORDINARY MEETING

Meeting Date: 08 December 2015

Item: 215

CP - Proposed Amendment to Clause 4.1E Exceptions to Minimum Subdivision Lot Size for Grose Wold of Hawkesbury Local Environment Plan 2012 - (95498, 124414)

REPORT:

Executive Summary

This purpose of this report is to recommend to Council that Clause 4.1E Exceptions to minimum subdivision lot size for Grose Wold of the Hawkesbury Local Environmental Plan 2012 (LEP 2012) be amended.

The purpose of the proposed amendment is to remove the ambiguities within the clause and ensure the long term protection of threatened species, populations and ecological communities and land in an environmental constraint area within the Grose Wold area.

Background

Council has recently been involved in two Land and Environment Court (LEC) cases dealing with the wording of Clause 4.1E Exceptions to minimum subdivision lot size for Grose Wold and its relationship to Clause 4.1 Minimum subdivision lot size of Hawkesbury Local Environmental Plan 2012.

Clause 4.1 establishes the general minimum lot size provisions for a 'conventional' subdivision of land within the Hawkesbury local government area.

Clause 4.1E contains additional provisions relating to the subdivision of certain land within Grose Wold. In simple terms these provisions are based on the concept of 'lot averaging' whereby proposed lots may be less than the conventional minimum lot size provided certain ecologically significant vegetation is protected and the overall number of proposed lots is not greater than that which would be achieved by conventional subdivision. Clause 4.1E is based on the former Clause 41AA of Hawkesbury Local Environmental Plan 1989 (LEP 1989) which was in operation from 2 June 2000 until the commencement of LEP 2012.

The current Clauses 4.1 and 4.1E are attached to this report.

In both LEC cases Council lost due to ambiguity in the wording of Clause 4.1E and its relationship with Clause 4.1. The cases revolved around quite detailed legal argument and specific circumstances for each site hence it is difficult to explain in simple terms the arguments presented. However, in summary in the first case, MB Investments Pty Ltd v Hawkesbury City Council, the LEC found that the qualitative provisions of Clause 4.1E over rode the quantitative provisions of Clause 4.1. Whereas in the second case, Ogg v Hawkesbury City Council, the LEC found that the quantitative provisions of Clause 4.1 over rode the quantitative provisions of Clause 4.1E.

The net effect of these findings is that land will be subdivided in a manner and produce a greater number of lots than was envisaged by the former Clause 41AA of LEP 1989.

A review of the preparation of LEP 2012 has found that the ambiguity in Clause 4.1E has arisen as a consequence of the former Clause 41AA of LEP 1989 being translated and re-drafted by DP&E's legal branch and/or NSW Parliamentary Counsel in the finalisation of LEP 2012.

In addition to these cases, two further appeals were lodged with the LEC on 11 November 2015 against Council's refusal to grant consent for subdivision of certain land to which Clause 4.1E applies. These refusals were issued in June 2015 and the applications were refused on similar reasons to Council's defence of the Ogg matter.

ORDINARY MEETING**Meeting Date:** 08 December 2015

The need for an amendment to Clause 4.1E was previously mentioned in a report to Council on 31 March 2015 dealing with a suite of general amendments to LEP 2012. The resultant planning proposal for these amendments was forwarded to the DP&E for a gateway determination on 31 July 2015. At the time of preparing this report Council had not received a gateway determination for this planning proposal and given the urgency of the proposed amendment to Clause 4.1E it is recommended that this particular matter be dealt with separately to the general amendments planning proposal.

Proposed Amendment to LEP 2012

In light of the above mentioned judgements and possible future appeals a proposed amendment to Clause 4.1E has been prepared by Council staff and Council's solicitors. The proposed amendment is attached to this report. The final wording of the amendment will be a matter for the DP&E legal branch and the NSW Parliamentary Counsel (PC).

The proposed amendment seeks to remove the ambiguities within the clause and ensure the long term protection of threatened species, populations and ecological communities and land in an environmental constraint area. Also 'Grose Vale' has been added to the clause heading and sub-clause (1) because part of the land in 'Area B' and edged heavy yellow on the Lot Size Map is in Grose Vale. 'Cumberland Plain Woodland' in the current clause has been replaced with "threatened species, populations and ecological communities" as Cumberland Plain Woodland is only one type of significant vegetation potentially existing in the subject area and the wording of the current clause excludes consideration of other threatened species, populations or ecological communities.

The Environmental Planning and Assessment Act 1979 (EP&A Act) outlines two methods to amend a local environmental plan. One method is by way of the planning proposal process which would normally require the preparation of a planning proposal, referral to the DP&E for a gateway determination, consultation with public authorities and the community, and the finalisation of the amendment by way of further referral to the DP&E and the NSW PC. The other method is by way of an expedited amendment (under Section 73A of the EP&A Act) whereby many of the above mentioned steps need not be undertaken. Expedited amendments are only available for correcting an obvious error; addressing matters that are of a consequential, transitional, machinery or other minor nature; or where by the Minister grants an exemption to the above mentioned steps because the amendment will not have any significant adverse impact on the environment or adjoining land.

Council staff have requested advice from DP&E regarding the potential to utilise Section 73A of the EP&A Act to achieve the proposed amendment as it is considered that the current clause that was amended by others, does not reflect Council's original intention, i.e., translation of the previous LEP 1989 clause. At the time of preparing this report a reply had not been received.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Caring for Our Environment strategy;

- Manage growth with ecologically sustainable principles

Financial Implications

No financial implications, apart from use of staff resources are applicable to 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.

ORDINARY MEETING

Meeting Date: 08 December 2015

RECOMMENDATION:

That:

1. In association with advice from the Department of Planning and Environment, Council staff either:
 - a) Forward a planning proposal to amend Clause 4.1E of Hawkesbury Local Environmental Plan 2012 as intended by this report to the Department of Planning and Environment for a gateway determination, or
 - b) Request the Minister for Planning to amend Clause 4.1E of Hawkesbury Local Environmental Plan 2012 as intended by this report under Section 73A of the Environmental Planning and Assessment Act 1979.
2. The Department of Planning and Environment be advised that, in the case of the proposed amendment being dealt with as a planning proposal, Council requests a Written Authorisation to Exercise Delegation to make the Plan

ATTACHMENTS:

- AT - 1** Current Clause 4.1 and Clause 4.1E of Hawkesbury Local Environmental Plan 2012
- AT - 2** Proposed Amendment to Clause 4.1E of Hawkesbury Local Environmental Plan 2012

ORDINARY MEETING

Meeting Date: 08 December 2015

AT - 1 Current Clause 4.1 and Clause 4.1E of Hawkesbury Local Environmental Plan 2012

4.1 Minimum subdivision lot size

- (1) The objectives of this clause are as follows:
 - (a) to ensure that the pattern of lots created by subdivision and the location of any buildings on those lots will minimise the impact on any threatened species, populations or endangered ecological community or regionally significant wetland, waterways and groundwater as well as any agricultural activity in the vicinity,
 - (b) to ensure that each lot created in a subdivision contains a suitable area for the erection of a dwelling house, an appropriate asset protection zone relating to bush fire hazard and a location for on-site effluent disposal if sewerage is not available,
 - (c) to ensure a ratio between the depth of the lot and the frontage of the lot that is satisfactory having regard to the purpose for which the lot is to be used.
- (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- (3A) If a lot in a following zone is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size:
 - (a) Zone R1 General Residential,
 - (b) Zone R2 Low Density Residential,
 - (c) Zone R3 Medium Density Residential.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

4.1E Exceptions to minimum subdivision lot size for Grose Wold

- (1) The objective of this clause is to provide an alternative method to clause 4.1 for the subdivision of land to which this clause applies in a way that ensures the protection of the Cumberland Plain Woodland.
- (2) This clause applies to land in the area known as "Grose Wold", being the land identified as "Area B" and edged heavy yellow on the Lot Size Map.
- (3) Development consent may be granted for the subdivision of land to which this clauses applies only if:
 - (a) the consent authority is satisfied that the pattern of lots to be created by the subdivision and the location of any buildings on those lots will minimise the impact on any Cumberland Plain Woodland, any land in an environmental constraint area and waterways and groundwater, and
 - (b) the consent authority has considered a geotechnical assessment demonstrating the land is adequate for the on-site disposal of effluent in accordance with best practice, and

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- (c) the Cumberland Plain Woodland and any land in an environmental constraint area is retained in one lot as much as possible, and
- (d) the consent authority is satisfied there will be no significant adverse impacts on Cumberland Plain Woodland or land in any environmental constraint area located downstream or surrounding the development.
- (4) Despite clauses 4.1, 4.1AA, 4.1A and 4.1C, if land to which this clause applies contains an environmental constraint area, development consent must not be granted for the subdivision of that lot unless:
 - (a) the number of lots to be created for a dwelling house by the subdivision will not exceed the area of the original lot for the land to be subdivided, in hectares, divided by 4, and
 - (b) any lot created for a dwelling house will contain at least one hectare of land that is not in an environmental constraint area.
- (5) When considering a development application to which this clause relates, the consent authority must have regard to the effect the development is likely to have on the following:
 - (a) the water quality and water quantity in the Grose River and its tributaries,
 - (b) the scenic quality of the area,
 - (c) existing riparian vegetation, the rehabilitation of local native riparian vegetation located along the Grose River and along drainage lines and creeks.
- (6) In this clause:

Cumberland Plain Woodland means the critically endangered ecological community with that name referred to in Part 2 of Schedule 1A to the Threatened Species Conservation Act 1995.

environmental constraint area means land identified as "Environmental Constraint Area" on the Environmental Constraints Area Map.

original lot for land being subdivided means a lot that existed immediately before 2 June 2000 that included the land.

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AT - 2 Proposed Amendment to Clause 4.1E of Hawkesbury Local Environmental Plan 2012

4.1E Variations of lot size without increasing lot yield at certain land at Grose Wold and Grose Vale

- (1) The objective of this clause is to ensure the protection of threatened species, populations and ecological communities and land in an environmental constraint area within certain land at Grose Wold and Grose Vale.
- (2) This clause applies to land identified as "Area B" and edged heavy yellow on the Lot Size Map.
- (3) Despite clauses 4.1, 4.1AA, and 4.1A where land contains an environmental constraint area development consent must not be granted for the subdivision of the land unless:
 - (a) the number of lots to be created for a dwelling house by the subdivision plus the number of lots created for a dwelling house by any prior subdivision since 2 June 2000 of whole or part of the original lot will not in total exceed the area of the original lot for the land to be subdivided, in hectares, divided by 4, and
 - (b) any lot created for a dwelling house will contain at least one (1) hectare of land that is not in an environmental constraint area.
- (4) Where land does not contains an environmental constraint area development consent must not be granted for the subdivision of the land unless
 - (a) the minimum lot size provisions of 4.1, 4.1AA and 4.1A are complied with; and,
 - (b) the number of lots to be created for a dwelling house by the subdivision plus the number of lots created for a dwelling house by any prior subdivision since 2 June 2000 of whole or part of the original lot will not in total exceed the area of the original lot for the land to be subdivided, in hectares, divided by 4.
- (5) When considering a development application to which this clause relates, the consent authority must be satisfied that:
 - (a) the pattern of lots created by the proposed subdivision and the location of any proposed buildings on those lots will minimise the impact on any threatened species, populations or ecological communities, waterways and groundwater , and any land within an environmental constraint area, and
 - (b) a geotechnical assessment has been undertaken demonstrating the land is adequate for the on-site disposal of effluent in accordance with best practice, and
 - (c) any land containing threatened species, populations or ecological communities and any land within an environmental constraint area is retained in one lot as much as possible, and
 - (d) there will be no significant adverse impacts on any threatened species, populations or ecological communities or land within any environmental constraint area located downstream or surrounding the proposed development.

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- (6) When considering a development application to which this clause relates, the consent authority must have regard to the effect the development is likely to have on the following:
- (a) the water quality and water quantity in the Grose River and its tributaries,
 - (b) the scenic quality of the area,
 - (c) existing riparian vegetation, the rehabilitation of local native riparian vegetation located along the Grose River and along drainage lines and creeks.

- (7) In this clause:

threatened species, populations and ecological communities means species, populations and ecological communities specified in Schedules 1, 1A and 2 of Threatened Species Conservation Act 1995

environmental constraint area means land identified as "Environmental Constraint Area" on the Environmental Constraints Area Map.

original lot for land being subdivided means a lot that existed immediately before 2 June 2000 that included the land.

oooO END OF REPORT Oooo

ORDINARY MEETING

Minutes: 08 December 2015

Item: 215 **CP - Proposed Amendment to Clause 4.1E Exceptions to Minimum Subdivision Lot Size for Grose Wold of Hawkesbury Local Environment Plan 2012 - (95498, 124414)**

Mr Greg Falson addressed Council, speaking for the recommendation.

A MOTION was moved by Councillor Creed, seconded by Councillor Rasmussen.

That:

1. In association with advice from the Department of Planning and Environment, Council staff either:
 - a) Forward a planning proposal to amend Clause 4.1E of Hawkesbury Local Environmental Plan 2012 as intended by this report to the Department of Planning and Environment for a gateway determination, or
 - b) Request the Minister for Planning to amend Clause 4.1E of Hawkesbury Local Environmental Plan 2012 as intended by this report under Section 73A of the Environmental Planning and Assessment Act 1979.
2. The Department of Planning and Environment be advised that, in the case of the proposed amendment being dealt with as a planning proposal, Council requests a Written Authorisation to Exercise Delegation to make the Plan.
3. A savings clause be included to preserve the rights of the two current court matters before Council.

A MOTION was moved by Councillor Conolly, seconded by Councillor Williams.

That Council adjourn for five minutes.

The meeting adjourned at 9:25pm.

The meeting reconvened at 9:30pm.

ORDINARY MEETING**Minutes: 08 December 2015****MOTION:**

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

Refer to RESOLUTION**360 RESOLUTION:**

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

That:

1. In association with advice from the Department of Planning and Environment, Council staff either:
 - a) Forward a planning proposal to amend Clause 4.1E of Hawkesbury Local Environmental Plan 2012 as intended by this report to the Department of Planning and Environment for a gateway determination, or
 - b) Request the Minister for Planning to amend Clause 4.1E of Hawkesbury Local Environmental Plan 2012 as intended by this report under Section 73A of the Environmental Planning and Assessment Act 1979.
2. The Department of Planning and Environment be advised that, in the case of the proposed amendment being dealt with as a planning proposal, Council requests a Written Authorisation to Exercise Delegation to make the Plan.
3. A savings clause be included to preserve the rights of the two current court matters before Council.

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 Conolly	Councillor Ford
Councillor Creed	
Councillor Lyons-Buckett	
Councillor Mackay	
Councillor Paine	
Councillor Porter	
Councillor Rasmussen	
Councillor Reardon	
Councillor Tree	
Councillor Williams	

Councillor Calvert was absent from the meeting.

This is Page 13 of the Minutes of the ORDINARY MEETING of the HAWKESBURY CITY COUNCIL held at the Council Chambers, Windsor, on Tuesday, 8 December 2015