



ORDINARY MEETING

Date of meeting: 14 February 2023
Location: Council Chambers
Time: 6:30 PM

BUSINESS PAPER

ORDINARY MEETING

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1. PROCEDURAL MATTERS
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1. PROCEDURAL MATTERS

Welcome

The Mayor, Councillor Sarah McMahon will acknowledge the Indigenous Heritage.

The General Manager will address the Council meeting, mentioning:

- Emergency Procedures
- Recording of the Council Meeting
- Statement regarding people addressing the Meeting
- Mobile phones

Attendance

Attending Councillors and Council staff members will be noted for the purposes of the Minutes.

Statement of Ethical Obligations

On 11 January 2022 in accordance with Section 233A of the Local Government Act 1993, Councillors took an oath or made an affirmation of office to undertake the duties of the office of Councillor in the best interests of the people of the Hawkesbury City Council Local Government Area and the Hawkesbury City Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in Councillors under the Local Government Act 1993 or any other Act to the best of their ability and judgment.

Council's Code of Conduct requires Councillors to disclose and appropriately manage conflicts of interest.

Apologies and Leave of Absence

The Mayor will ask for any Apologies or Leave of Absence Requests to be noted.

Declaration of Interest

The Mayor will ask for any Declaration of Interests from the attending Councillors. These will then be addressed at the relevant item.

Acknowledgement of Official Visitors to the Council

The Mayor will acknowledge and welcome official visitors to the Council and make any relevant presentations as required.

ORDINARY MEETING

2. CONFIRMATION OF MINUTES

Meeting Date: 14 February 2023

2. CONFIRMATION OF MINUTES



Ordinary Meeting

Date of meeting: 31 January 2023 and Reconvened on 7 February 2023.
Location: Council Chambers
Time: 6:30 p.m.

MINUTES

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ORDINARY MEETING

Minutes: 31 January 2023

Minutes of the Ordinary Meeting held at the Council Chambers, Windsor, on 31 January 2023, commencing at 6:35pm.

Welcome

The Mayor, Councillor Sarah McMahon acknowledged the Indigenous Heritage.

The Mayor acknowledged the Smoking and Welcome ceremony held prior to the commencement of the Council Meeting.

The General Manager addressed the Council meeting, mentioning:

- Emergency Procedures
- Recording of the Council Meeting
- Statement regarding people addressing the Meeting
- Mobile phones

ATTENDANCE

PRESENT: Councillor Sarah McMahon, Mayor, Councillor Barry Calvert, Deputy Mayor and Councillors Patrick Conolly, Shane Djuric, Eddie Dogramaci, Amanda Kotlash, Mary Lyons-Buckett, Jill Reardon, Les Sheather, Paul Veigel, Danielle Wheeler and Nathan Zamprogno.

ALSO PRESENT: General Manager - Elizabeth Richardson, Acting Director City Planning - Meagan Ang, Director Corporate Services - Laurie Mifsud, Manager Corporate Communications and Events - Suzanne Stuart, Chief Financial Officer - Vanessa Browning, Manager Governance - Charles McElroy and Administrative Support Coordinator - Tracey Easterbrook.

APOLOGIES AND LEAVE OF ABSENCE OR ATTENDANCE BY AUDIO-VISUAL LINK

There were no apologies or leave of absences received from Councillors.

DECLARATIONS OF INTEREST

Councillor Kotlash declared Interests on Items 003 and 012.

Councillor McMahon declared an interest on Item 003.

Councillor Sheather declared an interest on Item 003.

Acknowledgement of Official Visitors to the Council

There were no official visitors to Council.

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SECTION 1 - Confirmation of Minutes

4 RESOLUTION:

RESOLVED on the motion of Councillor Conolly and seconded by Councillor Reardon that the Minutes of the Ordinary Meeting held on the 13 December 2022, be confirmed.

5 RESOLUTION:

RESOLVED on the motion of Councillor Calvert and seconded by Councillor Lyons-Buckett that the Minutes of the Extraordinary Meeting held on the 17 January 2023, be confirmed.

ADJORNMENT OF MEETING

The Mayor, Councillor McMahon adjourned the meeting at 6:50pm for a short break. The meeting resumed at 6:56pm.

The Mayor, Councillor McMahon adjourned the meeting at 9:04pm for a short break. The meeting resumed at 9.19pm.

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SECTION 2 – Mayoral Minutes

Item: 002

MM1 - McQuade Park and Vicinity Improvements - (138879, 79353)

MOTION:

A MOTION was moved by the Mayor, Councillor McMahon.

That:

1. Council prepare a report regarding permissibility, costs, funding options and potential timing of delivery, for each of the following projects in McQuade Park:
 - a) Signage - erect signage on each corner with the words 'The Great Square' and other names used for the park over time, including McQuade Park. Also include Indigenous names and references, in consultation with the local Darug community. This is to be large and attention grabbing to promote tourism and a sense of place and be within the guidelines of the current Wayfinding and Signage plans.
 - b) Fountain - replace the current fountain in the pond with a larger one and ensure it is equipped with lighting. This lighting should be in various colours, for various occasions and displayed every night. This will require an upgraded pump, which needs to be screened so as not to be a visual distraction.
 - c) Smaller Fountain - ensure it is operation and turned on.
 - d) Fountain Pump - (current) screen the pump and its housing with a visually appealing feature, so that it does not detract from the park.
 - e) The Pond Bridge - the bridge to the island, and around the island, should have an arched white picket railing. The tree in the middle should consist of a variety that flowers all year round, encouraging bridal and other forms of photography into the locality.
 - f) RSL Cenotaph – ensure this is erected as soon as possible (once the DA process is complete and in conjunction with the Windsor RSL Sub branch), which when the fountain is lit up, will become a prominent feature of the park.
 - g) View Corridors - Remove the necessary trees, as outlined in the Plan of Management, to construct two 'View Corridors', which as per the Plan of Management, are tree lined corridors, one from the Council Chambers to St Matthew's Anglican Church and the other from Hawkesbury Valley Way to the Church.
 - h) Further trees - Plant more trees as compensation for the removal of others.
 - i) Undergrowth - Ensure the undergrowth of trees in the park are pruned to a height where buildings and features of prominence can be seen, and not hidden by foliage.
 - j) Oleander trees - remove these poisonous trees, located near the Bowling Club.
 - k) Fencing - The cable railing around Don't Worry field should be replaced with a period sympathetic low white post and rail type fence.
 - l) Bins - replace the bins with more appealing bins, in keeping with the heritage theme of the park.

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- m) Tables and chairs - replace all old and ruined tables and chairs with new ones, keeping with the heritage theme of the park.
 - n) Playground - construct a new playground to replace the existing old one, located next to the Grandstand.
 - o) Events - create a calendar of potential events to be held in McQuade Park, including outdoor concerts on the island, picnics, car meets, markets etc.
 - p) Maintenance - create a plan of maintenance, discussing number of staff required and the cost and outline whether an MoU can be created with local Mens Sheds or Community groups, to assist with the work.
 - q) The feasibility of public amenities in the vicinity of Don't Worry Oval.
 - u) The feasibility of reinstalling the Krupp Gun to the Park.
2. Council investigate the possibility of Gateway signage on the corner of Hawkesbury Valley Way and Macquarie Street, as well as at other entry sites to Windsor including Windsor Bridge on the Wilberforce side and Windsor Road McGraths Hill), stating 'Welcome to Historic Windsor', in conjunction with the guidelines of the current Wayfinding and Signage plans.
 3. Signage and fencing at and around the Catholic Burial Ground opposite the Council Chamber.
 4. This report be returned to Council within three months.
 5. This matter be referred to the Heritage Committee for feedback.

An AMENDMENT was moved by Councillor Wheeler, seconded by Councillor Lyons-Buckett.

That Council refer the matter of the items outlined in the Mayoral Minute Item 002 of the 31 January 2023 Council Meeting identifying potential projects in McQuade Park to the Heritage Committee for discussion.

For the Amendment: Councillors McMahon, Calvert, Conolly, Djuric, Dogramaci, Kotlash, Lyons-Buckett, Reardon, Sheather, Veigel, Wheeler and Zamprogno.

Against the Amendment: Nil.

Absent: Nil.

The Amendment was carried.

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MOTION:

RESOLVED on the motion of Mayor, Councillor McMahon.

Refer to RESOLUTION

6 RESOLUTION:

RESOLVED on the motion of Mayor, Councillor McMahon.

That Council refer the matter of the items outlined in the Mayoral Minute Item 002 of the 31 January 2023 Council Meeting identifying potential projects in McQuade Park to the Heritage Committee for discussion.

For the Motion: Councillors McMahon, Calvert, Conolly, Djuric, Dogramaci, Kotlash, Lyons-Buckett, Reardon, Sheather, Veigel, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

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Item: 003 **MM2 - Project Funding - NSW Government's WestInvest Program - (138879, 79353)**

Councillor Kotlash declared a significant non-pecuniary conflict of interest in this matter as she is a candidate at the State Election, the content of the Mayoral Minute is predominately political and is highly likely to be the subject of her campaigning. She left the Chamber and did not take part in voting or discussion on the matter.

Councillor McMahon declared a less than significant non-pecuniary conflict of interest in this matter as her son plays for one of the clubs associated with Turnbull Oval, being one of the locations suggested in the Mayoral Minute for the allocation of funding and no further action is required.

Councillor Sheather declared a less than significant non-pecuniary conflict of interest in this matter as he is and has for many years been a patron of the Oakville Raiders Baseball Club at Colbee Park. The Plan of Management does nothing specifically for baseball, and he is not involved in activities other than as patron of the Club and therefore no further action is required.

A PROCEDURAL MOTION was moved by Councillor Wheeler, seconded by the Mayor, Councillor McMahon that Council move into Committee of the Whole to consider this matter.

The Procedural Motion was carried.

A PROCEDURAL MOTION was moved by Councillor Wheeler, seconded by Councillor Lyons-Buckett that Council move out Committee move out Committee of the Whole.

The Procedural Motion was carried.

The General Manager reported to Council that whilst in Committee of the Whole, the Committee discussed a number of matters in relation to project funding under the NSW Government's WestInvest Program - Local Government Allocation, and options for the use of Council's remaining funding allocation. These options included:

- Redevelopment of Turnbull Oval
- Redevelopment of Colbee Park
- Road Safety Projects

The Committee also discussed the process for the making of a decision concerning Council's remaining funding allocation.

The General Manager reported that no recommendation was made by the Committee of the Whole.

A MOTION was moved by Councillor Sheather, seconded by Councillor Reardon.

That Council:

1. Note the successful project funding applications from the NSW Government's WestInvest Program as follows:
 - a) Richmond Swimming Centre - \$30,319,843
 - b) North Richmond Community Precinct - \$23,970,000
 - c) Tamplin Field Redevelopment - \$9,795,000
 - d) Oasis Aquatic and Leisure Centre Upgrade - \$6,716,000
 - e) Cycleway Bridge over Rickabys Creek - \$4,695,810
 - f) Upgrade of Woodbury Reserve, Glossodia - \$5,423,000
 - g) New Recreation and Community Facility at Fernadell Park, Pitt Town - \$4,538,000
 - h) Kurrajong to Kurmond Cycleway - \$4,538,000
-

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- i) Discover the Hawkesbury – New Wayfinding Signage - \$2,346,000.
2. Write to the State Member for Hawkesbury, Robyn Preston MP, thanking her for her advocacy under the Program.
3. Write to all staff who worked tirelessly on the applications for the WestInvest projects, thanking them for their extraordinary efforts within tight deadlines.
4. a) Delegate to the General Manager authority to determine Council's preferred remaining project under the Local Government Allocation of the WestInvest Program.
b) Receive a further report upon receipt and prior to execution of the funding agreements from the NSW Government, that includes opportunities for value management of the overall cost of the project.

An AMENDMENT was moved by Councillor Lyons-Buckett, seconded by Councillor Wheeler.

That Council:

1. Note the successful project funding applications from the NSW Government's WestInvest program as follows:
 - a) Richmond Swimming Centre - \$30,319,843
 - b) North Richmond Community Precinct - \$23,970,000
 - c) Tamplin Field Redevelopment - \$9,795,000
 - d) Oasis Aquatic and Leisure Centre Upgrade - \$6,716,000
 - e) Cycleway Bridge over Rickabys Creek - \$4,695,810
 - f) Upgrade of Woodbury Reserve, Glossodia - \$5,423,000
 - g) New Recreation and Community Facility at Fernadell Park, Pitt Town - \$4,538,000
 - h) Kurrajong to Kurmond Cycleway - \$4,538,000
 - i) Discover the Hawkesbury – New Wayfinding Signage - \$2,346,000.
2. a) Nominate Road Safety Projects as its preferred remaining project under the Local Government Allocation of the WestInvest Program.
b) Request from the Department of Premier and Cabinet that the remaining \$4M be provided to Council to establish a fund for ongoing maintenance.

For the Amendment: Councillors Dogramaci, Lyons-Buckett and Wheeler.

Against the Amendment: Councillors McMahon, Calvert, Conolly, Djuric, Reardon, Sheather, Veigel and Zamprogno.

Absent: Councillor Kotlash.

The Amendment was lost.

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MOTION:

RESOLVED on the motion of Councillor Sheather, seconded by Councillor Reardon.

Refer to RESOLUTION

7 RESOLUTION:

RESOLVED on the motion of Councillor Sheather, seconded by Councillor Reardon.

That Council:

1. Note the successful project funding applications from the NSW Government's WestInvest program as follows:
 - a) Richmond Swimming Centre - \$30,319,843
 - b) North Richmond Community Precinct - \$23,970,000
 - c) Tamplin Field Redevelopment - \$9,795,000
 - d) Oasis Aquatic and Leisure Centre Upgrade - \$6,716,000
 - e) Cycleway Bridge over Rickabys Creek - \$4,695,810
 - f) Upgrade of Woodbury Reserve, Glossodia - \$5,423,000
 - g) New Recreation and Community Facility at Fernadell Park, Pitt Town - \$4,538,000
 - h) Kurrajong to Kurmond Cycleway - \$4,538,000
 - i) Discover the Hawkesbury – New Wayfinding Signage - \$2,346,000.
2. Write to the State Member for Hawkesbury, Robyn Preston MP, thanking her for her advocacy under the Program.
3. Write to all staff who worked tirelessly on the applications for the WestInvest projects, thanking them for their extraordinary efforts within tight deadlines.
4.
 - a) Delegate to the General Manager authority to determine Council's preferred remaining project under the Local Government Allocation of the WestInvest Program.
 - b) Receive a further report upon receipt and prior to execution of the funding agreements from the NSW Government, that includes opportunities for value management of the overall cost of the project.

For the Motion: Councillors McMahon, Calvert, Conolly, Djuric, Reardon, Sheather, Veigel and Zamprogno.

Against the Motion: Councillors Dogramaci, Lyons-Buckett and Wheeler.

Absent: Councillor Kotlash.

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SECTION 3 – Reports for Determination

PLANNING DECISIONS

Item: 004 **CP - Redbank Voluntary Planning Agreement - Proposed Grose River Bridge Crossing - (95498, 124414)**

Previous Item: 200, Ordinary (22 November 2022)
 152, Ordinary (13 September 2022)
 123, Ordinary (19 July 2022)
 152, Ordinary (10 August 2021)
 11, Ordinary (11 February 2020)
 294, Ordinary (11 December 2018)
 124, Ordinary (29 May 2018)
 118, Ordinary (27 June 2017)
 99, Ordinary (24 June 2014 – deferred 1 July 2014)
 54, Ordinary (25 March 2014)
 223, Ordinary (12 November 2013)

Directorate: City Planning

Mr Matthew Parkes, Ms Stephanie Calabornes and Ms Marian Wilcox addressed Council speaking against the recommendation in the business paper.

The Mayor, Councillor McMahon directed Ms Stephanie Calabornes not to digress to irrelevant matters while addressing Council, pursuant to Clause 4.14 of the Code of Meeting Practice. Ms Calabornes failed to observe this direction and was not further heard.

MOTION:

RESOLVED on the motion of Councillor Zamprogno, seconded by Councillor Wheeler.

Refer to RESOLUTION

8 RESOLUTION:

RESOLVED on the motion of Councillor Zamprogno, seconded by Councillor Wheeler.

That:

1. Council determines Option 1 to be its preferred route alignment for the proposed Grose River Bridge Crossing.
2. Option 1 is included in an amended Redbank Voluntary Planning Agreement, and publicly exhibited for a minimum of 28 days.
3. The matter be reported to Council following completion of the public exhibition of the draft amended Redbank Voluntary Planning Agreement.

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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: Councillors McMahon, Calvert, Djuric, Dogramaci, Kotlash, Lyons-Buckett, Reardon, Veigel, Wheeler and Zamprogno.

Against the Motion: Councillors Conolly and Sheather.

Absent: Nil.

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CORPORATE SERVICES

Item: 005 **CS - Investment Report - November 2022 - (95496)**

Previous Item: 129, Ordinary (19 July 2022)

Directorate: Corporate Services

MOTION:

RESOLVED on the motion of Councillor Reardon, seconded by Councillor Kotlash.

Refer to RESOLUTION

9 RESOLUTION:

RESOLVED on the motion of Councillor Reardon, seconded by Councillor Kotlash.

That the Monthly Investment Report for November 2022 be received and noted.

For the Motion: Councillors McMahon, Calvert, Conolly, Djuric, Dogramaci, Kotlash, Lyons-Buckett, Reardon, Sheather, Veigel, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

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Item: 007 **CS - Pecuniary Interest Return - Designated Person - (95496, 96333)**

Directorate: Corporate Services

MOTION:

RESOLVED on the motion of Councillor Reardon, seconded by Councillor Kotlash.

Refer to RESOLUTION

10 RESOLUTION:

RESOLVED on the motion of Councillor Reardon, seconded by Councillor Kotlash.

That the Clause 4.21(a) Pecuniary Interest Return be received and noted.

For the Motion: Councillors McMahon, Calvert, Conolly, Djuric, Dogramaci, Kotlash, Lyons-Buckett, Reardon, Sheather, Veigel, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

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SECTION 4 – Reports of Committees

Item: 009 **ROC - Minutes Local Traffic Committee - 9 January 2023 - (95495)**

Directorate: Infrastructure Services

MOTION:

RESOLVED on the motion of Councillor Reardon, seconded by Councillor Kotlash.

Refer to RESOLUTION

11 RESOLUTION:

RESOLVED on the motion of Councillor Reardon, seconded by Councillor Kotlash.

That Council adopt the recommendations contained in the minutes of the Hawkesbury City Council Local Traffic Committee meeting held on 9 January 2023.

For the Motion: Councillors McMahon, Calvert, Conolly, Djuric, Dogramaci, Kotlash, Lyons-Buckett, Reardon, Sheather, Veigel, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

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SECTION 5 – Notices of Motion

Item: 010 NM1 - Prayer-Blessing at Council Meetings - (155346)

A PROCEDURAL MOTION was moved by Councillor Sheather, seconded by Councillor Veigel that permission be granted to Pastor Daniel Cannone to address Council on this matter.

The Procedural Motion was carried.

Mr Bill Sneddon and Pastor Daniel Cannone addressed Council speaking for the recommendation in the business paper.

A MOTION was moved by Councillor Dogramaci, seconded by Councillor Sheather.

That Council:

1. Re-introduce a prayer/blessing at the beginning of each public Council meeting held in the Chambers.
2. Request the Hawkesbury Ministers Association provide representatives to offer this prayer/blessing.
3. Amend the Code of Meeting Practice accordingly.

For the Motion: Councillors Djuric, Dogramaci, Reardon and Sheather.

Against the Motion: Councillors McMahon, Calvert, Conolly, Kotlash, Lyons-Buckett, Veigel, Wheeler and Zamprogno.

Absent: Nil.

The Motion was lost.

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Item: 012 NM3 - Richmond Bridge Duplication Project - (125612, 1388820)

Councillor Kotlash declared a significant non-pecuniary conflict of interest in this matter as she is a candidate at the State Election and she will be involved with this issue. She left the Chamber and did not take part in voting or discussion on the matter.

Mr Matthew Parkes addressed Council speaking against the recommendation in the business paper.

MOTION:

RESOLVED on the motion of Councillor Lyons-Buckett, seconded by Councillor Wheeler.

Refer to RESOLUTION

12 RESOLUTION:

RESOLVED on the motion of Councillor Lyons-Buckett, seconded by Councillor Wheeler.

That:

1. Council acknowledges Transport for NSW (TfNSW) will brief Councillors on 7 February 2023 with respect to the 'New Bridge and Traffic Improvements - Revised Preferred Option Report' released in December 2022.
2. Included in that briefing and with regard to the information contained within the report, Council request TfNSW to provide the following information:
 - Impacts on the local road network (access, traffic flow etc.)
 - Impacts related to flooding and floodplain from the presence of the proposed bridge and road network
 - Impacts on the commercial and residential sectors of Richmond, North Richmond and Hobartville
 - Impacts on heritage
 - Impacts on tree canopy and environmental impacts
 - Rationale of proposed noise abatement measures
 - Relationship to State Government strategic plans for future transport and development
3. Council request Transport for NSW hold a public meeting in Hobartville to explain the impacts of the project (specifically the section in Hobartville) and hear public feedback.
4. Council inform TfNSW that our representatives on the Community Reference Group for any further meetings will be the Mayor and the Deputy Mayor.
5. Council request that TfNSW invite two representatives from the Hobartville Community to attend the Community Reference Group.

For the Motion: Councillors McMahon, Calvert, Conolly, Djuric, Dogramaci, Lyons-Buckett, Reardon, Sheather, Veigel, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Councillor Kotlash.

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MOTION:

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

Refer to RESOLUTION

13 RESOLUTION:

RESOLVED on the motion of Councillor Conolly, seconded by Councillor Veigel, that as the business of the meeting is unfinished at 11pm, Council deal with Items 15 and 16 on the Agenda and then adjourn the meeting to Tuesday, 7 February 2023, at the Council Chambers, Windsor commencing at 6.30pm.

For the Motion: Councillors McMahon, Calvert, Conolly, Djuric, Dogramaci, Kotlash, Lyons-Buckett, Reardon, Sheather, Veigel, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

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CONFIDENTIAL REPORTS

14 RESOLUTION:

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

That:

1. The Council meeting be closed to deal with confidential matters and in accordance with Section 10A of the Local Government Act, 1993, members of the Press and the public be excluded from the Council Chambers during consideration of the following items:

Item: 015 CS – Lease to Amy Mary Platt – Shop 3, McGraths Hill Shopping Centre, 1 Phillip Place, McGraths Hill – (12106, 95496, 125184)

*This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act, 1993 as it relates to details concerning the leasing of a Council property and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the Council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to public interest.*

Item: 016 CS – Property Matter – Lease to Stephen Hile – 139 March Street, Richmond – (112106, 496, 22455)

*This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act, 1993 as it relates to details concerning the leasing of a Council property and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the Council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to public interest.*

2. In accordance with the provisions of Section 11(2) & (3) of the Local Government Act, 1993 the reports, correspondence and other relevant documentation relating to these matters be withheld from the Press and public.

15 RESOLUTION:

RESOLVED on the motion of Councillor Reardon, seconded by Councillor Kotlash that open meeting be resumed.

ORDINARY MEETING

Minutes: 31 January 2023

Item: 015 **CS - Lease to Amy Mary Platt - Shop 3, McGraths Hill Shopping Centre, 1 Phillip Place, McGraths Hill - (112106, 95496, 125184)**

Previous Item: 95, Ordinary (27 May 2014)

Directorate: Corporate Services

MOTION:

The General Manager advised that whilst in closed session, the Council RESOLVED on the motion of Councillor Conolly, seconded by Councillor Kotlash.

Refer to RESOLUTION

16 RESOLUTION:

The General Manager advised that whilst in closed session, the Council RESOLVED on the motion of Councillor Conolly, seconded by Councillor Kotlash.

That:

1. Council agree to enter into a new lease with Amy Mary Platt, in regard to Shop 3, McGraths Hill Shopping Centre, 1 Phillip Place, McGraths Hill, in accordance with the proposal outlined in the report.
2. Authority be given for the lease and any other necessary documentation in association with this matter to be executed under the Seal of Council.
3. Details of Council's resolution be conveyed to the proposed Lessee, together with the advice that Council is not, and will not, be bound by the terms of its resolution, until such time as appropriate legal documentation to put such resolution into effect has been agreed to and executed by all parties.

For the Motion: Councillors McMahon, Conolly, Djuric, Dogramaci, Kotlash, Lyons-Buckett, Reardon, Sheather, Veigel, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Councillor Calvert.

ORDINARY MEETING

Minutes: 31 January 2023

Item: 016 **CS - Property Matter - Lease to Stephen Hile - 139 March Street, Richmond - (112106, 95496, 22455)**

Directorate: Corporate Services

MOTION:

The General Manager advised that whilst in closed session, the Council RESOLVED on the motion of Councillor Conolly, seconded by Councillor Kotlash.

Refer to RESOLUTION

17 RESOLUTION:

The General Manager advised that whilst in closed session, the Council RESOLVED on the motion of Councillor Conolly, seconded by Councillor Kotlash.

That:

1. Council agree to enter into a new lease with Stephen Hile in regard to 139 March Street, Richmond, as outlined in this report.
2. Authority be given for any documentation in association with this matter to be executed under the Seal of Council.
3. Details of Council's resolution be conveyed to the Lessee, together with the advice that Council is not, and will not, be bound by the terms of its resolution, until such time as appropriate legal documentation to put such resolution into effect has been agreed to and executed by all parties.

For the Motion: Councillors McMahon, Conolly, Djuric, Dogramaci, Kotlash, Lyons-Buckett, Reardon, Sheather, Veigel, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Councillor Calvert.

The meeting adjourned at 11:16pm and will be reconvened on Tuesday, 7 February 2023 at 6:30pm in the Council Chambers, Windsor.

ORDINARY MEETING

Minutes: 31 January 2023

The meeting reconvened on Tuesday, 7 February 2023 at 6:30pm

Minutes of the Ordinary Meeting reconvened at the Council Chambers, Windsor, on 7 February 2023, commencing at 6:30pm.

Welcome

The Mayor, Councillor Sarah McMahon acknowledged the Indigenous Heritage.

The General Manager addressed the Council meeting, mentioning:

- Emergency Procedures
- Recording of the Council Meeting
- Statement regarding people addressing the Meeting
- Mobile phones

ATTENDANCE

PRESENT: Councillor Sarah McMahon, Mayor, Councillor Barry Calvert, Deputy Mayor and Councillors Patrick Conolly, Shane Djuric, Eddie Dogramaci, Amanda Kotlash, Mary Lyons-Buckett, Jill Reardon, Les Sheather, Paul Veigel, Danielle Wheeler and Nathan Zamprognio.

ALSO PRESENT: General Manager - Elizabeth Richardson, Acting Director City Planning - Meagan Ang, Director Corporate Services - Laurie Mifsud, Director Infrastructure Services - Will Barton, Manager Corporate Communications and Events - Suzanne Stuart, Chief Financial Officer - Vanessa Browning, Manager Governance - Charles McElroy and Council Committee Officer - Amy Birks.

APOLOGIES AND LEAVE OF ABSENCE OR ATTENDANCE BY AUDIO-VISUAL LINK

There were no apologies or leave of absences received from Councillors.

DECLARATIONS OF INTEREST

There were no declarations of interest made on items dealt with at the reconvened meeting.

Acknowledgement of Official Visitors to the Council

There were no official visitors to Council.

ORDINARY MEETING

Minutes: 31 January 2023

SECTION 3 – Reports for Determination

CORPORATE SERVICES

Item: 006 **CS - 2023 National Assembly of Local Government - Conference Motions - (95496)**

Directorate: Corporate Services

A MOTION was moved by Councillor Lyons-Buckett, seconded by Councillor Veigel.

That Councillors provide any proposed motions for the 2023 National General Assembly of Local Government to the General Manager by Monday, 20 February 2023 to be included for consideration by Council at the Council Meeting on 14 March 2023.

An AMENDMENT was moved by Councillor Zamprogno, seconded by Councillor Sheather.

That:

1. Councillors provide any proposed motions for the 2023 National General Assembly of Local Government to the General Manager by Monday, 20 February 2023 to be included for consideration by Council at the Council Meeting on 14 March 2023.
2. Council formulate a Conference motion expressing the need to raise the Warragamba Dam Wall and to reach out to adjacent Councils in the Hawkesbury - Nepean Floodplain to invite them to participate in a joint Conference motion.

For the Amendment: Councillors McMahon, Conolly, Reardon, Sheather, Veigel, and Zamprogno.

Against the Amendment: Councillors Calvert, Dogramaci, Djuric, Kotlash, Lyons-Buckett and Wheeler.

Absent: Nil.

The Amendment was carried on the casting vote of the Mayor, Councillor McMahon.

ORDINARY MEETING

Minutes: 31 January 2023

MOTION:

RESOLVED on the motion of Councillor Lyons-Buckett, seconded by Councillor Veigel.

Refer to RESOLUTION

18 RESOLUTION:

RESOLVED on the motion of Councillor Lyons-Buckett, seconded by Councillor Veigel.

That:

1. Councillors provide any proposed motions for the 2023 National General Assembly of Local Government to the General Manager by Monday, 20 February 2023 to be included for consideration by Council at the Council Meeting on 14 March 2023.
2. Council formulate a Conference motion expressing the need to raise the Warragamba Dam Wall and to reach out to adjacent Councils in the Hawkesbury - Nepean Floodplain to invite them to participate in a joint Conference motion.

For the Motion: Councillors McMahon, Conolly, Reardon, Sheather, Veigel, and Zamprogno.

Against the Motion: Councillor Calvert, Dogramaci, Djuric, Kotlash, Lyons-Buckett and Wheeler.

Absent: Nil.

The Motion was carried on the casting vote of the Mayor, Councillor McMahon.

ORDINARY MEETING

Minutes: 31 January 2023

Item: 008 **CS - Review of Council Committees - (79351)**

Previous Item: 256, Ordinary (8 December 2020)
 010, Ordinary (25 January 2021)
 190, Ordinary (15 November 2022)

Directorate: Corporate Services

MOTION:

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

Refer to RESOLUTION

19 RESOLUTION:

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

That Council:

1. Dissolve the following Council Committees:
 - a) Community Services Committee
 - b) Environment Committee
 - c) Innovation and Partnerships Committee.
2. Retain the Heritage Committee.
3. Retain the Disaster and Emergency Committee, the membership being all 12 Councillors.
4. Endorse the preparation of the following Council Committee Constitutions:
 - a) Heritage Committee Constitution
 - b) Disaster and Emergency Committee Constitution.
5. As required, establish by Council resolution working groups, provide working groups with a clear and specific question or task to complete, and endorse the preparation of a template to be used for the establishment of working groups.
6. Note the outstanding items referred from Council to each of the Community Services Committee, Environment Committee and Innovation and Partnerships Committee as contained in Table 1 in this report.
7. Receive a report outlining the specific plans and studies that require the input of the Floodplain Management Working Group, so that Council can provide the working groups with instructions and a timeframe for the advice required.
8. Hold a Councillor Workshop to review the working groups and the progress made in relation to Council's strategic objectives.

For the Motion: Councillors Conolly, Calvert, Djuric, Dogramaci, Kotlash, Lyons-Buckett, McMahon, Reardon, Sheather, Veigel, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

ORDINARY MEETING

Minutes: 31 January 2023

SECTION 5 – Notices of Motion

Item: 011 **NM2 - Pathway - Pitt Town Road, McGraths Hill - (155346)**

A PROCEDURAL MOTION was moved by Councillor Conolly that Councillor Dogramaci be permitted to speak for two minutes on the matter prior to receiving a seconder for the Notice of Motion.

The Procedural Motion was carried.

MOTION:

RESOLVED on the motion of Councillor Dogramaci, seconded by Councillor Wheeler.

Refer to RESOLUTION

20 RESOLUTION:

RESOLVED on the motion of Councillor Dogramaci, seconded by Councillor Wheeler.

1. That Council receive a confidential verbal briefing within three months outlining the following with regard to the recently completed pathway along Pitt Town Road (From Ivy Avenue to Windsor Road):
 - a) Who was the contractor.
 - b) What was the initial cost and what pool of funds did it come from.
 - c) Who designed the pathway and who supervised it during the construction.
 - d) Who certified the pathway as acceptable.
 - e) Is there any intention to fix the inaccuracies in the pathway.
 - f) The total cost of the completed project-not necessarily where the money came from.
 - g) The guarantee/warranty of the construction in writing if extra money paid for repairs since then.
 - h) The very reason of the project winding right, left, right and left again, and right and left, up, down.
 - i) What was the reason of not fill and not going through the marsh which currently vermin and red belly snakes have been seen and reported to the General Manager.

For the Motion: Councillors McMahon, Conolly, Djuric, Dogramaci, Lyons-Buckett, Reardon, Sheather and Wheeler.

Against the Motion: Councillors Calvert, Kotlash, Veigel and Zamprogno.

Absent: Nil.

ORDINARY MEETING

Minutes: 31 January 2023

QUESTIONS FOR NEXT MEETING

Item: 013 Responses to Councillor Questions Taken on Notice at the Council Meeting - 13 December 2022 - (79351)

Responses to Questions Taken On Notice at the Council Meeting on 31 January 2023 were provided. An additional question was asked regarding the two dimensional Hawkesbury – Nepean Flood Study and will be answered in the Business Paper for the next Council Meeting.

ORDINARY MEETING

Minutes: 31 January 2023

CONFIDENTIAL REPORTS

21 RESOLUTION:

RESOLVED on the motion of Councillor Kotlash, seconded by Councillor Reardon.

That:

1. The Council meeting be closed to deal with confidential matters and in accordance with Section 10A of the Local Government Act, 1993, members of the Press and the public be excluded from the Council Chambers during consideration of the following items:

Item: 014 NM – Council’s Sewer System- (155346)

*This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d)(i) of the Local Government Act, 1993 as it relates to commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it, and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.*

2. In accordance with the provisions of Section 11(2) & (3) of the Local Government Act, 1993 the reports, correspondence and other relevant documentation relating to these matters be withheld from the Press and public.

22 RESOLUTION:

RESOLVED on the motion of Councillor Reardon, seconded by Councillor Kotlash that open meeting be resumed.

ORDINARY MEETING

Minutes: 31 January 2023

Item: 014

NM4 - Council's Sewer System - (155346)

The General Manager advised that whilst in closed session a motion was moved by Councillor Dogramaci which had no seconder and therefore the motion lapsed.

The meeting terminated at 7:32pm.

Submitted to and confirmed at the Ordinary meeting held on 14 February 2023.

.....
Mayor

ORDINARY MEETING

3. MAYORAL MINUTES

Meeting Date: 14 February 2023

3. MAYORAL MINUTES

There was no Mayoral Minute at the time of preparing this Business Paper.

Notwithstanding the above, pursuant to Clauses 9.6-9.9 of Council's Code of Meeting Practice, the Mayor may submit a Mayoral Minute to the meeting without notice in relation to any matter or topic that:

- Is within the jurisdiction of the Council
- Council has official knowledge of.

However, a Mayoral Minute must not be put without notice if it relates to a routine or non-urgent matter.

A matter is considered to be urgent when it requires a decision by the Council before the next scheduled ordinary meeting of the Council.

ORDINARY MEETING

4. REPORTS FOR DETERMINATION

Meeting Date: 14 February 2023

4. REPORTS FOR DETERMINATION

4.1. PLANNING DECISIONS

4.1.1. CP - Planning Proposal - LEP005/22 - 6/21 Vincents Road, Kurrajong - Community Title Subdivision - (95498, 124414)

Directorate: City Planning

PLANNING PROPOSAL INFORMATION

File Number:	LEP005/22
Property Address:	6/21 Vincents Road, Kurrajong
Applicant:	Sutherland and Associates Planning Pty Ltd
Owner:	P D Bennett
Date Received:	2/12/2022
Current Minimum Lot Size:	10Ha
Proposed Minimum Lot Size:	No Change to the Minimum Lot Size
Current Zone:	RU1 Primary Production
Site Area:	5.389Ha

Key Issues:	Land and Environment Court Judgement
	Existing Use Rights
	Community Title Subdivision.

PURPOSE OF THE REPORT

The purpose of this report is to present this Planning Proposal to Council for a determination on whether to submit the Planning Proposal to the Department of Planning and Environment for a Gateway Determination. The Planning Proposal seeks to include an additional local provision under Part 6 of the Hawkesbury Local Environmental Plan 2012 to allow a community title subdivision of a 19 lot Seniors Housing Development, and an extension of a private cemetery at 6/21 Vincents Road, Kurrajong.

EXECUTIVE SUMMARY

Council is in receipt of a Planning Proposal from Sutherland and Associates Planning Pty Ltd for land described as Lot 6 DP 270827 at 6/21 Vincents Road, Kurrajong (subject site). The Planning Proposal is seeking an amendment to the Hawkesbury Local Environmental Plan (LEP) 2012 to allow a 19-lot community title subdivision of a Seniors Housing Development, and extension of a private cemetery which has been approved by the Land and Environment Court.

The Planning Proposal seeks to achieve the above intended outcome by inserting an additional local provision under Part 6 of the Hawkesbury LEP 2012 to allow the proposed community title subdivision of the subject site. This report provides an overview of the Planning Proposal which is considered to be generally consistent with the relevant NSW State and local planning framework.

ORDINARY MEETING

4. REPORTS FOR DETERMINATION

Meeting Date: 14 February 2023

At its Meeting on 19 January 2022, the Hawkesbury Local Planning Panel considered the Planning Proposal and advised that the Planning Proposal has site specific and strategic merits and is supported.

RECOMMENDATION

That:

1. Based on assessment of the Planning Proposal for 6/21 Vincents Road, Kurrajong, and the advice of the Hawkesbury Local Planning Panel, Council supports this Planning Proposal with the addition of Clause 6.16 3 (d):
 - enables amalgamation of the remainder of the land with Lot 1 DP 270827 to create an association property for the entire Seniors' Living development within the meaning of the Community Land Development Act 2021.
2. Council forward the Planning Proposal to the Department of Planning and Environment for a Gateway Determination.

BACKGROUND

Background

In June 1999, Development Application (DA) (M844/98) for 19 Old Bells Line of Road, Kurrajong was approved under the provisions of State Planning Policy No 5 – Housing for Older People and People with Disabilities (SEPP 5). The DA was for the construction of an aged and disability housing development accommodating 18 dwellings and a community building development known as "Tallowood".

Subsequently, in September 2012, Council approved a Development Application (DA0014/12) for a 19-lot community title subdivision of Lot 6 DP270827 accommodating the existing Tallowood Seniors Housing Development and the private cemetery. Figure 1 illustrates the 19 lot community title subdivision.

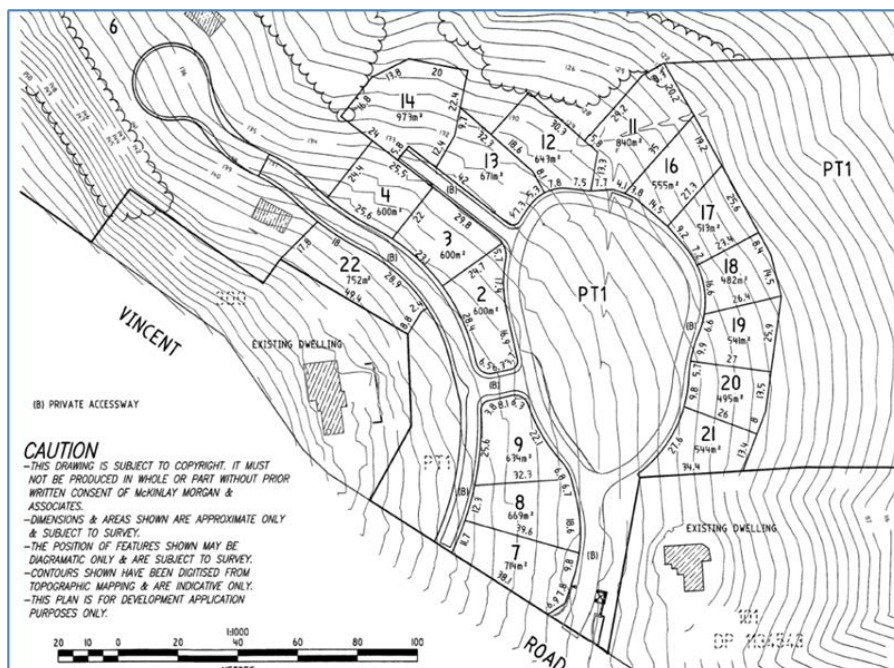


Figure 1: Council Approved 19-lot Community Title Subdivision

ORDINARY MEETING

4. REPORTS FOR DETERMINATION

Meeting Date: 14 February 2023

On 8 March 2021, a Development Application (DA0055/22) seeking approval for the following proposed works on Lot 6 DP270827, Lot 1 in DP 270827 and Lot 300 in DP 1184237, 6/21, 1/21 and 7 Vincents Road, Kurrajong respectively, was lodged with Council for:

- Seniors Housing Development accommodating 19 self-contained dwellings with attached garages
- an extension to the existing private cemetery
- a community title subdivision of the subject site
- other ancillary development works including demolition of existing structures, earthworks, tree removals and conversion of an existing barn to a Men's Shed.

This application was not determined by Council based on permissibility issues.

The proposed Seniors Housing Development accommodating 19 self-contained dwellings with attached garages and the private cemetery are located on the subject site as shown in Figure 2.



Figure 2: Proposed Seniors Housing Development and the Existing Cemetery on Lot 6

In November 2021, the property owner/developer lodged a Class 1 Appeal with the Land and Environment Court NSW against the Council's deemed refusal of the Development Application (DA0055/22).

On 15 November 2022, the Land and Environment Court (the Court) concluded that the subject site is a resultant lot of the previously approved 19-community title subdivision (M844/98) and therefore enjoys existing use rights. Further, the Court recognised that the proposed Seniors Housing Development on the subject site as an extension of the existing Tallwood Seniors Living development as defined in s4.65(b) of the Environmental Planning and Assessment Act 1979 (EP& A

ORDINARY MEETING
4. REPORTS FOR DETERMINATION
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Act 1979). Therefore, the Court upheld the Appeal and granted consent for DA0055/22 except the proposed community title subdivision which is shown in Figure 3 below.

The Court was of the view that subdivision does not fall within the scope of ‘enlargement, expansion or intensification’ as referred to in s 4.67(2) of the EP& A Act 1979 or clause 42 of the repealed Environmental Planning and Assessment Regulation 2000 (Clause 164 of the current Regulation 2021). Therefore, the Court determined that subdivision is not a use of land and, in any event, is not the ‘enlargement, expansion’ nor ‘intensification’ of the ‘existing use’ which is for Seniors Housing alone. A copy of the Land and Environment Courts determination with respect to Development Application (DA0055/22), and a copy of the Land and Environment Courts approved Architectural Plans showing the proposed development are attached as Attachments 1 and 2 to this report. Attachment 3 which is also displayed as Figure 3 shows the proposed Community Title Subdivision which was not approved by the Court.

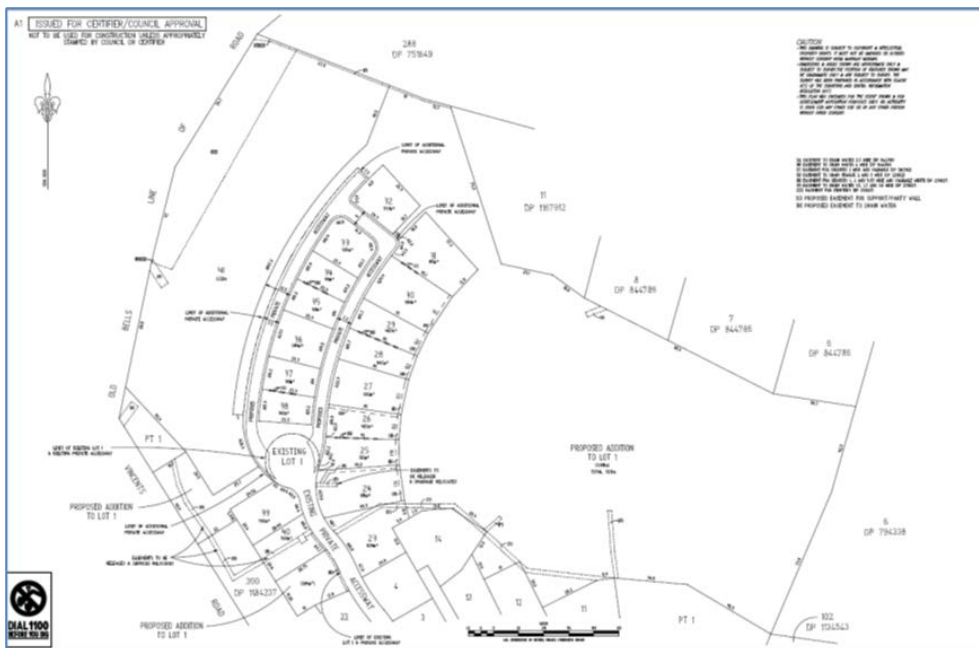


Figure 3: Proposed Community Title Subdivision

Planning Proposal

On 2 December 2022, Council received a Planning Proposal from Sutherland and Associates Planning Pty Ltd (the applicant) seeking an amendment to the Hawkesbury Local Environmental Plan 2012 in order to allow the proposed community title subdivision of the Seniors Housing Development, and an extension to the existing private cemetery on the subject site.

Objectives and Intended Outcome of the Planning Proposal

The objective of the Planning Proposal is to include a site-specific additional local provision under Part 6 of the Hawkesbury Local Environmental Plan 2012 to allow a community title subdivision of the Court approved Seniors Housing development, and extension of a private cemetery on the subject site.

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4. REPORTS FOR DETERMINATION

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The Planning Proposal aims to achieve this objective by inserting the following additional local provision after the current local provision 6.15 into Part 6 of the Hawkesbury Local Environmental Plan 2012:

“6.16 Development of land at 6/21 Vincents Road, Kurrajong

1. *This clause applies to Lot 6 in DP 270827, 6/21 Vincents Road, Kurrajong*
2. *Despite any other provision of this Plan, consent may be granted under this clause to a community title subdivision of Lot 6 in DP 270827 subject to subclause (3).*
3. *Development consent must not be granted for the purposes of a community title subdivision on land to which this clause applies, unless the community title subdivision:*
 - a) *is for the subdivision of development for the purposes of seniors housing development and extension of private cemetery following the completion of the senior housing development; and*
 - b) *the number of residential lots created by the subdivision does not exceed 19, and*
 - c) *each lot created has a lot size of 360m² or greater.”*

A copy of the Planning Proposal is attached to this report as Attachment 4.

Subject Site and Surrounds

The subject site is located within approximately 500m walking distance from the Kurrajong Rural Neighbourhood Centre, approximately 3kms from Kurmond Neighbourhood Centre, 7kms from the North Richmond Village Centre and 10.5kms from the Richmond Town Centre (Figure 4).

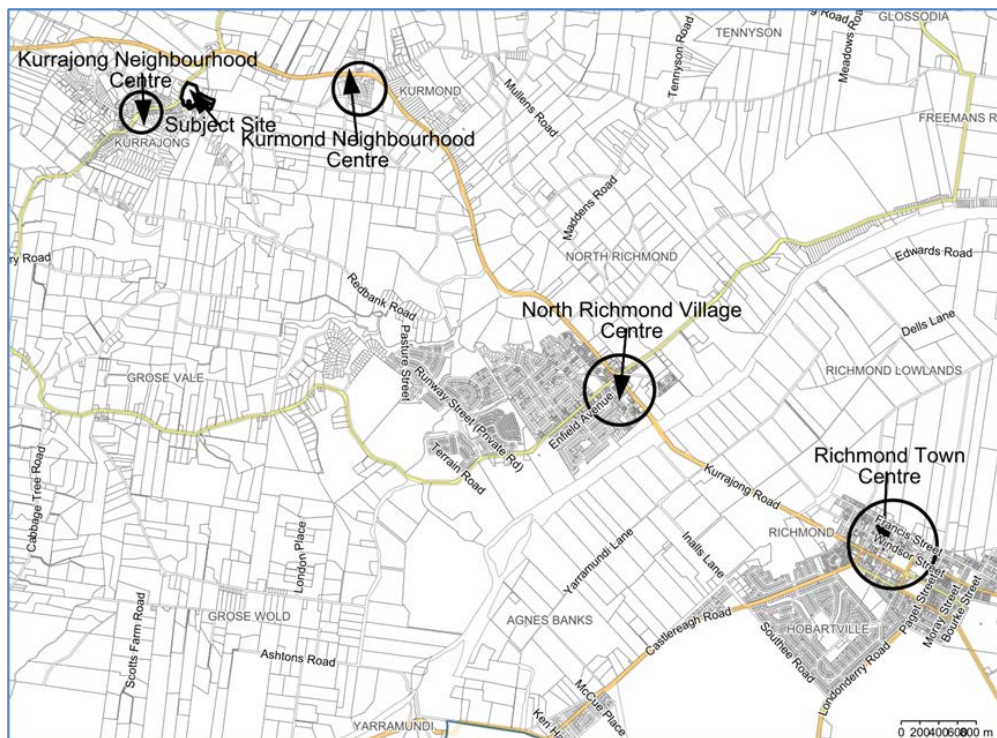


Figure 4: Subject Site Location Map

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4. REPORTS FOR DETERMINATION

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The subject site is legally described as Lot 6 DP 270827 and is irregular in shape and has an area of approximately 5.4ha. The subject site has an approximately 183m frontage to Old Bells Line of Road and a 40m frontage to Vincents Road. It is bounded by Old Bells Line of Road to the North-West, Vincents Road to South-West, the existing Tallowood Seniors Housing Development to the South, rural residential properties to the north-east and St Gregory's Catholic Church to the north as shown in Figure 5.



Figure 5: Aerial View of the Subject Site

The subject site is not affected by flooding and is not listed as a heritage item or located within or near a heritage conservation area.

The majority of the site area is vacant, and a number of sheds are located adjacent to the access road to the subject site and the cul-de-sac head that is located within the subject site.

Currently the subject site is accessed via a cul-de-sac on Lot 1 DP 270827 off Vincents Road and as shown in Figure 6.

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Figure 6: Current Access to the Subject Site via a Cul-de-sac

The subject site is surrounded by a mix of land uses including rural residential properties, rural agricultural lands, seniors housing, St Gregory's Catholic Church and Cemetery and some remnant bushland.

Planning Provisions and Controls

The current planning provisions and controls applying to the subject site under the Hawkesbury Local Environmental Plan 2012, and how the subject site complies or is affected by those planning provisions and controls is shown in Table 1.

Table 1: Planning Provisions/Controls Applying to the Subject Site

Planning Control	How the Subject is affected
Land Zoning	RU1 Primary Production
Lot Size	Minimum of 10Ha
Height of Buildings	Maximum 10M
Clause 4.1AA Minimum subdivision lot size for community title schemes	Not complied with this provision
Clause 4.6 Exceptions to development standards	Not complied with this provision
Acid Sulphate Soil	Class 5 – Acid Sulphate Soil
Bush Fire	Yes, containing designated Category 1 and Category 3 Vegetation
Clause 6.4 Terrestrial Biodiversity	Endangered Ecological communities and connectivity between remnant vegetation

ORDINARY MEETING

4. REPORTS FOR DETERMINATION

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DISCUSSION

Relationship to State and Local Strategic Framework

The following section discusses the consistency of the Planning Proposal with the relevant State and local planning framework, strategic merits, and site-specific merits and subject site's suitability and capability to achieve the intended outcomes of the Planning Proposal.

Greater Sydney Region Plan

On 18 March 2018, the NSW Government released A 'Metropolis of Three Cities' – the Greater Sydney Region Plan. The Greater Sydney Region Plan, along with Transport for NSW's Future Transport 2056, and Infrastructure NSW's State Infrastructure Strategy 2018-36 provide a vision for Greater Sydney as a Metropolis of Three Cities- the Western Parkland City, the Central River City and the Eastern Harbour City where most residents live within 30 minutes of their jobs, education and health facilities, services and great places. The strategy outlines 38 objectives, 10 directions, and 42 objectives guiding the future of Sydney.

Direction 4: Housing the City – giving people housing choices

Direction 4 requires councils to investigate opportunities for the supply and a diversity of housing particularly around centres to create more walkable neighbourhoods. Objectives 10 and 11 of the Plan include:

Objective 10: Greater Housing Supply - Providing ongoing housing supply and a range of housing types in the right locations will create more liveable neighbourhoods and support Greater Sydney's population. It needs to ensure steady supply of market housing in locations well supported by existing or planned services and amenity with an emphasis on public transport access.

Objective 10 focusses on a range of housing types or the diversity for the needs of the community at different stages of life and caters for diverse household types. Diversity: including a mix of dwelling types, a mix of sizes, universal design, seniors and aged-care housing, student accommodation, group homes, and boarding houses. It means that as people age they can move into smaller homes and age in their own neighbourhoods.

The NSW Government has identified that 725,000 additional homes will be needed by 2036 to meet demand based on current population projections. By 2056, it is anticipated that significant further housing supply will be required to meet Greater Sydney's continued strong population growth.

Objective 11: Housing is more diverse and affordable – It is important that the supply of housing delivers the type of housing that communities and places need as they grow and change. A diversity of housing types, sizes and price points can help improve affordability.

The Planning Proposal seeking to amend the Hawkesbury Local Environmental Plan 2012 to allow a community title subdivision of the Court approved Seniors Housing Development containing 19 self-contained dwellings with attached garages within a reasonable walking to the existing Kurrajong Neighbourhood Centre and supporting more walkable neighbourhoods is considered to be generally consistent with Direction 4 Housing the City and objectives 10 and 11 of the Plan.

Metropolitan Rural Area

The Greater Sydney Region Plan and the Western City District Plan identify the whole Hawkesbury Local Government Area (except the Vineyard Precinct in the North West Growth Area) as a Metropolitan Rural Area. Objective 29 of The Greater Sydney Region Plan is to protect and enhance the environmental, social and economic values in rural areas.

ORDINARY MEETING

4. REPORTS FOR DETERMINATION

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The Plan acknowledges that the distinctive towns and villages of the Metropolitan Rural Area offer opportunities for people to live and work in attractive rural or bushland settings, close to a major city. They provide focal points for local communities and rural industries. Ongoing planning and management of rural towns and villages will need to respond to local demand for growth, the character of the town or village and the values of the surrounding landscape and rural activities.

The Planning Proposal enabling opportunities for seniors to live in attractive rural or bushland setting and proximity to the existing Kurrajong Neighbourhood Centre, responding to senior housing demand and increasing economic viability and supporting ongoing management of rural neighbourhood centres is not considered to be inconsistent with the objectives of the Metropolitan Rural Area.

Western City District Plan

The Western City District Plan sets out planning priorities and actions for improving the quality of life for residents of the Western City District as the District grows and changes. The Western City District covers the Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, Liverpool, Penrith and Wollondilly Local Government Areas. This 20-year Plan is to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision for Greater Sydney.

Of relevance to this planning proposal are the following directions and objectives of the District Plan:

- Directions for Liveability: A City for people, Housing the city- A City of Great Places,
- Planning Priority W5 - Providing housing supply and choice and affordability with access to jobs, services and public transport,
- Objective 10 - Greater housing supply and
- Objective 11 - Housing is more diverse and affordable.

The Planning Proposal enabling a seniors housing development containing 19 self-contained dwellings would help to achieve increased housing supply, choice and affordability within a reasonable walking distance (approximately 500m) to the established Kurrajong Neighbourhood Centre.

This Centre meets the resident's day-to-day shopping needs and provides local services. As such, the Planning Proposal is considered to be generally consistent with the Directions for Liveability, Planning Priority 5 and Objectives 10 and 11 of the Western City District Plan.

State Environmental Planning Policies

The following State Environmental Planning Policies are relevant to the Planning Proposal:

State Environmental Planning Policy (Biodiversity and Conservation) 2021.

Chapters 4 and 6 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 apply to the subject site.

Chapter 4 Koala habitat protection 2021

The aim of this Chapter is to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

A Biodiversity Development Assessment Report prepared by Ecological Consultants Australia, dated April 2022 (which formed part of the Court approved Development Application DA0055/21) for Seniors

ORDINARY MEETING

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Housing Development confirmed that the subject site does not contain areas of optimal koala habitat. Further, the report states that vegetation to be retained will be maintained and will satisfy APZ requirements. Patches of retained vegetation will also ensure that connectivity within the landscape is maintained. Tree removal will occur, however the development has been designed to ensure areas of native vegetation can be retained and enhanced.

Chapter 6: Water Catchment (6.13 Hawkesbury-Nepean conservation area sub-catchments)

The Court concluded that the proposed development will not adversely impact the environment and environmental amenity and the subject site has the environmental capacity to accommodate the proposed development. Therefore, It is considered that the proposed 19-lot community title subdivision of the subject site will be able to satisfy the planning principles, strategies and development controls contained in this Chapter or be able to appropriately minimise any adverse impacts. Should the Plan be made to give effect to the Planning Proposal, the above matters can be further considered at the development application stage.

State Environmental Planning Policy (Housing) 2021

There are number of principles of this Policy including the followings:

- (a) enabling the development of diverse housing types, including purpose-built rental housing,
- (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,
- (c) ensuring new housing development provides residents with a reasonable level of amenity,
- (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,
- (e) minimising adverse climate and environmental impacts of new housing development,
- (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,

The Planning Proposal is generally consistent with the above principles.

However, Part 5 of the State Environmental Planning Policy (Housing) 2021 does not apply to rural zoned lands (other than RU5 Village zoned lands). This means, Housing for seniors and people with a disability is not a permitted land use on the subject site which is zoned RU1 Primary Production.

However, given the subject site is enjoying the existing use rights as determined by the Court, the proposed Seniors Housing Development can be accommodated on the subject site as an extension of the existing Tallowood Seniors Living development.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to carrying out any development on that land and, if the land is contaminated, be satisfied that the land is suitable in its current state or will be after remediation for the purpose for which the development is proposed to be carried out.

A Detailed Site Investigation prepared by Martens Consulting Engineers, dated October 2021 which formed part of the Court approved Development Application (DA0055/21) for Seniors Housing Development confirmed that the site is suitable for the proposed development. However, it is noted

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that the subject site has been previously used for agricultural and horticultural purposes that are listed in Table 1 – ‘Some activities that may cause contamination’ of the Managing Land Contamination Planning Guidelines. Therefore, this is a matter for the Department of Planning and Environment to consider at the Gateway Determination if the Planning Proposal is to proceed.

State Environmental Planning Policy (Resources and Energy) 2021

Chapter 3: Extractive Industries in Sydney

The Planning Proposal is only to include an additional local provision under Part 6 of the Hawkesbury Local Environmental Plan 2012, and the current RU1 Primary Production zoning of the subject site which allows extractive industries remains unchanged. Therefore, the Planning Proposal is consistent with the State Environmental Planning Policy (Resource and Energy) 2021.

Local Planning Direction (Ministerial Directions)

Relevant to the planning proposal are the following ministerial directions:

Direction 1.1 Implementation of Regional Plans

As outlined in the early part of this report, the Planning Proposal is consistent with the relevant regional plans.

Direction 1.3 Approval and Referral Requirements

The Planning Proposal does not require concurrence, consultation or referral of development application to a minister or public authority therefore the Planning Proposal is consistent with this direction.

Direction 1.4 Site Specific Provisions

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

There are no other options or mechanisms other than the proposed amendment to the Hawkesbury Local Environmental Plan 2012 to facilitate a community title subdivision of the Court approved Seniors Housing Development.

The suitability of the subject site for Seniors Housing and the associated development works and the subject site’s environmental capacity has been determined and approved by the Court. The proposed site-specific planning controls contained in the Planning Proposal are only to facilitate a community title subdivision of the Court Seniors Housing Development, and therefore those planning controls are not considered to be unnecessary restrictive site-specific planning controls. Further, the Planning Proposal does not contain or refer to drawings that show details of the proposed development.

The above outlined circumstances provide sufficient justification for the inconsistency with the Direction. However, this is a matter for the Department of Planning and environment to consider at the Gateway Determination if the Planning Proposal is to proceed.

Direction 4.3 Planning for Bushfire Protection

The subject site is identified as being bushfire prone, containing Vegetation Categories 1 and 3 on the NSW Rural Fire Service’s Bushfire Prone Land Map. The Planning Proposal is accompanied by a Bushfire Assessment Report prepared by Building Code & Bushfire Hazard Solutions Pty Ltd. The Report concludes that the subject site and proposed Seniors Housing Development comply with the relevant specifications and requirements of the Planning for Bushfire Protection 2019. Therefore, the planning proposal is considered to be generally consistent with this Direction.

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However, following receipt of a Gateway determination from the Department of Planning and Environment advising Council to proceed with the planning proposal, consultation on the planning proposal will be undertaken with the NSW Rural Fire Service to ensure compliance with Planning for Bushfire Protection 2006, and compliance with various Asset Protection Zones, vehicular access, water supply, layout, and building material provisions in accordance with the Direction.

Direction 4.4 Remediation of Contaminated Land

A Detailed Site Investigation prepared by Martens Consulting Engineers, dated October 2021 which formed part of the Court approved DA0055/21 for Seniors Housing Development confirmed that the site is suitable for the proposed development. However, it is noted that the subject site has been previously used for agricultural and horticultural purposes that are listed in Table 1 - Some activities that may cause contamination of the Land Management Guideline. Therefore, this is a matter for the Department of Planning and Environment to consider at the Gateway Determination if the Planning Proposal is to proceed.

Direction 4.5 Acid Sulfate Soils

This Direction requires that a relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps.

The subject site is identified as containing "Class 5 acid sulfate soils on the Acid Sulphate Soils Planning Maps, and as such any future development on the land will be subject to Clause 6.1 Acid Sulfate Soils of the Local Environmental Plan 2012 which has been prepared in accordance with the 'Acid Sulfate Soils Model Local Environmental Plan provisions within the Acid Sulfate Soils' Planning Guidelines adopted by the Director General.

Direction 5.1 Integrated Land Use and Transport

This direction generally applies to urban land. However, the Planning Proposal enables Seniors Housing within a reasonable walking distance to the existing Kurrajong Neighbourhood Centre which generally serves the Kurrajong Residential Community's day-to-day needs and provides some local jobs and services. Therefore, there will be no adverse impacts on local transport or infrastructure.

Give the above circumstances, the planning proposal is considered to be generally consistent with this Direction.

Direction 8.1 Mining, Petroleum production and Extractive Industries.

The objective of this direction is to ensure that future extraction of State or Regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

The planning proposal is consistent with this direction as the subject site is not located within an Identified Resource Area, Potential Resource Area or the Transition Area which is adjacent to Identified Resource Areas as identified by mineral resource maps provided by the NSW Resource & Energy Division of NSW Trade & Investment.

Additionally, the subject site is not located within or in the vicinity of land described in Schedule 1, 2 and 5 of the Sydney Regional Environmental Plan No. 9 - Extractive Industry (No 2- 1995).

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Direction 8.1 Rural Zones

The objective of this direction is to protect the agricultural production value of rural land. The Direction requires not rezone land from a rural zone to a residential, business, industrial, village or tourist zone and not contain provisions that will increase the permissible density of land within a rural zone.

The Planning Proposal retains the current RU1 Primary Production zoning of the subject site and seeks only to include a new local provision under Part of the Hawkesbury Local Environmental Plan 2012 to allow a community subdivision of the Court approved Seniors Housing Development on the subject site.

There is a minor inconsistency with this direction as the Planning Proposal seeks to create 19 community title lots to accommodate the Court approved Seniors Housing Development containing 19 self-contained dwellings and attached garages. Currently, the subject is entitled or can be developed for a single dwelling or an attached dual occupancy. However, this inconsistency is considered to be warranted due to the following reasons:

- The Planning Proposal is only to facilitate the proposed community title subdivision of the Court approved Seniors Housing Development on the subject and there are no other options to achieve this, and
- the proposed local provision ensures that no further increased density other than the Court approved density (19 community title lots) on the subject site.

Irrespective of the above comments, this is a matter for the Department of Planning and Environment to consider at the Gateway Determination if Council resolved to proceed with the Planning Proposal.

Hawkesbury Local Strategic Planning Statement 2040

The Hawkesbury Local Strategic Planning Statement 2040 prepared in response to the Greater Sydney Region Plan and Western City District Plan, provides a 20-year land use vision for the Hawkesbury Local Government Area. The Statement outlines Council's intended course of action in delivering the planning objectives.

The statement establishes the following clear vision for Hawkesbury Local Government Area to 2040.

"Hawkesbury Local Government Area will provide a diversity of housing to meet the future needs of the community without compromising safety, environmental quality and local character".

Planning Priority 3 of this Statement is to provide a diversity of housing types to meet the needs of the changing population and Planning Priority 5 is to manage rural lands.

The Planning Proposal enabling increased housing and housing choice to meet the demand and needs of the changing and vulnerable population with no adverse impacts on the natural environment and amenity, retaining rural character and zoning of the subject site is generally considered to be consistent with this Statement.

Hawkesbury Local Housing Strategy (December 2020)

The Hawkesbury Local Housing Strategy provides a clear plan to deliver the housing vision in Hawkesbury Local Government Area over the next 20 years. The Strategy identifies eight guiding principles, and Principle No 5 is as follows:

"5 Increase housing diversity to deliver housing choice to meet the needs of the ageing population with more lone person households."

The Planning Proposal is in line with the Principle 5 of the Strategy and therefore the Planning Proposal is considered to be generally consistent with the Strategy.

Hawkesbury Rural Lands Strategy

Hawkesbury’s rural land is an important resource. It comprises a number of land uses, landforms and vast areas of national parks and native vegetation. It is productive as a source of food and consumables; it is also important for biodiversity habitat and catchment management as well as a place for people to live and work.

However, planning for the preservation of rural land is a complex issue. The Hawkesbury Rural Lands Strategy provides Council with a better planning framework for effective management and protection of rural lands with significant agricultural, environmental and biodiversity values whilst making provisions for ongoing planning and management of rural towns and villages for people to live and work in rural settings proximity to rural neighbourhoods, villages and towns.

The Planning Proposal enabling opportunities for senior people to live in attractive rural or bushland setting and proximity to the existing Kurrajong Neighbourhood Centre, responding to senior housing demand and increasing economic viability and supporting ongoing management of rural neighbourhood centres is not considered to be inconsistent with the Strategy.

Hawkesbury Local Environmental Plan

Land Zoning

The subject is currently zoned RU1 Primary Production under the provisions of the Hawkesbury Local Environmental Plan 2012 as shown in Figure 7 and seniors housing is a prohibited land use within this zone.

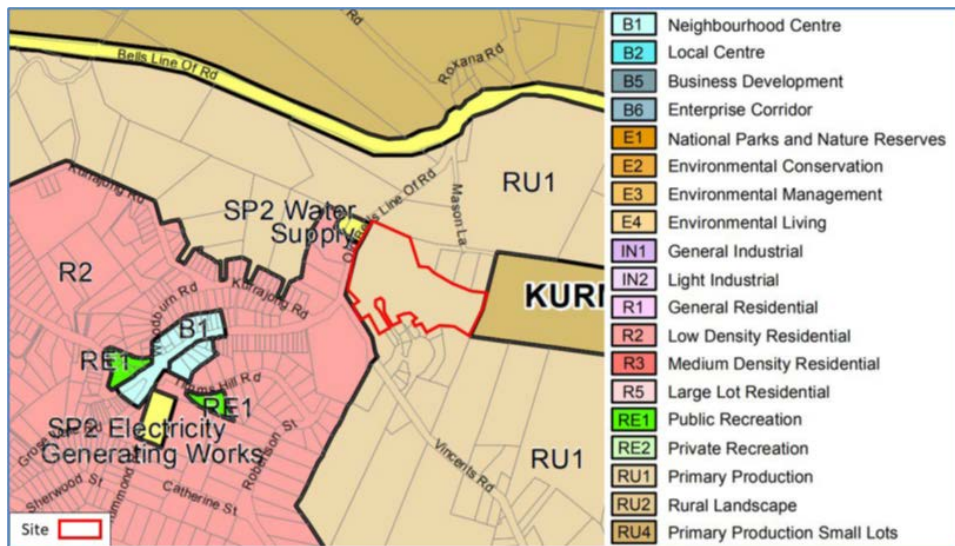


Figure 7: Extract of the Land Zoning Map

Given the Planning Proposal is relying upon the existing use rights, the proposed Seniors Housing can be accommodated on the subject site.

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Lot Size Map

The current minimum lot size for subdivision of the subject site is 10ha as shown in Figure 7. Given the subject site has an area of approximately 5.4ha, it cannot be subdivided. Therefore, the Planning Proposal seeks to include an additional local provision under Part 6 of the Hawkesbury Local Environmental Plan 2012 to allow the proposed community title subdivision comprising of 19 lots with minimum lot size not less than 360m².

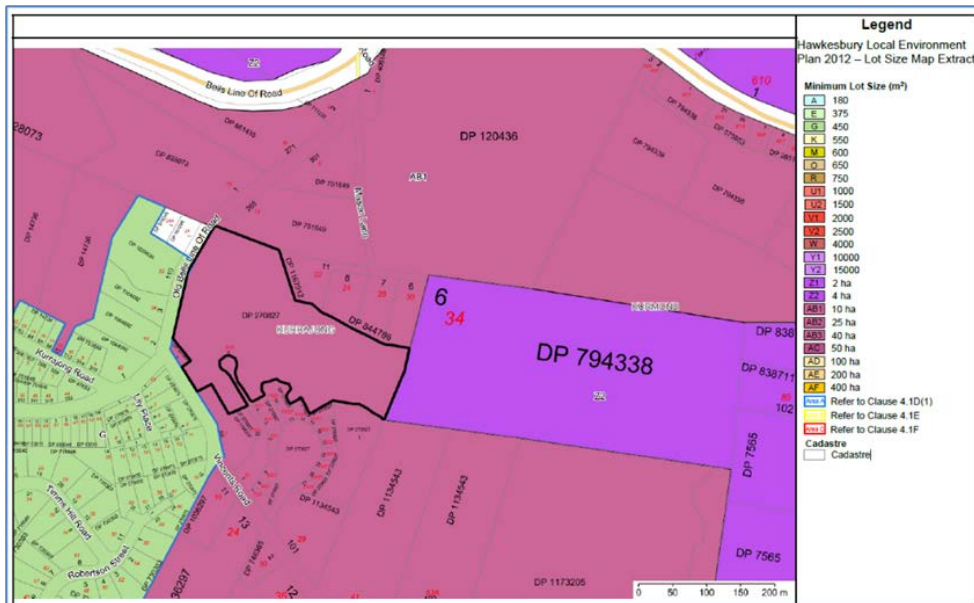


Figure 7: Extract of the Lot Size Map

Height of Buildings Map

A 10m maximum height of buildings provision applies to the subject to site as shown in Figure 8.

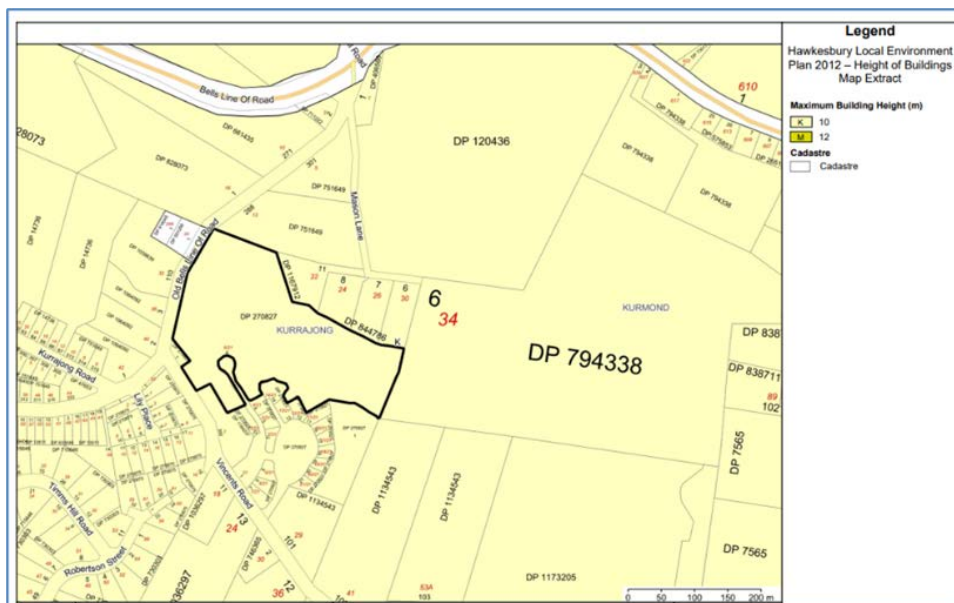


Figure 8: Extract of the Height of Buildings Map

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The architectural plans of the proposed development prepared by Enviro Studio depict that the proposed development complies with the 10-metre height limit.

Clause 6.4 Terrestrial biodiversity

The primary aim of Clause 6.4 of the Hawkesbury Local Environmental Plan 2012 is to maintain terrestrial biodiversity protecting native fauna and flora.

As shown in Figure 9, the subject site contains 'Shale Sandstone Transition Forest and Connectivity between Remnant Vegetation' as identified on the Terrestrial Biodiversity Map of the Hawkesbury Local Environmental Plan 2012. Council's vegetation mapping depicts the concentration of Shale Sandstone Transition Forest, which is a Critically Endangered Ecological Community under the Biodiversity Conservation Act 2016 mainly along the North-Western boundary.

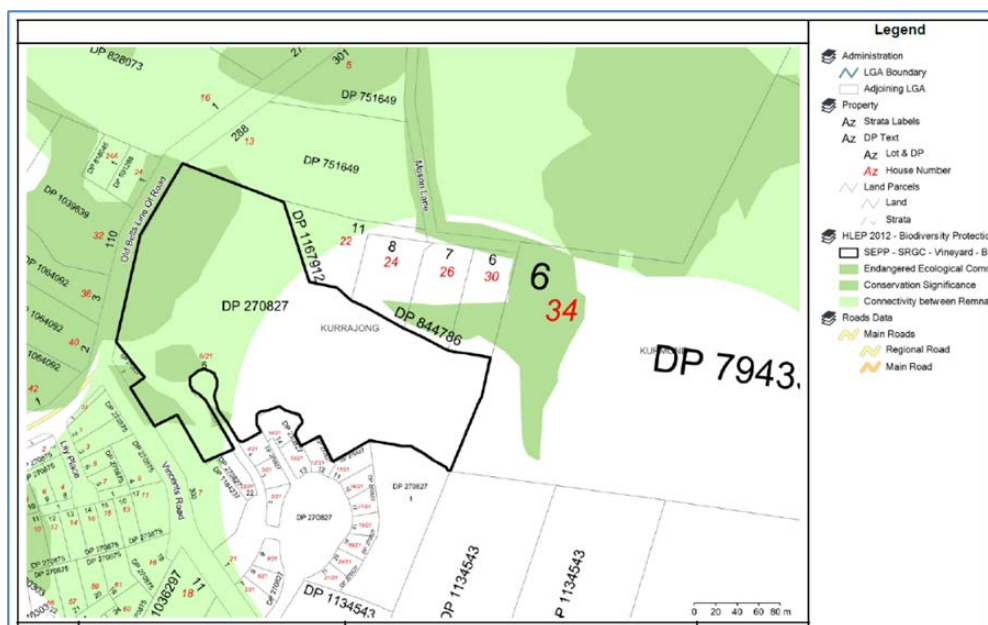


Figure 9: Extract of the Terrestrial Biodiversity Map

The Biodiversity Development Assessment Report prepared by Ecological Consultants Australia prepared to accompany DA0055/211 describes the vegetation on the site as follows:

"The site has been managed for agricultural and horticultural purposes (stone fruit orchards) since the 1800s. Native vegetation would have once covered the area although due to modification and disturbance, the site has lost many natural attributes. The site has been significantly altered and degraded from its natural state due to a long history of vegetation clearing, habitat fragmentation and on-going disturbance, via agricultural practices. A majority of vegetation on the site is regrowth or has been planted by the property owner. There is little to no remnant vegetation left on the property. Exotic species are dominant across the site and are preventing the recruitment or the original vegetation community.

Vegetation to be retained will be maintained and will satisfy APZ requirements. Patches of retained vegetation will also ensure that connectivity within the landscape is maintained. Tree removal will occur however the development has been designed to ensure areas of native vegetation can be retained and enhanced."

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Strategic and Site-specific Merits

The Planning Proposal is consistent with the relevant State and local planning framework. Given the subject site has frontages to both Bells Line of Road and Vincents Road, enjoys existing use rights, and is located immediately north of the existing Tallowood Seniors Living development and within walking distance to the Kurrajong Neighbourhood Centre. It is considered that it has clear merits to accommodate the proposed community title subdivision of the Court approved Seniors Housing Development.

The Court determined that the subject site has the environmental capacity with easy access to all necessary infrastructure services and is capable of accommodating the proposed Seniors Housing Development as an extension to the existing Tallowood Seniors Living development with no adverse impacts on the immediate surrounding and the amenity of the locality.

Environmental, Social and Economic Impacts

The proposed development will not adversely impact the natural environment as determined by the Court. The proposed development can be accommodated on the vacant land area free of any significant vegetation with no adverse impacts on critical habitat or populations, or ecological communities. Further the Court stated that there will be appropriate measures in order to ensure that there are no adverse impacts result from the proposed development on the natural environment. A Bushfire Assessment Report prepared by Building Code & Bushfire Hazard Solutions concludes that the subject site and proposed Seniors Housing Development comply with the relevant specifications and requirements of the Planning for Bushfire Protection 2019.

The Planning Proposal enabling increased housing and housing choice for seniors, economic viability of the existing Kurrajong Neighbourhood Centre, local jobs and services are considered to be positive social and economic impacts

Consideration

The Land and Environment Court approved the proposed development other than the community title subdivision of the seniors housing development. This is because the Land and Environment Court determined that subdivision is not a use of land and, in any event, is not the 'enlargement, expansion' nor 'intensification' of the 'existing use' which is for seniors housing alone.

In accordance with clause 2.6 – 'Subdivision - consent requirements' and clause 4.1AA – 'Minimum subdivision lot size for community title schemes' of the Hawkesbury Local Environmental Plan 2012, a consent cannot be granted for the proposed community title subdivision of the Land and Environment Court approved seniors housing development proposing 19 community title lots with minimum lot size of not less than 360m².

This is because these two clauses state that the size of any lot resulting from a subdivision of land is not to be less than the minimum size shown on the Lot Size Map in relation to that land. According to clause 4.1AA, this minimum lot size requirement is not applying to any lot comprising association property within the meaning of the Community Land Development Act 2021.

The predominant minimum lot size within the immediate vicinity of the subject site is 10Ha. Therefore, any amendment to the Lot size Map in order to allow a 360m² minimum lot size provision for subdivision of the subject site to enable the proposed community title subdivision of the Seniors Housing is considered to be inappropriate, undesirable planning outcome for rural lands and is unwarranted.

Further, it is expected that the Department of Planning and Environment will not support that approach for rural lands and it also creates a significant lot size anomaly in the locality and a precedent.

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There are no provisions in the Hawkesbury Local Environmental Plan 2012 or any other existing State planning instrument other than an insertion of an additional local provision under Part 6 of the Hawkesbury Local Environmental Plan 2012 to enable the proposed community title subdivision of the Land and Environment Court approved seniors development as proposed in the Planning Proposal.

However, a Planning Proposal containing or referring to drawings that show details of the proposed development is inconsistent with the section 9.1 Ministerial Directions. Therefore, it is proposed to include an additional subclause in the proposed additional local provision in order to ensure amalgamation of the remainder of the subject site with the existing Lot 1 DP 270827 to serve as the association property of the entire seniors' development comprising of the existing Tallwood Seniors Living development and the proposed Seniors Housing Development on the subject site. This would help avoid any uncertainty or speculations about the future use of the remainder of the subject site and provide certainty to the future senior users/owners of residential lots within the proposed seniors housing development that the remainder of the subject site will be amalgamated with the existing Lot 1 DP 270827 to form as the association property for the entire seniors' development.

Therefore, consideration of the inclusion of an additional subclause 3(d) in the proposed local provision as follows is warranted:

"6.16 Development of land at 6/21 Vincents Road, Kurrajong

1. *This clause applies to Lot 6 in DP 270827, 6/21 Vincents Road, Kurrajong*
2. *Despite any other provision of this Plan, consent may be granted under this clause to a community title subdivision of Lot 6 in DP 270827 subject to subclause (3).*
3. *Development consent must not be granted for the purposes of a community title subdivision on land to which this clause applies, unless the community title subdivision:*
 - a) *is for the subdivision of development for the purposes of seniors housing development and extension of private cemetery following the completion of the senior housing development; and*
 - b) *the number of residential lots created by the subdivision does not exceed 19, and*
 - c) *each lot created has a lot size of 360m² or greater, and*
 - d) *enables amalgamation of the remainder of the land with Lot 1 DP 270827 to create an association property for the entire Seniors' Living development within the meaning of the Community Land Development Act 2021."*

Hawkesbury Local Planning Panel Advice

This Planning Proposal was considered by the Hawkesbury Local Planning Panel at its Meeting on 19 January 2022. The advice from the Hawkesbury Local Planning Panel was to support this Planning Proposal.

The draft minutes are provided below:

The Panel unanimously provided the following advice:

"The Planning Panel supports the Planning Proposal proceeding to Gateway, including the additional Clause 3(d) as recommended by Council staff, for the following reasons:

1. *The Panel notes that the Planning Proposal arises from the decision of the Land and Environment Court to approve the Seniors Housing Development on the site, but which held that the strata subdivision component of that development was prohibited under current planning controls. The Planning Proposal aims to address this apparent anomaly.*

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2. *The Panel is satisfied that the Planning Proposal has strategic merit as it is consistent with relevant State and Local Planning Strategies, and that it has site specific merit based on its relationship with the existing and approved Tallowood Seniors Living Development on the site.*
3. *The Planning Proposal facilitates the orderly and economic use of the site, allowing for the effective ongoing management of the Seniors Housing development and of the private cemetery.*
4. *Whilst not a matter relating to the Planning Proposal considered by the Panel, the Community Member, Mr Paul Rogers identified that the Community has ongoing concerns around the need for footpaths from Kurmond to Kurrajong, and particularly urges Council to provide safe pedestrian access to the site on Vincents Road at the earliest opportunity."*

Conclusion

The Planning Proposal seeks the insertion of a site-specific local provision under Part 6 of the Hawkesbury Local Environmental 2012 to enable the proposed community title subdivision of the Land and Environment Court approved seniors housing development, and an extension of the existing private cemetery has some merits.

The Planning Proposal will provide increased housing and housing choice as well as some form of affordability for local elderly people or seniors to live and enjoy in a rural setting in proximity to local shops and services. Also, the Planning Proposal enabling the proposed development on the subject site is considered to be generally compatible with the surrounding uses, there will be no adverse impact on the natural and built environment.

The Planning Proposal is also consistent with relevant State and local planning framework, and also would help ongoing economic viability of the Kurrajong Neighbourhood Centre.

COMMUNITY ENGAGEMENT

Should Council resolve to forward the Planning Proposal to the Department of Planning and Environment for a Gateway determination and the proposal proceeds, consultation with the community and relevant government agencies will be undertaken in accordance with relevant Gateway determination and statutory requirements.

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2022-2042

The proposal is consistent with the following Long-Term Community Objectives set out within the CSP.

Great Place to Live

1.5 Provide the right places and spaces to serve our community.

FINANCIAL IMPACT

There are no financial implications applicable to this report.

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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.

ATTACHMENTS

- AT - 1** Land and Environment Court Judgement - *(Distributed under separate cover)*.
- AT - 2** Court Approved Architectural Plans - *(Distributed under separate cover)*.
- AT - 3** Proposed Plan of Subdivision of Lot 6 DP270827 Tallwood Village Kurrajong - *(Distributed under separate cover)*.
- AT - 4** Planning Proposal for 6/21 Vincents Road, Kurrajong - *(Distributed under separate cover)*.

oooO END OF REPORT Oooo

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**4.1.2. CP - Planning Proposal - LEP003/23 - 7 and 9 Fitzgerald Street, Windsor -
Rezone from SP2 Infrastructure to E2 Commercial Centre - (95498, 124414)**

Directorate: City Planning

PLANNING PROPOSAL INFORMATION

File Number:	LEP003/23
Property Address:	7 and 9 Fitzgerald Street, Windsor
Applicant:	Hawkesbury City Council
Owner:	Mrs AC Hayes, Mr JS Hayes, Mr MJ Hayes and Mrs M King
Current Minimum Lot Size:	No Minimum Lot Size
Current Zone:	SP2 Infrastructure
Proposed Zone:	E2 Commercial Centre
Site Area:	1,764 m2

Key Issues:	Anomaly occurring in the adoption of the Hawkesbury Local Environmental Plan 2012
	Previously zoned MU Multi Unit Housing under the Hawkesbury Local Environmental Plan 1989
	Proposed E2 Commercial Centre to align zoning with present use.

PURPOSE OF THE REPORT

The purpose of this report is to present this Planning Proposal to Council for a determination on whether to submit the proposal to the Department of Planning and Environment for a Gateway Determination. The purpose of the Planning Proposal is to correct an anomaly that occurred as a result of the adoption of the Hawkesbury Local Environmental Plan 2012. To correct this anomaly, the Planning Proposal is seeking to rezone 7 and 9 Fitzgerald Street, Windsor (Lot C DP 331895, Lot D DP 360127, Lot 1 DP 1087936) from SP2 Infrastructure to E2 Commercial Centre, and introduce the associated planning control of a 10m Height of Building.

EXECUTIVE SUMMARY

Council is seeking to amend the Hawkesbury Local Environmental Plan 2012 by rezoning 7 and 9 Fitzgerald Street, Windsor to E2 Commercial Centre, and introduce the associated planning control of a 10m Height of Buildings. This is to resolve an anomaly that occurred during the transition from the previous *Hawkesbury Local Environmental Plan 1989* to the current *Hawkesbury Local Environmental Plan 2012*. The report demonstrates that the Planning Proposal contains site specific merit, and is consistent with relevant strategies and legislation.

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RECOMMENDATION

That:

1. Based on assessment of the Planning Proposal for 7 and 9 Fitzgerald Street, Windsor, and the advice of the Hawkesbury Local Planning Panel, Council supports this planning proposal.
2. Council forward the Planning Proposal to the Department of Planning and Environment for a Gateway Determination.

BACKGROUND

Under the Hawkesbury Local Environmental Plan 1989, the subject sites, 7 and 9 Fitzgerald Street, were zoned MU – Multi Unit Housing. On 21 September 2012, Hawkesbury City Council adopted the Hawkesbury Local Environmental Plan 2012, replacing the Hawkesbury Local Environmental Plan 1989. This adoption of the new LEP 2012 was instructed by the Standard instrument 2006 and involved the conversion to standardised zoning system and updating and replacing of associated LEP maps. In this process an anomaly occurred whereby the subject sites, 7 and 9 Fitzgerald Street, Windsor, were incorrectly zoned SP2- Infrastructure. With both sites previously being zoned Multi Unit Housing, the standard conversion into present zoning is R3 Medium Density.

Given that the subject site is currently being used for a commercial use, discussions with the owners of the property resulted in the agreement that the subject site should be rezoned to E2 Commercial Centre as the R3 Medium Density zone would create a spot zone in the Windsor Town Centre which is mostly zoned E2 Commercial Centre. Council’s Strategic Planning officers are also supportive of the E2 zone in order to maintain the zone consistency in the town centre. Figure 1 show the zoning under the Hawkesbury Local Environmental Plan 1989, whilst Figure 2 shows the zoning under Hawkesbury Local Environmental Plan 2012.

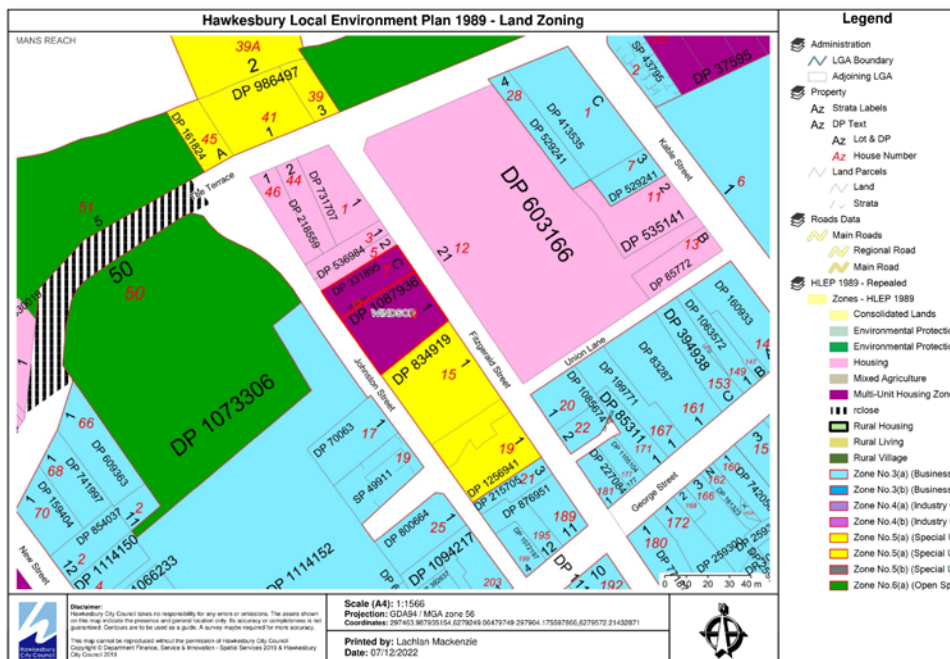


Figure 1: HLEP 1989 Land Zoning Source: Hawkesbury IntraMaps

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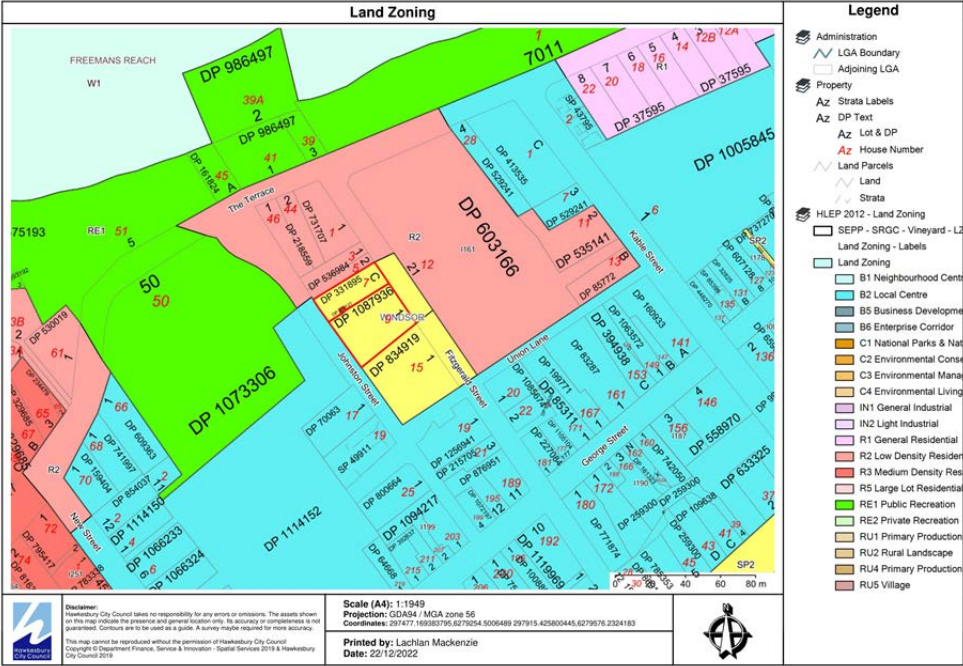


Figure 2: HLEP 2012 Land Zoning Source: Hawkesbury IntraMaps

Employment Zones Reform

The proposed E2 Commercial Centre zoning is a zone not currently adopted by Council, as it is a part of the employment zone reform that will commence in April 2023. The reform consolidates existing business and industrial zones into 5 new employment zones. The proposed E2 Commercial Centre is the converted zone for B2 Local Centre zoned land in the Windsor Town Centre.

Objectives and provisions of the Planning Proposal

The objective of the planning proposal is to amend the Hawkesbury Local Environmental Plan 2012 to correct an anomaly resulting from the conversion to this plan, by rezoning 7 and 9 Fitzgerald Street to E2 as shown in Figure 3. The planning proposal seeks to achieve the objectives and intended outcomes through amending the following maps of the Hawkesbury Local Environmental Plan 2012.

Map Name	Map Number	Current Control	Proposed Control
Land Zoning Map	LZN_008DB	SP2 Infrastructure	E2 Commercial Centre
Height of Building	HOB_008DB	Nil	10m

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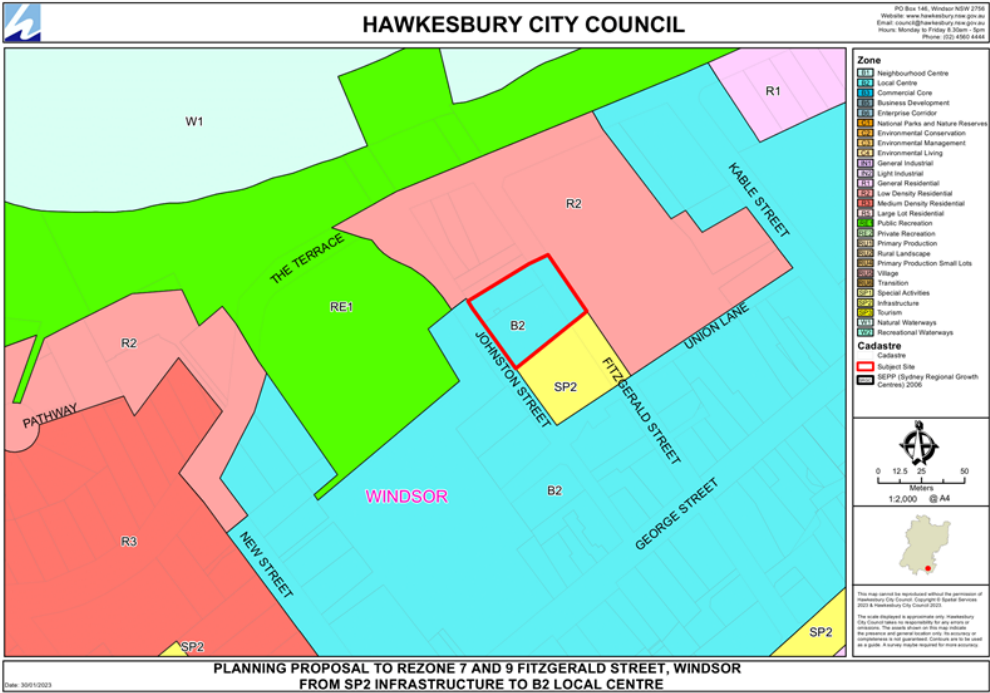


Figure 3: Proposed Zone of 7 and 9 Fitzgerald Street

Due to Spatial Information constraints, the proposed map identifies the site as B2 Local Centre, which will be converted to E2 Commercial Centre in April 2023 as per the employment zone reform. Figure 4 shows the proposed height of the building control.

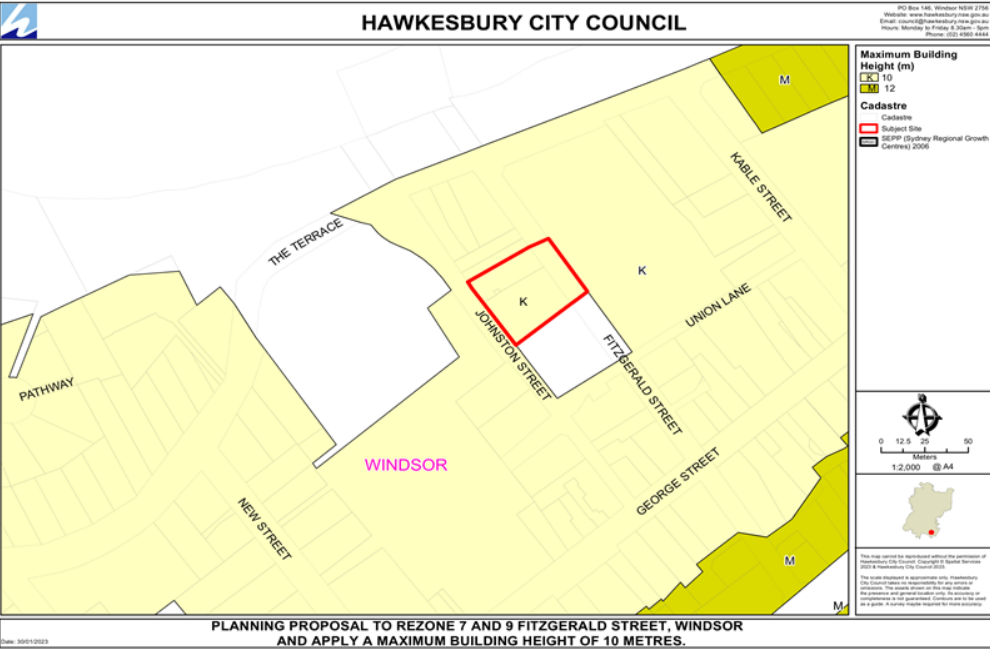


Figure 4: Proposed Height of Building control for 7 and 9 Fitzgerald Street

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Planning Controls

Table 1 Existing Planning Controls for the Subject Site

Zone	SP2 Infrastructure
Minimum Lot Size	Nil
Height of Buildings	Nil
Acid Sulfate Soils	Class 5 – Acid Sulfate Soil.
Flood	The site is entirely inundated in the 1:100 ARI Flood Event.
Biodiversity	A small portion of the subject site is categorised a connectivity between remnant vegetation.
Bushfire Prone Land	The subject site contains no bush fire prone land.
Sewer Scheme	The subject site is serviced by the Council's reticulated sewer service.
Sydney Water	The subject site is serviced by Sydney Water supply.
Heritage	The subject site does not contain any items of environmental heritage.

The following figures highlight the subject site:

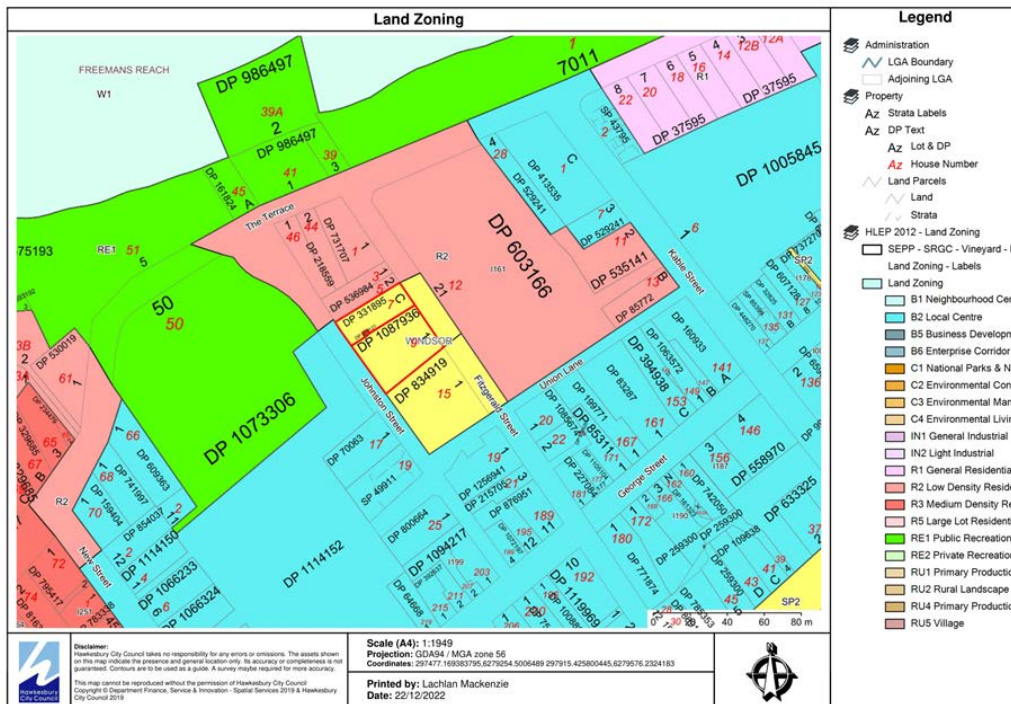


Figure 5: HLEP 2012 Land Zoning Source: Hawkesbury IntraMaps

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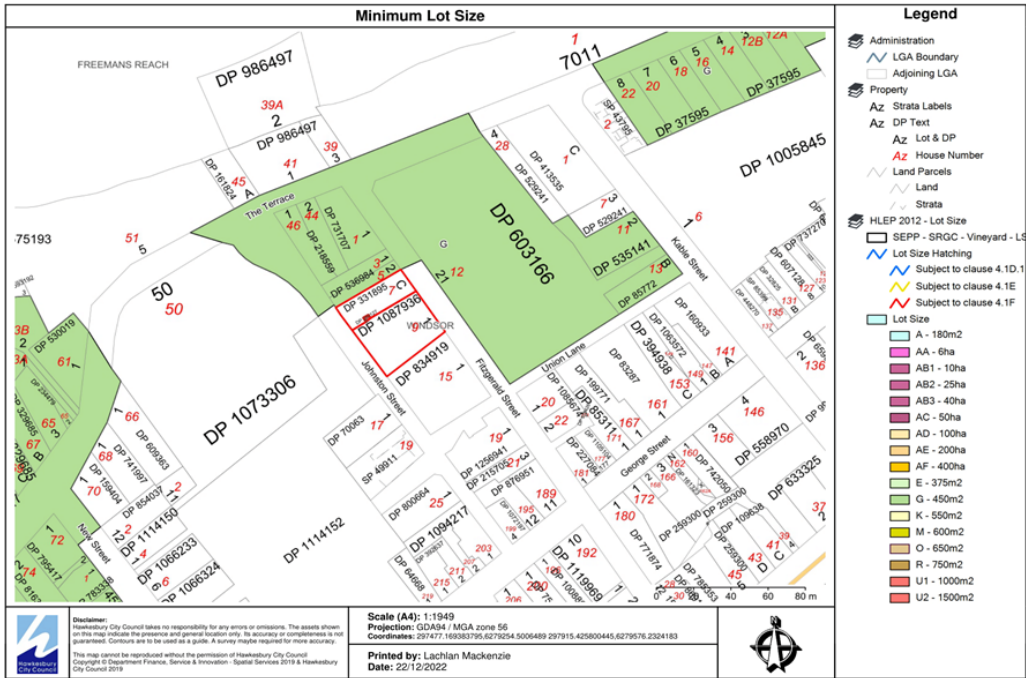


Figure 6: HLEP 2012 Minimum Lot Size Source: Hawkesbury IntraMaps

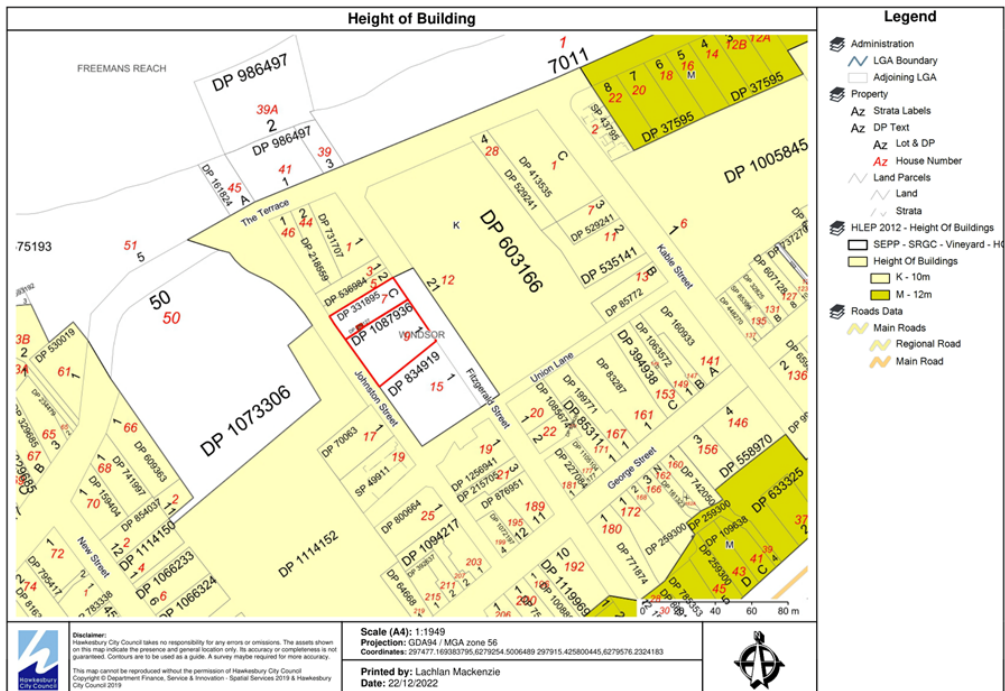


Figure 7: HLEP 2012 Height of Building Source: Hawkesbury IntraMaps

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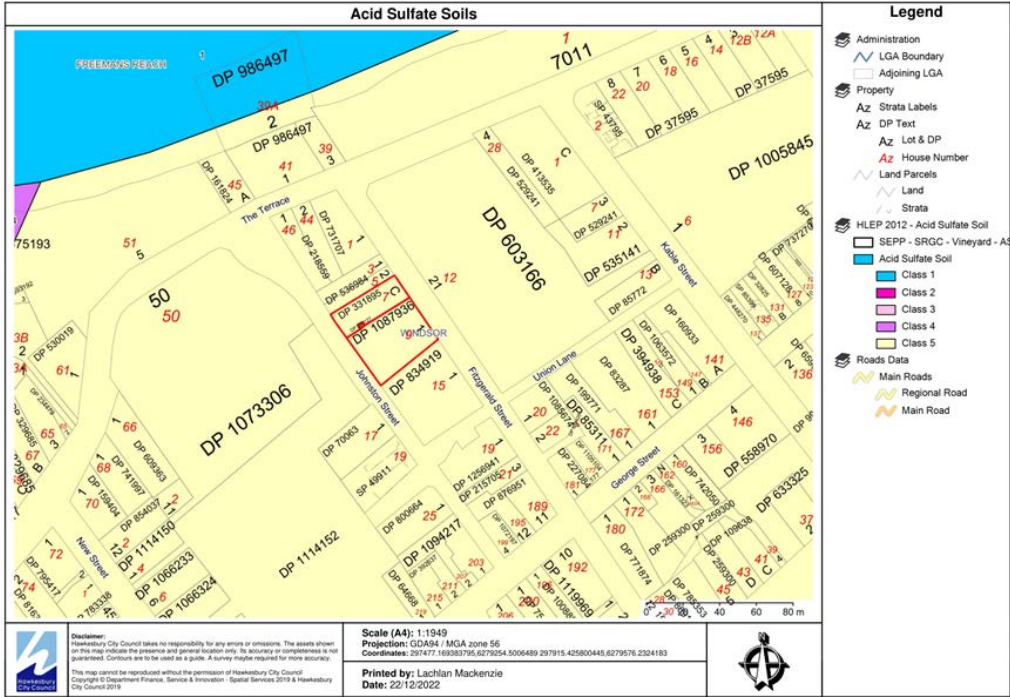


Figure 8: HLEP 2012 Acid Sulfate Soils Source: Hawkesbury IntraMaps

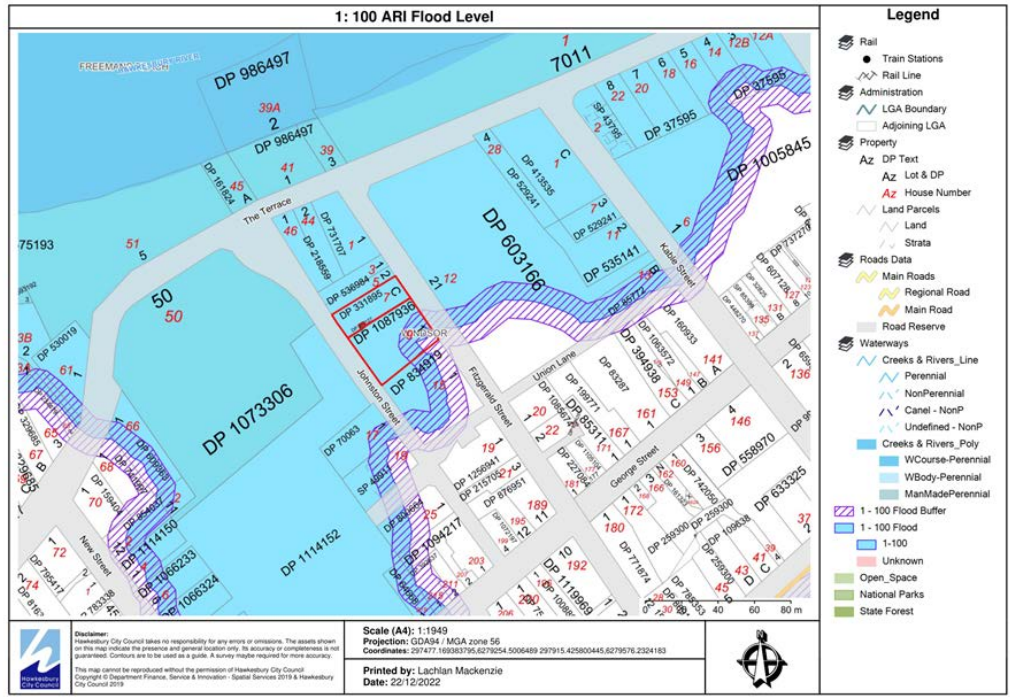


Figure 9: HLEP 2012 Flood Prone Land Source: Hawkesbury IntraMap

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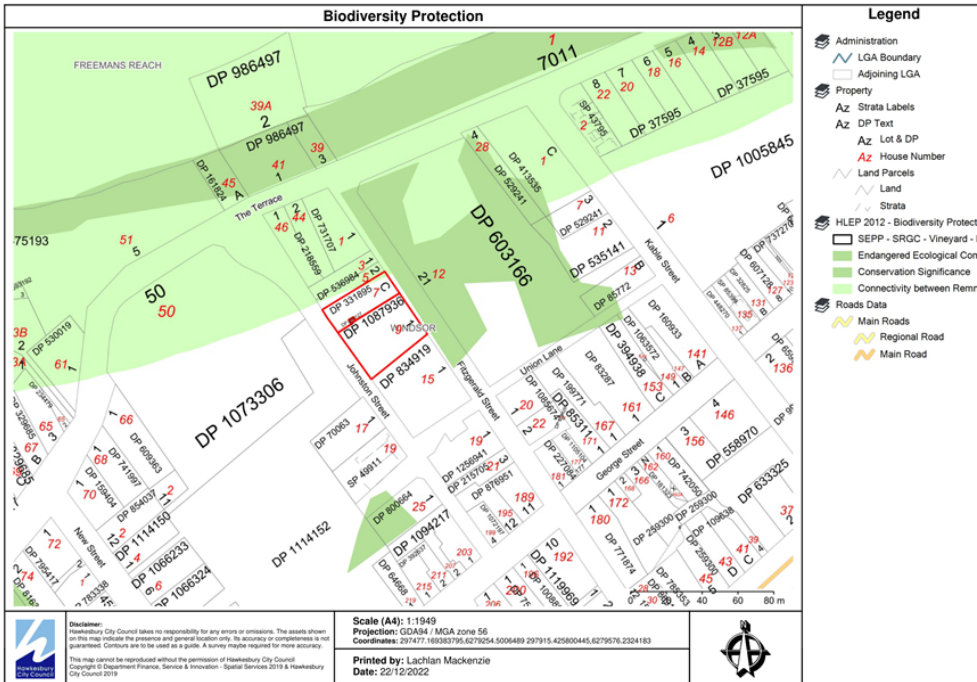


Figure 10: HLEP 2012 Biodiversity Protection Source: Hawkesbury IntraMaps

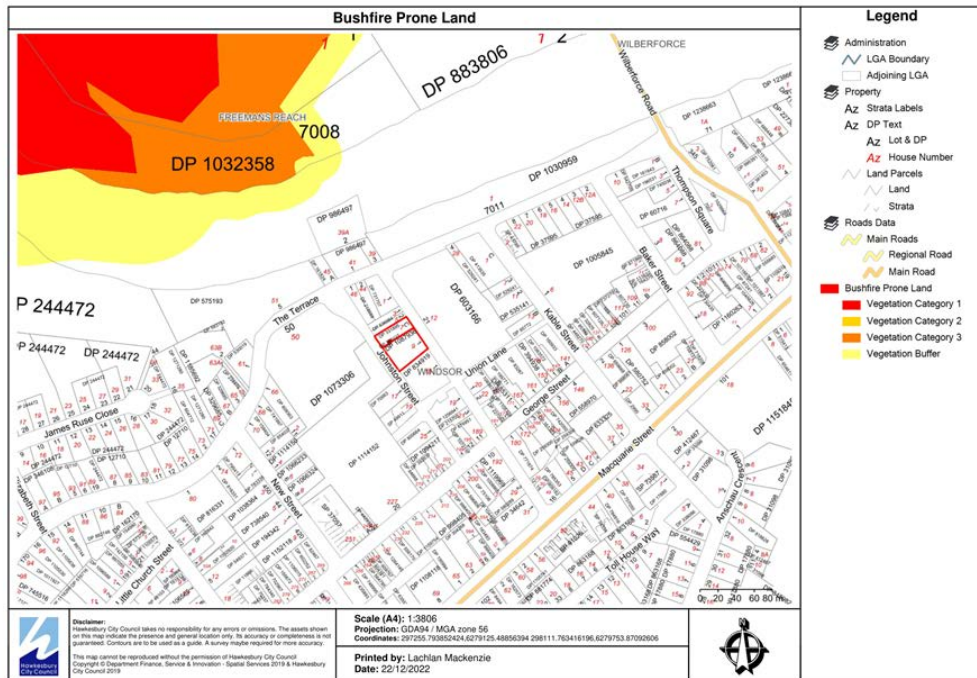


Figure 11: HLEP 2012 Bushfire Prone Land Source: Hawkesbury IntraMaps

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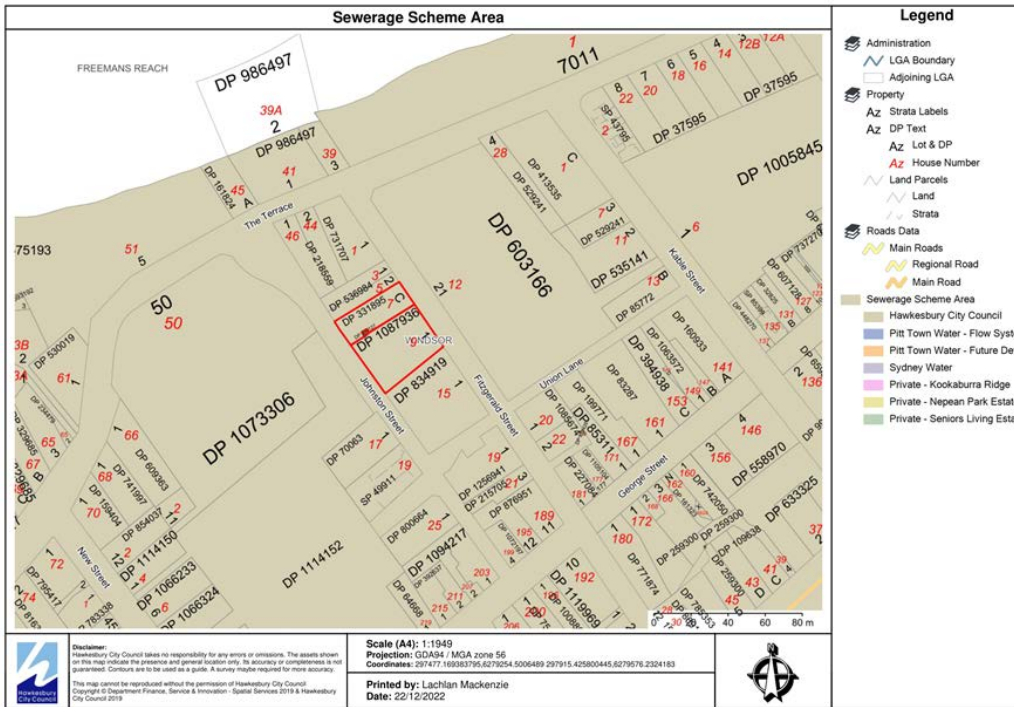


Figure 12: HLEP 2012 Sewer Scheme Area Source: Hawkesbury IntraMaps

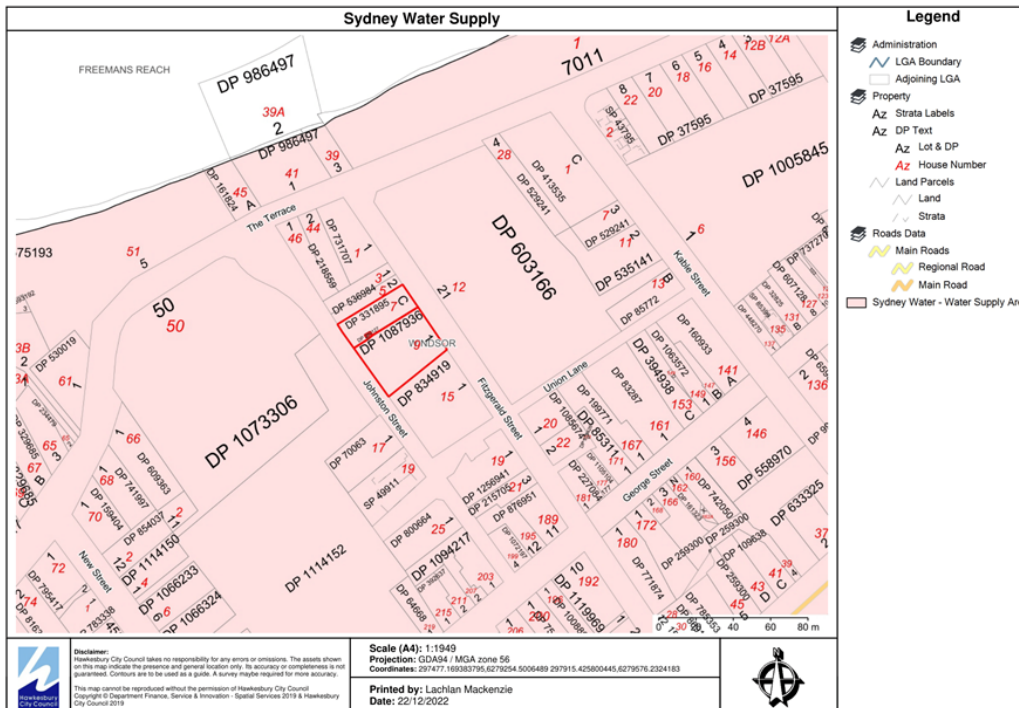


Figure 13: HLEP 2012 Sydney Water Supply Source: Hawkesbury IntraMaps

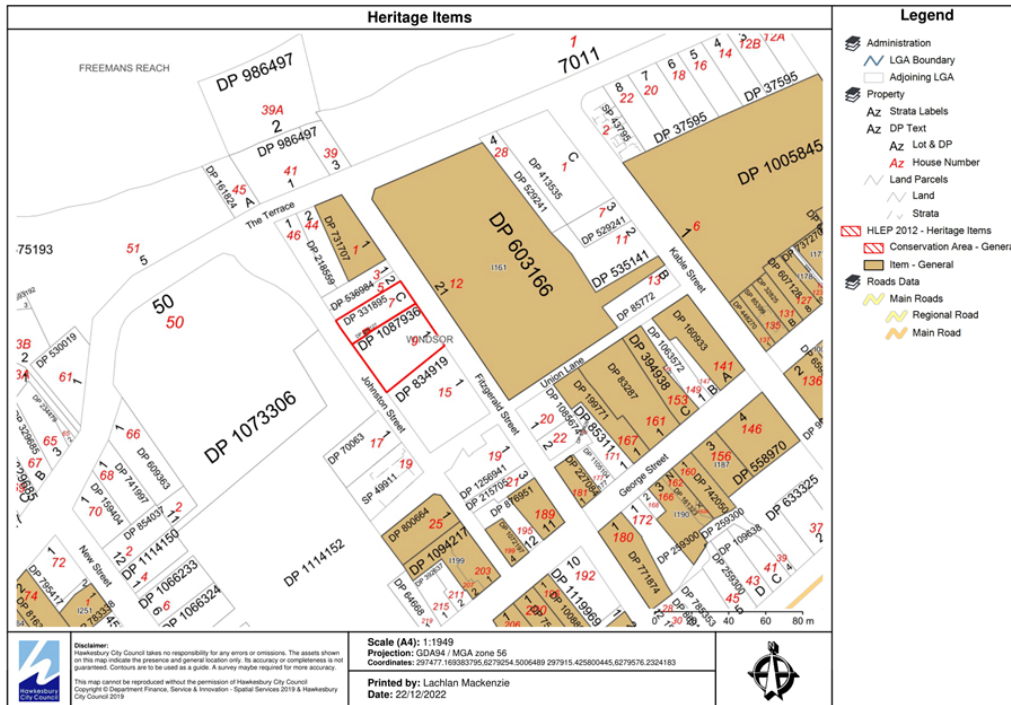


Figure 14: HLEP 2012 Environmental Heritage Items Source: Hawkesbury IntraMaps

Site Location and Characteristics

The subject site is located within the Windsor town centre, which features a diverse range of commercial uses including retail, hospitality, office space and other business activities. The present land uses of the subject site include Fitzgerald Motors on 9 Fitzgerald Street, a lawn mower retail and service store that has been in operation for over 50 years, and a second-hand furniture store on 7 Fitzgerald Street. Surrounding land uses include a Sydney Water owned water reservoir on the adjacent SP2 Infrastructure zoned land, and residential land uses to the north west. Due to the site's location within the Windsor town centre, several listed items of environmental heritage are located within the vicinity of the subject site including 'Sunny Brae' a Victorian era house and garden located opposite Fitzgerald Street. Significantly, the subject site is situated on flood prone land, affected in the event of a 1:100 ARI flood event.

DISCUSSION

Relationship to Strategic Framework

Greater Sydney Region Plan

The Greater Sydney Region Plan, established by the Greater Sydney Commission, is the key strategic plan governing the direction and objectives of the future of Sydney. The plan envisions a 'City of Three Cities', a multicentred future for Sydney that facilitates and co-ordinates the growth of Greater Sydney. The strategy outlines 10 directions, and 42 objectives guiding the future of Sydney. The following objectives are considered of particular relevance to the planning proposal

Objective 22 – Investment and business activity in centres

This objective aims to foster and promote commercial activity consistent with the hierarchy of centres as established within the plan. The planning proposal is consistent with this objective as it strengthens

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the commercial centre of Windsor, a key strategic centre within the region plan, and aligns present use with land use objectives.

Objective 23 – Industrial and urban service land is planned, retained and managed

This objective emphasises the need to protect and maintain industrial and urban services land in Greater Sydney. Considering the current land use which can be categorised as urban services, the Planning Proposal is consistent with this objective through the alignment of this use with appropriate zoning and planning controls to best manage the urban service land.

Objective 29 – Environmental, social and economic values in rural areas are protected and enhanced

The Greater Sydney Region Plan categorises all of the Hawkesbury Local Government Area except for Vineyard as Metropolitan Rural Area. The objective of this categorisation is to protect the environmental, social and economic values of rural areas, accordingly urban development is not consistent with the objectives of Sydney's Metropolitan Rural Areas. With this considered, the Planning Proposal is consistent with this objective as it is not to facilitate further development, and is located within an commercial area of a metropolitan rural strategic centre.

Western City District Plan

The Western City District Plan provides planning priorities and objectives targeted and in consideration of the unique context of Western Sydney. The following planning priorities are considered of particular relevance to the planning proposal.

Planning Priority W11 Growing investment, business opportunities and jobs in strategic centres

With Richmond-Windsor as a strategic centre, the planning proposal is consistent with this direction as it contributes to maintaining and supporting local employment lands. Facilitating the investment and business activity in an area with existing services and infrastructure.

Hawkesbury Local Strategic Planning Statement 2040

The Hawkesbury Local Strategic Planning Statement 2040 responds to objectives put forward in the Western City District Plan, to localise the strategic vision. The planning proposal is consistent with Planning Priority 7 Promote and support all sectors of industry and business in the Hawkesbury to meet current and future demands and trends, through ensuring the retention of existing employment lands.

Hawkesbury Employment Lands Strategy

The Hawkesbury Employment Land Strategy provides direction to managing Hawkesbury's business and industrial lands, identifying opportunities and direction to protect and maximise the productivity of these lands. The strategy identifies a frequent mismatch in current use and zoning in lots adjacent to business zones in Windsor, and expansion of business zones should be considered. Through the planning proposal seeking to correct an anomaly through the alignment of land use, subsequently expanding the employment zoned land, it is consistent with this strategy.

State Environmental Planning Policies

The planning proposal is assessed to be consistent with relevant State Environmental Planning Policies. The following State Environmental Planning Policies are of particular relevance to the planning proposal.

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State Environmental Planning Policy (Biodiversity and Conservation) 2021.

Chapter 4: Koala habitat Protection 2021

The subject site is less than 1 ha, not within an area with a koala plan of management and within an existing commercial area, accordingly the planning proposal is not subject to part 4.2 development controls for koala habitats.

Chapter 6: Water Catchment (6.13 Hawkesbury-Nepean conservation area sub-catchments)

The planning proposal is not anticipated to have any adverse impacts on the Hawkesbury-Nepean River or its sub catchments, as it seeks to correct a zoning anomaly and align the current land use.

Local Planning Direction (Ministerial Directions)

The planning proposal is assessed to be mostly consistent with relevant Ministerial Directions. An inconsistency with direction 4.1 Flooding is acknowledged however this inconsistency is justified. The following directions are of particular relevance to the planning proposal.

4.1 Flooding

An inconsistency with clause 2 of ministerial direction 4.1 is acknowledged. However, in consideration of the site and historical context, this inconsistency is justified as it is to correct the anomaly in the conversion to the Hawkesbury Local Environmental Plan 2012. Accordingly, the planning proposal is not to facilitate development as the site has long established existing commercial use, in which the planning proposal aims to align with an appropriate zone.

7.1 Business and Industrial Zones

The planning proposal is consistent with this direction as the alignment of land use and zoning assists in protecting business zones and supports the viability of business and industrial centres.

Site and Strategic Merit

The planning proposal contains site specific and strategic merit, in consideration of the correction of an anomaly within Hawkesbury Local Environmental Plan 2012 though the alignment to the current land use with an appropriate zoning. With the subject site having existing commercial uses, the rezoning to E2 Commercial Centre demonstrates strategic consistency across state and local planning strategies that identify the need to protect and manage employment areas to support local industry and productivity. The alignment of the of zoning with the current land use in the context of Windsor as a strategic centre contributes to this objective. The zoning of the subject site as E2 Commercial Centre rather than R3 Medium Density Residential prevents an isolated zone from occurring, while providing a broader range of land use permissibility that includes all permissible uses in R3 Medium Density Residential. While the subject site of the planning proposal is flood affected land, the planning proposal is not to facilitate development. However, flood planning will be considered in the event of a future development application.

Environmental, Social and Economic Impact

No adverse environmental, social, or economic impacts are anticipated as result of the planning proposal due to the existing commercial use of the site.

Recommendations of the Hawkesbury Local Planning Panel

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This planning proposal was considered by the Hawkesbury Local Planning Panel at its meeting on 19 January 2023 for advice. The Hawkesbury Local Planning Panel unanimously supported the Planning Proposal, recommending that it should proceed.

The draft minutes are provided below:

"The Panel unanimously provided the following advice:

The Planning Panel supports the Planning Proposal proceeding to Gateway for the following reasons:

- 1. The Planning Proposal has strategic and site specific merit for the reasons outlined in the Council officers' report.*
- 2. It notes that this Planning Proposal is a result of an anomaly occurring through the translation of the LEP1989 to the LEP2012.*
- 3. The subject site is proposed to be rezoned to E2 Commercial Centre as a result of the Employment Zone reforms, which is consistent with the existing use of the site and the future zoning of surrounding sites.*
- 4. Council should also review the zoning of the adjacent Road, to be consistent with usual LEP mapping protocols.*
- 5. Council should ensure that the Planning Proposal documents compliance with all Ministerial Directions, and in particular, Directions 4.1 and 5.2."*

Conclusion

The planning proposal seeking to amend the Hawkesbury Local Environment Plan 2012 through the rezoning of the subject site to E2 Commercial Centre and introduces associated planning controls of a 10m building height limit, provides an appropriate method of correcting the anomaly occurring from the transition to the current LEP. With the existing commercial use of the site and in context of being adjacent to the existing B2 Local Centre zoned area of Windsor, the proposed E2 Commercial Centre zoning is site appropriate regarding the alignment of the current use with appropriate zoning. Additionally, the planning proposal demonstrates strategic consistency with local and state strategies that identify the need to maintain and support local employment land.

COMMUNITY ENGAGEMENT

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy at this stage. Should the Planning Proposal proceed after receiving Gateway Determination from the Department of Planning and Environment, the Planning Proposal will undertake a public exhibition period for a minimum of 28 days, unless otherwise stipulated in the Gateway Determination.

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2022-2042

The proposal is consistent with the following Long-Term Community Objectives set out within the CSP.

Our Future

- 5.8 Industry - Increase the range of local industry opportunities and provide effective support to continued growth.

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FINANCIAL IMPACT

There are no financial implications 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.

ATTACHMENTS

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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4.1.3. CP - Planning Proposal - LEP002/23 - 1905 and 1913 Bells Line of Road, Kurrajong Heights Reclassification of Land - (95498, 124414)

Directorate: City Planning

PLANNING PROPOSAL INFORMATION

File Number:	LEP002/23
Property Address:	1905 and 1913 Bells Line of Road
Applicant:	Hawkesbury City Council
Owner:	Hawkesbury City Council
Current Minimum Lot Size:	40 ha
Current Zone:	RU2 Rural Landscape SP2 Infrastructure
Site Area:	5441 m2

Key Issues:	Reclassification of land
	Operational History and Regularisation of Tutti Fruitti Café
	Expiration of Clause 6.14 of the Hawkesbury Local Environmental Plan

PURPOSE OF THE REPORT

The purpose of this report is to present this Planning Proposal to Council for a determination on whether to submit the proposal to the department of Planning and Environment for a Gateway Determination. The proposal is Council initiated planning proposal for 1905 and 1913 Bells Line of Road seeking to amend the Hawkesbury Local Environmental Plan 2012 by reclassifying the subject site under Schedule 4 Classification and Reclassification of Public Land.

EXECUTIVE SUMMARY

Council is seeking to amend the Hawkesbury Local Environmental Plan 2012 by reclassifying Lot 2 and 3 DP 582878, 1905 and 1913 Bells Line of Road, Kurrajong Heights from 'Community Land' to 'Operational Land'. The report demonstrates that the planning proposal is consistent with relevant legislation, strategies and contains site-specific merit.

RECOMMENDATION

That:

1. Based on assessment of the Planning Proposal for 1905 and 1913 Bells Line of Road, Kurrajong Heights, and the advice of the Hawkesbury Local Planning Panel, Council supports this Planning Proposal.
2. Council forward the Planning Proposal to the Department of Planning and Environment for a Gateway Determination.

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BACKGROUND

Site History

Lots 2 and 3 DP 582878 were created in 1976 with the intention to be used for future road purposes under the Main Roads Act Section 27E (6) Registered dealing L758309. These lots were transferred to Council in 1983. In 2010 verbal advice was received from the then Roads and Traffic Authority that there were no immediate intentions to acquire the land for road widening. As result, the owners of the adjacent property 1917 Bells Line of Road, which the Tutti Fruitti Café is situated on, expressed interest in purchasing the subject site.

In 2008, a development application was received for the Tutti Fruitti Café, seeking to regularise the use. This Development Application was unable to proceed due to unresolved access rights of the Council owned land, the subject site of the Planning Proposal, and finally withdrawn in 2021 due to relying upon structures destroyed in the summer bushfires of 2019-2020. In response to the property being severely impacted by the bushfires, 1917 Bells Line of Road now benefits from Clause 6.14 of the Hawkesbury Local Environmental Plan 2012 Temporary use of structures for "Tutti Fruitti Café" on certain land at Kurrajong Heights. The clause permits the installation of temporary structures as exempt development to be used for the café, on condition that these structures are removed 2 years after installation. These structures were installed on the 2 December 2020 and were due to be removed by the 2 December 2022.

A Pre-lodgement meeting was held in July of 2021 whereby owners of the Tutti Fruitti Café intend to construct a permanent structure for use as the Café. The advice from this meeting was that the development will be required to be located entirely within the Lot 1 DP 582878 and the owner's intention to use Lot 2 DP 582878 for parking and access will be dependent on the reclassification of the land to 'Operational Land'.

Despite the classification of the subject site as 'Community Land', Council has no intention to use the subject site for public or community purposes.

The timeline for this history is as follows:

- On 18 March 1970 plans of acquisition were registered under the Main Roads Act Section 27E (6), Registered dealing L758309.
- 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 Department Main Roads'.
- On 23 March 1983, the properties (Lots 2 and 3 in DP 582878) were transferred to Hawkesbury City Council through dealing T387144.
- In 2008, retrospective development application (DA0660/08) was lodged for 1917 Bells Line of Road seeking to regularise the use of the Cafe. This was unable to proceed due to unresolved access rights of the subject site due to being Council owned and classified as 'Community Land'
- In 2010, verbal advice was received from the then Roads and Traffic Authority that they had no immediate intention 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 future intention to utilise the land for community purposes, reclassifying the land and selling it would be a viable option as it will also relieve Council of any ongoing maintenance issues of these properties.

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- In the summer of 2019 – 2020, the structure of Tutti Fruitti Café was severely destroyed in a bushfire
- On 22 October 2020, the Hawkesbury Local Environmental Plan 2012 was amended to include Clause 6.14 Temporary use of structures for “Tutti Fruitti Café” on certain land at Kurrajong Heights
- On 2 December 2020, temporary structures were installed on 1917 Bells Line of Road to be used for the Tutti Fruitti Café
- On 22 June 2021 a request to withdraw DA0660/08 was received.

Objectives and Provisions of the Planning Proposal

The objective of the Planning Proposal is to amend the Hawkesbury Local Environmental Plan 2012, Schedule 4 Classifications and Reclassifications of Public Lands to include the subject site, 1913 and 1905 Bells Line of Road, Kurrajong Heights.

The intended outcomes of this proposal are as follows:

- Resolve issues regarding access rights and use of land with Tutti Fruitti Café
- To facilitate the process of regularising the existing use of the site.

Reclassification of Land

The Local Government Act 1993 requires that all Council-owned land be classified as either ‘Community’ or ‘Operational’ land. Under the provisions of the Local Government Act 1993, Community Land cannot be sold, exchanged or otherwise disposed. Once the land is reclassified to Operational, it will no longer be protected under the Local Government Act 1993 from potential future sale or development. The change in classification from Community to Operational land will remove this restriction and allow Council to deal in the land on a commercial basis. This may include development, leasing or disposal. The reclassification does not commit Council to the sale or development of the land, nor does it remove the land from Council’s ownership or prevent the current use of the land from continuing.

The reclassification of Council land must be undertaken in accordance with the Local Government Act 1993, Environmental Planning and Assessment Act 1979. The mechanism to reclassify land by way of a planning proposal is to amend Schedule 4 of the Hawkesbury Local Environmental Plan 2012. An independently facilitated public hearing is required to be held as part of the community consultation process for any planning proposal seeking to reclassify land from ‘Community’ to ‘Operational’.

The decision to sell or lease the land will be subject to further negotiations and future resolutions of Council. In both situation the funds from this dealing will go to either General Revenue for rental or Council’s Property Reserve for sale proceeds.

Planning Controls

Existing Planning Controls	
Zone	SP2 Infrastructure RU2 Rural Landscape
Minimum Lot Size	40 ha
Height of Buildings	10m

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Existing Planning Controls	
Acid Sulfate Soils	Class 5 – Acid Sulfate Soil
Flood	The subject site is above the 1 in 100 ARI flood level and above the Probable Maximum Flood level
Biodiversity	The site contains vegetation classified as ‘connectivity between remnant vegetation’
Bushfire Prone Land	The subject site is entirely bushfire prone, containing vegetation buffer of Vegetation Category 1 and 3 Bushfire Prone Land
Sewer Scheme	The subject site is not connected to any sewer scheme
Sydney Water	The subject site is not within the Sydney Water – Water Supply Area.
Heritage	The subject site does not contain or is adjacent to any items of local or state heritage listing
Temporary use of structures for ‘Tutti Fruitti Café’ on certain land at Kurrajong Heights	While applicable to the adjacent site 1917 Bells Line of Road, the temporary structures that the clause permits encroach upon the boundary of the subject site and is relevant to the consideration of the planning proposal. The clause is in effect for two years from the erection of the structures which were erected on the 02/12/2020, consequently the clause expired on the 02/12/2022

The following figures highlights the subject site.

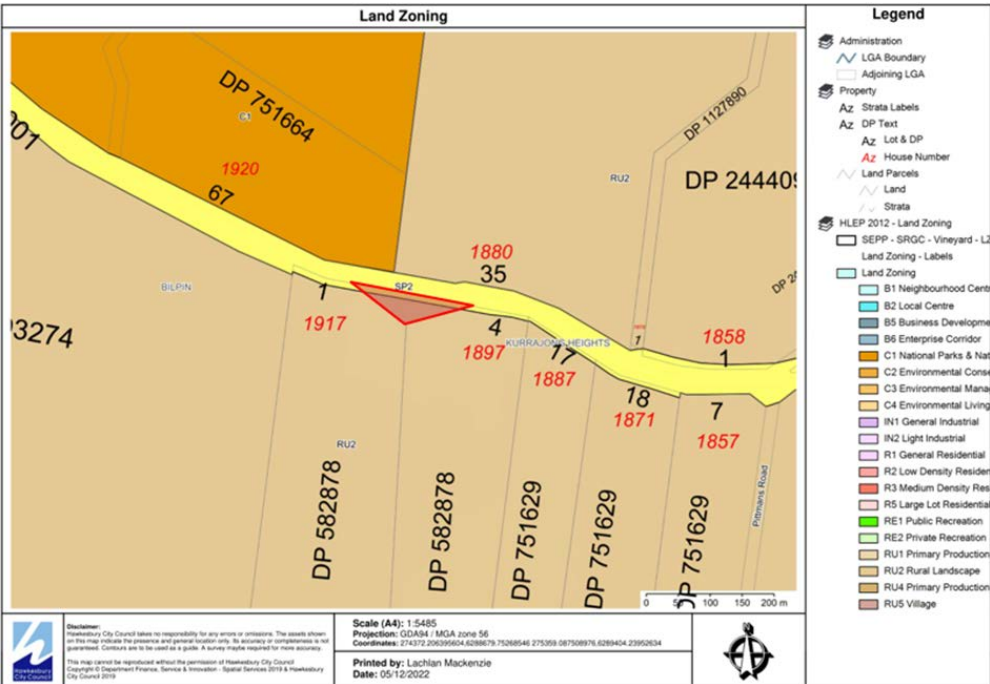


Figure 1: HLEP 2012 Zoning Map, Source: Hawkesbury IntraMaps

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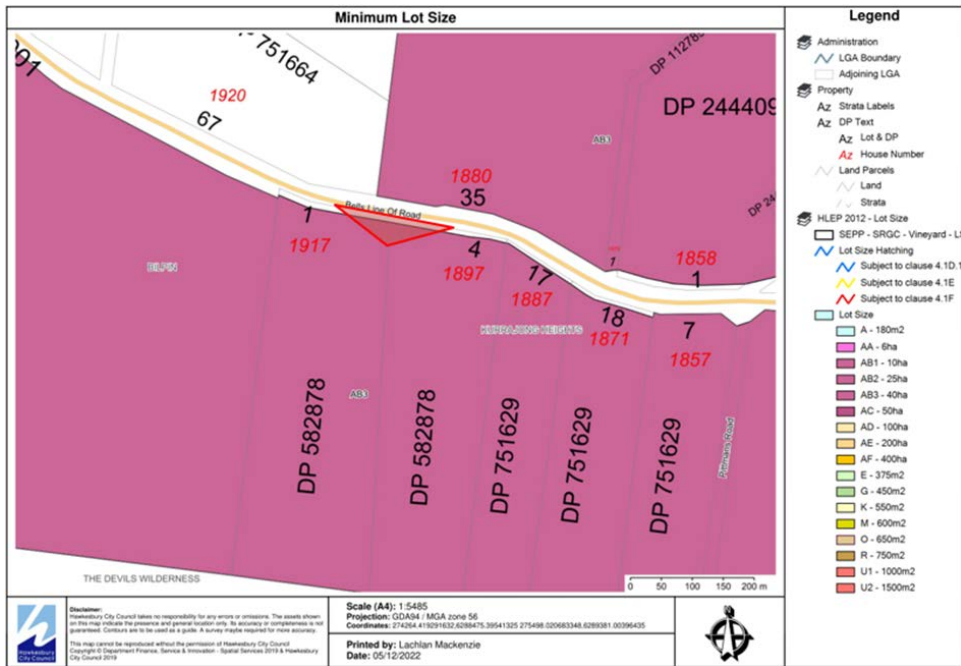


Figure 2: HLEP 2012 Minimum lot Size, Source: Hawkesbury IntraMaps

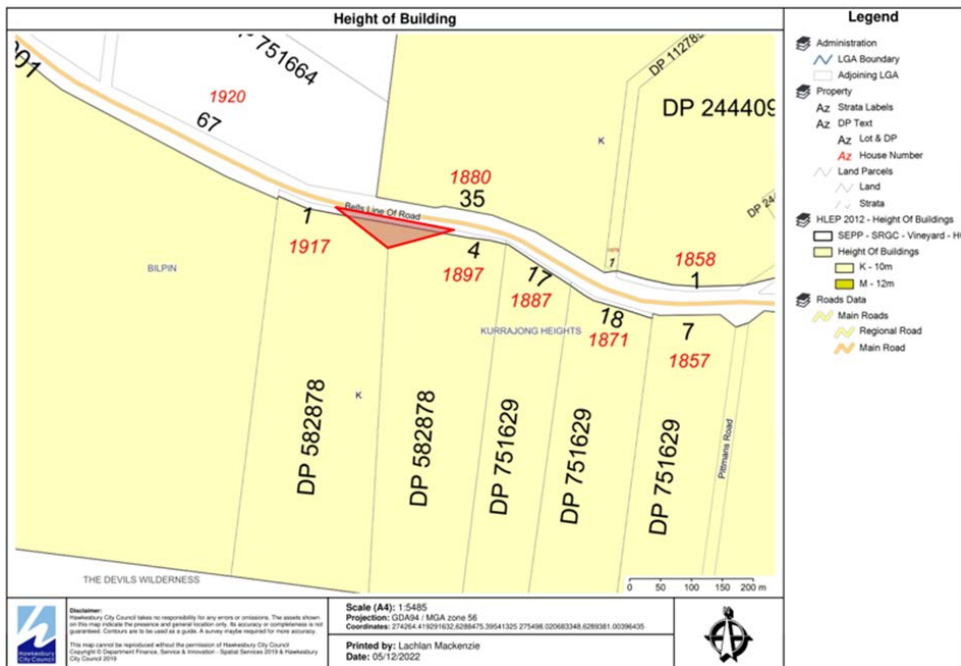


Figure 3: HLEP Height of building Map, Source: Hawkesbury IntraMaps

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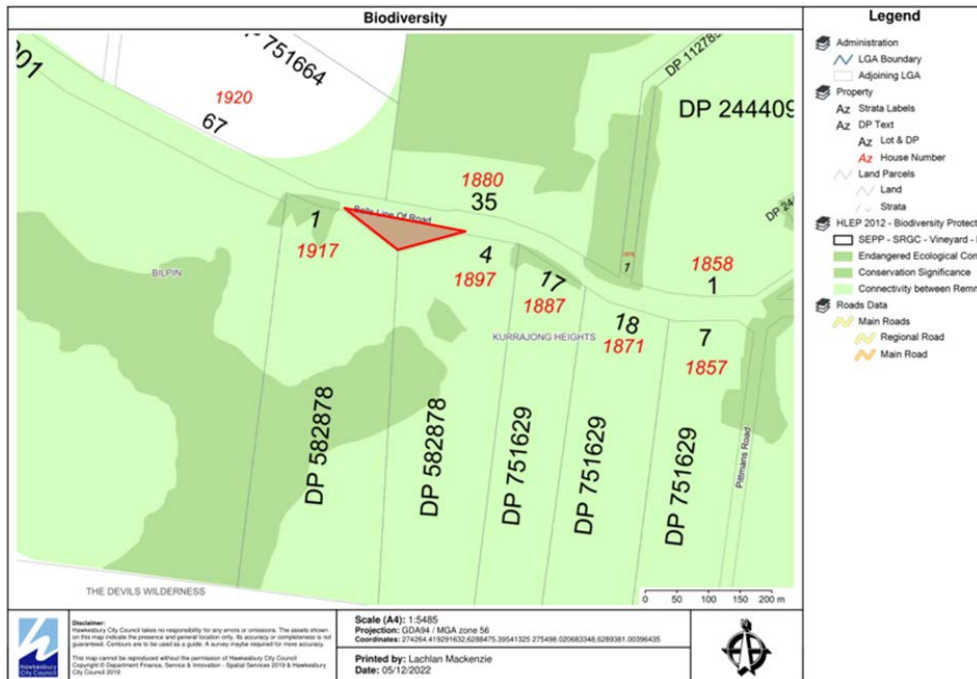


Figure 4: HLEP Biodiversity Significance Map, Source: Hawkesbury IntraMaps

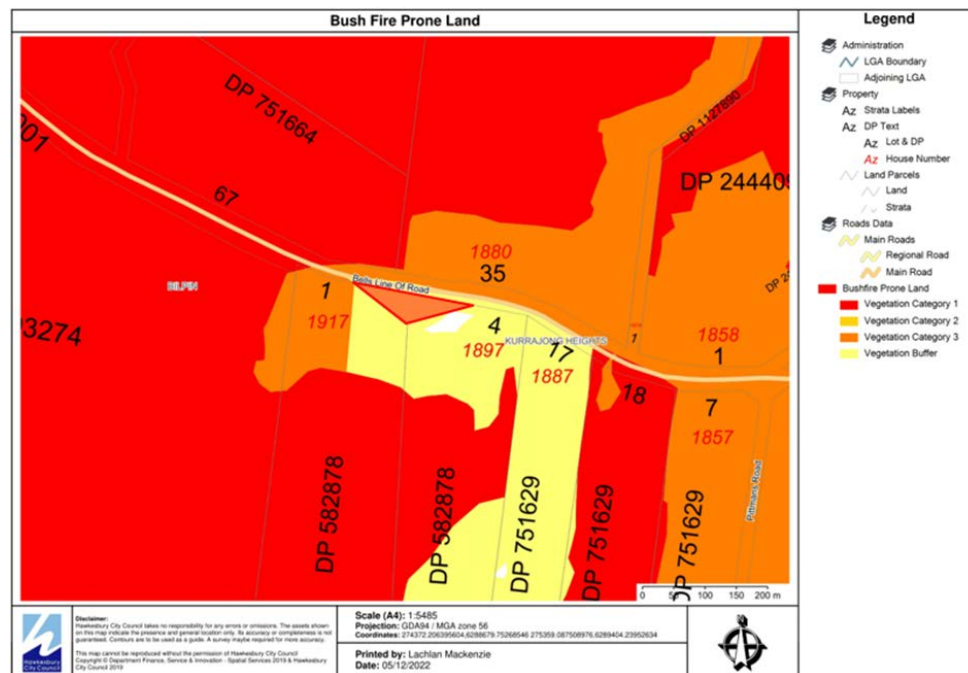


Figure 5: HLEP Bushfire Prone Land Map, Source: Hawkesbury IntraMaps

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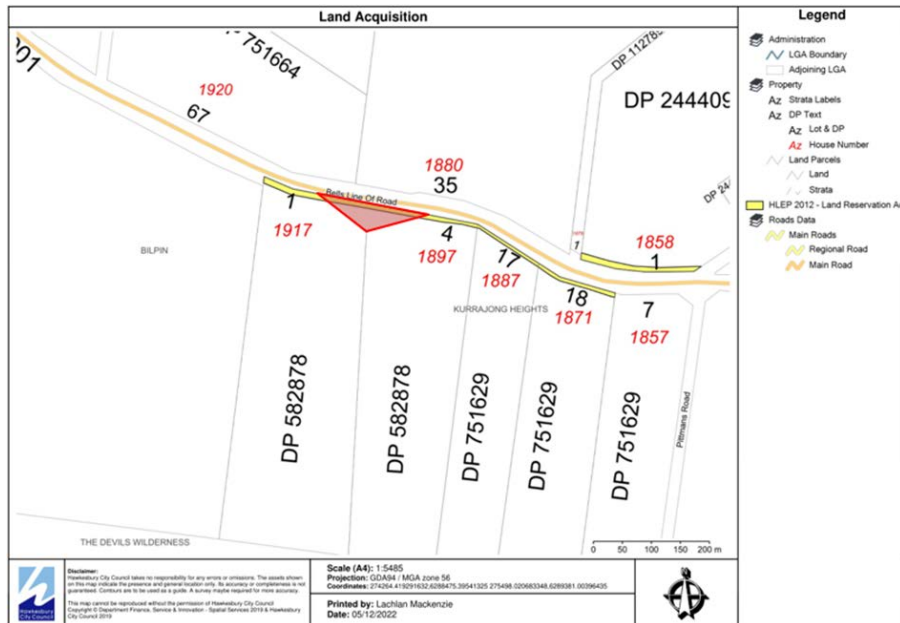


Figure 6: Land Reserved for Aquisition Map, Source: Hawkesbury IntraMaps

Site Location and Characteristics

The Planning Proposal applies to 1905 and 1913 Bells Line of Road (Lots 2 and 3 DP 582879). The current site is used for vehicular access and parking for the Tutti Fruitti Café, which is situated over the boundary of 1917 Bells Line of Road and the subject site, without formal development consent. The current café utilises temporary structures as permitted through Clause 6 of the Hawkesbury Local Environmental Plan 2012 until 2 December 2022.

The subject site is zoned RU2 Rural Landscape, and SP2 Infrastructure due to allocation of the front of the lot for road widening, with no immediate intention to engage in this road upgrade. The use of RU2 land for the purposes of restaurants and cafes is permissible under the Hawkesbury Local Environmental Plan 2012 Land Use Table.

The surrounding area features extensive rural uses including commercial orchids, small scale farming and complimentary agri-tourism businesses on RU2 zoned land. Immediate uses around the subject site include the Bilpin Blossom Farm an agri-tourist facility, Madison’s Mountain Retreat, Pie in the Sky Roadhouse, and rural-residential dwellings.

DISCUSSION

Relationship to Strategic Framework

Greater Sydney Region Plan

The Greater Sydney Region Plan, established by the Greater Sydney Commission, is the key strategic plan governing the direction and objectives of the future of Sydney. The plan envisions a ‘City of Three Cities’, a multicentred future for Sydney that facilitates and co-ordinates the growth of Greater Sydney. The strategy outlines 10 directions, and 42 objectives guiding the future of Sydney

Relevant to this planning proposal is *Objective 24 – Economic sectors are targeted for success*. This objective emphasis the need to nurture and promote local industries, especially through supporting small business locally defining industries. The provisions of the planning proposal meet this objective

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as it enables the proceeding of the regularisation of the existing use of the site within the context of the local agri-tourism industry.

The planning proposal additionally is consistent with the *Objective 22 – Investment in business activity in centres*. This objective identifies the need to maintain the character of rural towns and villages as centres of rural industries, tourism and businesses. Accordingly, business activity that maintains this character is supported. As the planning proposal seeks to reclassify the public land as operational land to support the existing business, it is consistent with this objective.

Through Hawkesbury's classification as Metropolitan Rural Area within the Greater Sydney Region Plan, *Objective 29 – Environmental, Social and economic values in rural areas are protected and enhanced* is of relevance to the Planning Proposal. This objective ensures the preservation of the character and identity of the Metropolitan Rural Area. The Planning Proposal is consistent with this objective as it seeks to support existing local business that is congruent with the local character as an agribusiness due to being a restaurant that supports and serves local tourism, and also retails local produce. Additionally, the proposal does not support or enable any develop that will detract from the environmental, social and economic values in the area.

Western City District Plan

The Western Sydney District Plan provides planning priorities and objectives targeted and in consideration of the unique context of Western Sydney. The planning proposal is consistent with *Planning Priority W8 – Leveraging industry opportunities from the Western Sydney Airport and Badgerys Creek Aerotropolis*, whereby tourism industries in the Western City District are to be supported to maximise the benefits of the Western City Airport.

The planning proposal is consistent with *Planning Priority W17 - Better managing of rural areas*. This priority gives effect to Objective 29 of the Greater Sydney Region Plan. This priority emphasis the need of improved management of the character defining and productive rural areas of the Western City District. The Planning Proposal is consistent with this objective as it seeks to maintain the existing economic activity and character of the area through supporting local business.

Hawkesbury Local Strategic Planning Statement 2040

The Hawkesbury Local Strategic Planning Statement 2040 responds to objectives put forward in the Western City District Plan, to localise the strategic vision. Relevant to the planning proposal is *Planning Priority 7 Promote and support all sectors of industry and business to meet current and future demands and trends*. This planning proposal through supporting and enabling the regularisation of a local hospitality business complimentary to the surrounding land uses is consistent with this clause

Hawkesbury Rural Lands Strategy

The Hawkesbury Rural Lands strategy identifies the importance of tourist and commercial uses, specifically agri-tourism and agribusiness in the Hawkesbury area. The strategy acknowledges the importance of these uses, which are complimentary to the land use patterns and landscape of the area. Accordingly, this planning proposal is consistent with the strategy as it supports and regularises the use of the site which contributes to the Kurrajong – Bilpin tourist and commercial industry.

State Environmental Planning Policies

The Planning Proposal is assessed to be consistent with relevant State Environmental Planning Policies.

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State Environmental Planning Policy (Biodiversity and Conservation) 2021.

Chapter 4: Koala habitat Protection 2021

The site is less than 1 ha and not within an area with a koala plan of management, accordingly it is not subject to clause 4.2 development controls for koala habitats.

Chapter 6: Water Catchment (6.13 Hawkesbury-Nepean conservation area sub-catchments)

The planning proposal does not have any adverse impacts on the Hawkesbury-Nepean River or its sub catchments.

State Environmental Planning policy (Resource and Energy).

Chapter 3: Extractive Industries in Sydney

The planning proposal is for the reclassification of the land to enable the regularisation of the subject site. The proposal is not impacted by or impedes extractive industries

The following State Environmental Planning Policies are not relevant to the planning proposal at this stage, however, will be relevant to any ensuing development should the proposal proceed.

- *SEPP (Building Sustainability Index: BASIX) 2004.*
- *SEPP (Exempt and Complying Development Codes) 2008.*
- *SEPP (Sustainable Buildings) 2022 (in force from 01 October 2023).*

Local Planning Direction (Ministerial Directions)

The planning proposal is assessed to be consistent with relevant Ministerial Directions. The following are of particular relevance to the planning proposal.

4.3 Planning for Bushfire Protection

This direction aims to protect life, property, and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bushfire prone areas and encourage sound management of bush fire prone area.

The planning proposal is consistent with this direction as it is only for the reclassification of land and will be consulted with relevant authorities will be completed as required in the Post-Gateway stage . Any future development is a separate matter to this planning proposal, which will be considered upon receiving a development application.

9.2 Rural Lands

This direction aims to protect the agricultural productivity and character of rural areas in New South Wales. Specifically, objective b of this direction is to 'facilitate the orderly and economic use and development of rural lands to promote for rural and related purposes'. The planning proposal is consistent with this direction as it does not impede the productivity of surrounding land uses and supports the local agri-tourism industry.

Site and Strategic Merit

The site is located on a key arterial road and contains a high degree of site-specific merit in regard to providing a hospitality food and drink venue in the broader context of the areas land use and industry

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mix. The planning proposal contains a sound level of strategic merit as it seeks to facilitate the regularisation of an existing use which contributes to the local agribusiness and agri-tourist economy and does not permit development that will hinder the local character and productivity. With this consideration, the planning proposal is consistent with the Metropolitan Rural Area objectives of the Greater Sydney Region Plan and Western City District Plan and support local planning objectives and strategies that seek to promote and support local rural areas.

Environmental, Social and Economic Impact

No adverse environmental, social, or economic impacts are anticipated as a result of the planning proposal.

Recommendations of the Hawkesbury Local Planning Panel

This planning proposal was considered by the Hawkesbury Local Planning Panel at its meeting on 19 January 2023 for advice. The Hawkesbury Local Planning Panel unanimously supported the Planning Proposal, recommending that it should proceed.

The draft minutes are provided below:

The Panel unanimously provided the following advice:

'The Planning Panel supports the Planning Proposal to initiate the process of reclassification of the subject site, for the following reasons:

- 1. The Planning Proposal has strategic and site specific merit for the reasons outlined in the Council officers' report.*
- 2. The Panel notes the history relating to the site, which included previous attempts to obtain development approval that were prevented by land ownership issues and relied upon the presence of existing structures that were subsequently destroyed in the 2019/20 bush fires.*
- 3. Reclassification is the first step in the process to allow future dealings with the land that may assist in resolving these ongoing land management and development issues (noting however, that it is not within the remit of the Panel to make any comment on the nature or outcome of any such future dealings).*
- 4. The Planning Proposal process should be undertaken in accordance with the requirements of Planning Circular PN16-001 and the relevant Departmental Guidelines with respect to classification and reclassification.*
- 5. The Panel acknowledged the advice of Council officers at the meeting that Council was not seeking its advice on Clause 6.14 of the Hawkesbury LEP."*

Conclusion

The reclassification of the subject site from community to operational land provides for the regularisation of Tutti Fruitti Café, enabling lawful operation through resolving issues of parking and access rights on Council owned land. This reclassification will provide options in the dealing with the land and an avenue for the consideration of future development applications to seek formal consent for Tutti Fruitti Café.

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COMMUNITY ENGAGEMENT

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy at this stage. Should the Planning Proposal proceed after receiving Gateway Determination from the Department of Planning and Environment, the Planning Proposal will undertake a public exhibition period for a minimum of 28 days, unless otherwise stipulated in the Gateway Determination.

As the Planning Proposal seeks the reclassification of public land, an independently facilitated public hearing is required as part of the public exhibition process

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2022-2042

The proposal is consistent with the following Long-Term Community Objectives set out within the CSP.

Our Future

- 5.7 Tourism and Economic Development - Promote our community as the place to visit, work and invest.
- 5.8 Industry - Increase the range of local industry opportunities and provide effective support to continued growth.

FINANCIAL IMPACT

There are no financial implications 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.

ATTACHMENTS

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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4.2. GENERAL MANAGER

Nil reports.

4.3. CITY PLANNING

Nil reports.

4.4. CORPORATE SERVICES

4.4.1. CS - December 2022 Quarterly Budget Review Statement - (95496, 96332)

Previous Item: 101, Ordinary (14 June 2022)

Directorate: Corporate Services

PURPOSE OF THE REPORT

The purpose of this report is to inform Council of its financial position as at 31 December 2022 and to seek adoption of proposed changes required to the Budget within the Adopted 2022/2023 Operational Plan.

EXECUTIVE SUMMARY

Council is required to review its progress in achieving the financial objectives set out in its Operational Plan, within two months of the end of each quarter. The Responsible Accounting Officer must submit to Council a budget review statement that shows the revised estimate of the income and expenditure for that year, referencing the estimate of income and expenditure included in the Adopted Operational plan.

The Responsible Accounting Officer has revised Council's income and expenditure for the 2022/2023 financial year and recommends revising estimates in line with Council's financial performance as at the end of December 2022, and as projected for the remainder of the financial year. This report and the relevant attachment provide information on Council's financial performance and financial position for:

- The second quarter of the 2022/2023 financial year; and
- The resulting financial position including the Budget variations proposed.

The Quarterly Budget Review Statement – December 2022 (the Statement) recommends budget adjustments that result in an overall balanced adjustment for the quarter.

RECOMMENDATION

That Council receive the information contained in this report regarding the December 2022 Quarterly Budget Review, and that the Budget adjustments, as summarised in the report and detailed in Attachment 1 to the report, be adopted.

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4. REPORTS FOR DETERMINATION

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BACKGROUND

Clause 203 of the Local Government (General) Regulation 2021 stipulates that the Responsible Accounting Officer of a council must prepare and submit to the Council a Budget Review Statement within two months after the end of each quarter (except the June quarter).

The Integrated Planning and Reporting (IP&R) Framework outlines that Councils are required to present a summary of the Council's financial position at the end of each quarter. It is the mechanism whereby councillors and the community are informed of the Council's progress against the Original Budget and the last revised budget along with recommended changes and reasons for major variances.

The Quarterly Budget Review Statement is the mechanism stipulated by the Local Government Regulation 2021 for councils to revise the adopted Operational Plan for the year to reflect the actual financial performance as at the end of each Quarter and projected to the end of the financial year. This review ensures Council's Budget remains current and relevant throughout the financial year and provides early indication of progress in achieving financial targets.

In revising estimates, a conservative approach has been taken. Unfavourable trends relating to income outside of Council's control are proposed to be adjusted to reflect the anticipated performance up to the 30 June 2023. Unfavourable trends relating to expenditure outside of Council's control are also proposed to be adjusted for the same period.

While some adjustments have been made in relation to the impacts of flooding events, this situation is on-going in nature. The impacts of the flood events in March, July and October 2022 are still being assessed and adjustments will continue to be included in future Quarterly Budget Review Statements as required.

The Statement recommends budget adjustments that result in an overall balanced adjustment for the Quarter.

Relevant Legislation

Local Government Act, 1993

Local Government (General) Regulation, 2021

DISCUSSION

Information regarding the overview of material adjustments proposed to the 2022/2023 Budget as part of the December 2022 Quarterly Budget Review is provided within this section. Further information is provided in the Quarterly Budget Review Statement, attached as Attachment 1 to this report.

The adjustments proposed are necessary to ensure appropriate budget allocations are available to deliver Council's Adopted 2022/2023 Operational Plan.

1. Favourable Adjustments:

- *Costs of Infrastructure Borrowing Loan (\$515K)* – The timing of the drawdown for the Infrastructure Borrowing Loan was later than projected when developing the Original Budget. This has resulted in lower borrowing costs occurring during 2022/2023, resulting in a favourable variance.
- *Rental Income from Property Portfolio (\$230K)* – Based on leases applying to Council Investment Property Portfolio, income to be generated during 2022/2023 will be higher than projected at the time of developing the Original Budget. Much of this has resulted

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from increased market values arising when leases have been renewed, which were delayed because of COVID-19.

2. Unfavourable Adjustments:

- *Interest Income Allocated to Reserves (\$460K)* – Externally restricted reserves are required to have interest income earned by Council allocated. As a result of changes in timing in relation to the delivery of works funded by these reserves and a \$9.3M increase to projected developer contributions to be received through the Vineyard Development, an increase of \$460K is projected to be required.
- *Regulatory Services Branch Income (\$180K)* –As a result of vacancies across the Regulatory Services Branch, various programs are projected to result in lower income than projected with a full complement of staff, as was assumed when developing the 2022/2023 Original Budget:.

3. Grants – Additional Works and Programs - \$1.9M

Several adjustments relating to grant funding successfully secured by Council, are included in this Statement. These adjustments have a nil effect on the Budget position, as amounts included for income have a corresponding amount for expenditure. The securing of grant funding assists Council to undertake works otherwise not funded through Council's available funds. Please note that the amount quoted above is the total grant allocation, which in some instances are across financial years. There are several major adjustments relating to grant funding, as outlined below:

- *Local Government Recovery Grants Program (\$1M)* – In response to the July 2022 flood, Council was provided an advance payment of \$1 million to develop a program to assist with the recovery from the flood and to enhance resilience to future flood events.
- *Reconstruct kerb ramps at intersection of Macquarie and Day Streets, Windsor (\$500K)* – Council was successful in its application to Transport for NSW under the Get NSW Active Program, with \$500K to be spent on reconstructing the kerb ramps at the intersection of Macquarie and Day Streets, Windsor.
- *Black Spot Program (\$151K)* - Council was also successful in its application to Transport for NSW for additional funding towards several safety improvements on Old Pitt Town Road (near Midson Road), Scheyville, including the installation of a flexible barrier, guideposts, pavement, road edge markers and road shoulder improvements.
- *Strategic Active Transport Plan (\$70K)* – This funding provided under Transport for NSW's Get NSW Active Program will be used to develop a Strategic Active Transport Plan. This Plan will optimise the outcome of its strategic plans for town centres, greening streets, access and inclusion, and active transport to achieve the strategic objectives that the Walking and Cycling Program aims to deliver. It is to be noted that it is proposed to match this funding through the diversion of the allocation to Cycleway Construction, as this Strategic will help optimise the placement of cycleways.
- *Sackville Reach Mission Exhibition (\$50K)* – Create NSW has allocated \$50K under its Local Government Authority Arts and Culture Project to engage a curator to prepare and deliver the Sackville Reach Aboriginal Mission Exhibition. This exhibition will showcase a cultural display of the Darug heritage in a meaningful and respectful manner, in consultation with local elders and cultural owners.
- *Glossodia Rural Fire Brigade New Station Mezzanine Floor (\$35K)* – An allocation of \$35K has been provided from the NSW Rural Fire Service from the Rural Fire Fighting

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Fund for the construction of a new mezzanine floor at Glossodia Rural Fire Brigade Station.

- *Safer Roads Program (\$34K)* – Approved under the Transport for NSW’s Safer Roads Program, Council has received additional funding towards the installation of an intersection median island at Oakville Road, Wolseley Road and Old Stock Route Road.
- *Australia Day (\$20K)* – Council has been approved for a \$20K allocation from the National Australia Day Council to assist in delivering the Australia Day on the Hawkesbury event in a COVID safe environment whilst supporting local businesses and communities.
- *School Infrastructure Program (\$20K)* – As part of the Federal Government Stimulus Commitment Road Safety Program, Council has been allocated additional funding towards raising the existing pedestrian crossing on Grose Vale Road near Kurrajong Public School.

Adjustments to grants were also made in line with expected delivery timeframes associated with funded works and programs:

- *Accelerated Infrastructure Program* – various works totalling \$3.9M now expected to be delivered during 2023/2024.

4. Reserve Funded Adjustments

S.7.11 Reserves

- Vineyard - \$9.3M increase in reserve based on additional contributions projected to be received.
- Vineyard - \$40K reduction in reserve for property valuations planned for acquisition.
- Vineyard - \$2.5M increase in reserve with several works now due for completion in 2023/2024.
- Pitt Town - \$1.1M reduction in reserve for the acquisition of 130 Hall Street, Pitt Town for drainage.

Redbank VPA Reserve

- \$1M increase in reserve – North Richmond Community Precinct timing.

Unspent Contributions Reserve

- \$153K reduction in reserve towards footpath works as part of Bathurst Street, Pitt Town.

Stormwater Charge Reserve

- \$1.1M reduction in reserve to bring forward future year works to complete entire program for Mitchell Street, Glossodia.

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Multi-Year Reserve

- An overall increase in reserve is attributed to changes in expected works schedules into future financial years because of changes in priorities and supplier availability:
 - Signage Program, \$524K
 - Sealing of Old East Kurrajong Road, \$179K
 - Sealing of Reedy Road, Maraylya, \$175K
 - Rehabilitation of Mawson Plan, Pitt Town, \$32K
 - Terrace Road, North Richmond drainage extensions, \$122K
 - Terrace Road, Freemans Reach drainage extensions, \$136K
 - King Road, Wilberforce drainage extension, \$136K
 - 2022/2023 Road Reals Program, \$2.1M
 - Mayne Street, Wilberforce rehabilitation, \$130K.
- In order to reduce disruption and generate savings by bringing forward stages of the Administration Building Refurbishment, \$955K has been funded by the reserve.

Domestic Waste Management Reserve

- \$149K increase in reserve due to the unbudgeted sale of a truck that was replaced in 2021/2022.

Waste Management Facility Reserve

- \$100K reduction in reserve to construct a hard standing area that can be used as a carpark or transfer facility to enhance resilience.
- \$216K increase in reserve with the recycled water main extension work to be completed in 2023/2024.

Sewer Loan Reserve

- \$28.1M reduction in reserve to fund Rising Main C works.
- \$3.6M reduction in reserve to replenish Sewer Reserve.
- \$0.8M reduction in reserve to pay interest on loan for 2022/2023.

Sewer Reserve

- \$88K increase in reserve with truck due for replacement able to be extended with replacement of crane, based on condition assessment.
- \$128K reduction in reserve due to increased sewer operational requirements, mostly relating to timing associated with sludge processing.

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- \$200K increase in reserve with the Recycled Water Main extension work to be completed in 2023/2024.
- \$3.6M replenishment of reserve to partially fund Rising Main C costs encountered during 2021/2022.

Impact of Floods

As resolved at the Ordinary Meeting on 27 April 2021, Council noted the ongoing work being undertaken to restore public assets and infrastructure; and to receive updates regarding the financial impact outside the adopted Budget as part of Quarterly Budget Review Statements. This has now been impacted by the recent floods in March, April, July, and October 2022.

During this financial year, Council has incurred a total of \$19.3M of expenditure associated with flood recovery activities. Claims to recover costs incurred relating to floods have been lodged with a range of State Agencies, some of which have been approved, some paid and some requiring review to encompass damage incurred during the floods in July and October 2022.

5. Staff Establishment

As reported to Council at its Ordinary Meeting 15 November 2022, Council's staffing numbers in terms of Full Time Equivalents (FTE) as at the 30 September 2022 was 349.8. There has been no change to the FTE as at 31 December 2022.

It is to be noted that throughout the year, reviews are undertaken to ensure the optimal resource mix between staff and contractors and that sufficient resourcing is available to delivery Council's services and works programs.

COMMUNITY ENGAGEMENT

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy.

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2022-2042

The proposal is consistent with the following Long-Term Community Objective set out within the CSP.

Reliable Council

4.3 Build strong financial sustainability for now and future generations.

FINANCIAL IMPACT

The matters raised in this report have direct financial implications. If adopted, the budget proposed will be added to the current 2022/2023 Budget.

Performance against Financial Sustainability Benchmarks

Table 1 provides an update of Council's performance against the Financial Sustainability Benchmarks.

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Table 1: Council’s performance against the Financial Sustainability Benchmarks

Financial Sustainability Ratio	Benchmark	Original Budget 22/23	Amended Budget 22/23 After Sep QBRs	Amended Budget 22/23 After Dec QBRs
Operating Performance	>= 0	0.002	-0.020	-0.023
Own Source Revenue	> 60%	76.7%	67.6%	62.0%
Asset Renewal	> 100%	136.1%	237.9%	232.7%
Infrastructure Backlog	< 2%	1.5%	2.57%	2.66%
Asset Maintenance	> 100%	93.5%	110.5%	110.5%
Debt Service	0%-20%	4.3%	4.04%	3.49%

As shown above, there have been some ratios that no longer or now meet benchmarks when compared to the Original Budget. The reasons for this are outlined below:

- a) The Operation Performance Ratio was projected to be 0.002 when developing the Original Budget. The Ratio has declined and no longer meets the benchmark, due to the continuation of works from the 2021/2022 financial year into the 2022/2023 financial year because of the impact of floods.
- b) The Infrastructure Backlog Ratio was projected to be 1.5% when developing the Original Budget. The Ratio has declined and no longer meets the benchmark, because scheduled renewal works were delayed, and the damage caused by floods.
- c) The Asset Maintenance Ratio was projected to be 93.5% when developing the Original Budget. The Ratio has improved and now meets the benchmark, due to the continuation of works from the 2021/2022 financial year into the 2022/2023 financial year because of the impact of floods.

ATTACHMENTS

AT - 1 The Quarterly Budget Review Statement - December 2022 - (*Distributed under separate cover*).

oooO END OF REPORT Oooo

ORDINARY MEETING

4. REPORTS FOR DETERMINATION

Meeting Date: 14 February 2023

4.4.2. CS - Council Resolution Summary - (95496)

Previous Item: 215, Ordinary (13 December 2022)
088, Ordinary (10 May 2022)
239, Ordinary (23 November 2021)
063, Ordinary (30 March 2021)
188, Ordinary (29 September 2020)
088, Ordinary (12 May 2020)
190, Ordinary (29 October 2019)
040, Ordinary (12 March 2019)
213, Ordinary (28 August 2018)
NM2, Ordinary (24 June 2014)

Directorate: Corporate Services

PURPOSE OF THE REPORT

The purpose of this report is to:

- Provide Council with an updated summary of the status of selected Council resolutions for the period 1 January 2022 to 30 June 2022, with recommended actions.
- Provide Council with an updated summary of the status of Outstanding Council resolutions for the period January 2018 to December 2021, with recommended actions.

EXECUTIVE SUMMARY

Council has been providing six-monthly summary reports on resolutions passed in the previous six months since 2014.

In 2018, Council resolved to include in future reports resolutions outstanding from previous summaries.

A report was prepared for Council's meeting on 13 December 2022 concerning resolutions passed in the six months to 30 June 2022, and the outstanding resolutions for the period 1 January 2018 to 31 December 2021. Council resolved to defer the matter to a Councillor Workshop.

The Councillor Workshop took place on 17 January 2023, where consideration was given to the Council resolutions referred to in the report to the Council meeting of 13 December 2022. Following the Councillor Workshop, Council's Executive Leadership Team developed recommended actions for selected resolutions consistent with the consideration given to those resolutions at the Councillor Workshop. For some resolutions the recommended action is noting the status of the progress of the resolution. For others the recommended action is noting the resolution as having been completed and in some cases no further action is required.

It is proposed that in 2023, Council move to a system of creating monthly reports updating the progress of Council resolutions, and that these be made available to Councillors on the Councillor Hub, and be published on Council's website.

ORDINARY MEETING

4. REPORTS FOR DETERMINATION

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RECOMMENDATION

That Council

1. Adopt the recommended actions contained in Attachment 1 to this report regarding selected resolutions for the period 1 January 2022 to 30 June 2022.
2. Adopt the recommended actions contained in Attachment 2 to this report regarding outstanding resolutions for the period 1 January 2018 to 31 December 2021.
3. Note that when the online monthly reports updating the progress of Council resolutions are published on Council's website, the six monthly resolution summary reports will no longer be submitted to Council.

BACKGROUND

Council resolved in 2014 that six-monthly reports be prepared summarising the resolutions passed by Council in the preceding six months (excluding resolutions not requiring action or procedural resolutions) and assigning a status to such resolutions.

In 2018, Council resolved that future resolution summary reports include the resolutions outstanding from previous summaries.

Since then, outstanding resolutions pre-dating the most recent six month period have been included in a separate document.

The Resolution Summary Reports are generated using information contained in Council's electronic records management system. This information comes from the notes made against each resolution part after the parts are placed in the system after each Council meeting.

A report was prepared for Council's meeting on 13 October, 2023, concerning the status of Council resolutions, with attached summary reports as follows:

- Attachment 1 - Council Resolution Summary - January 2022 to June 2022
- Attachment 2 - Council Resolution Summary - Outstanding Resolutions from previous Summaries - January 2018 to December 2021.

At its meeting Council resolved as follows:

"That this matter be deferred to a future Councillor Workshop and reported back to Council by February 2023."

Following the Council meeting on 13 December 2022, the status of the resolutions contained in the summaries in Attachments 1 and 2 referred to above were updated, and provided to Councillors for consideration at a Councillor Workshop on 17 January 2023.

DISCUSSION

The consideration of Council resolutions at the Councillor Workshop included assessment of those resolutions where action had been taken such that the resolutions should be noted as completed, and those resolutions where no additional action was required at this time.

Council's Executive Leadership Team subsequently met to review the resolutions taking into account the consideration given during the Councillor Workshop. Attached as Attachment 1 to this report is a

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summary of outstanding resolutions for the period 1 January 2018 to 31 December 2021, with recommended actions. Attached as Attachment 2 to this report is a summary of selected resolutions for the period 1 January 2022 to 30 June 2022, with recommended actions.

COMMUNITY ENGAGEMENT

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy.

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2022-2042

The proposal is consistent with the following Long-Term Community Objectives set out within the CSP.

Reliable Council

- 4.1 Provide representative, responsive and accountable governance.
- 4.2 Encourage an informed community.

FINANCIAL IMPACT

There are no financial implications applicable to this report.

ATTACHMENTS

- AT - 1** Council Resolution Summary – selected resolutions January 2022 to June 2022 - (*Distributed under separate cover*).
- AT- 2** Council Resolution Summary - Outstanding Resolutions from previous Summaries - January 2018 to December 2021 - (*Distributed under separate cover*).

oooO END OF REPORT Oooo

ORDINARY MEETING
4. REPORTS FOR DETERMINATION
Meeting Date: 14 February 2023

4.4.3. CS - Investment Report - December 2022 - (95456)

Previous Item: 129, Ordinary (19 July 2022)

Directorate: Corporate Services

PURPOSE OF THE REPORT

The purpose of this report is to provide the Council with a written report setting out details of all money that the Council has invested under Section 625 of the Local Government Act 1993.

EXECUTIVE SUMMARY

This report indicates that Council held \$110.4 million in investments as at 31 December 2022 and outlines that all investments were made in accordance with the Act and the Regulation. The portfolio increased from last month predominately due to the drawdown of a \$32.5 million loan approved at the Council Meeting held on 13 December 2022, to fund the restoration of Rising Main C. The timing of the drawdown of this loan did result in a breach to Council's Investment Policy in relation to the percentage of the portfolio invested with one financial institution.

RECOMMENDATION

That the Monthly Investment Report for December 2022 be received and noted.

BACKGROUND

Council held \$110.4 million in investments as at 31 December 2022. Details on the composition of the Investment Portfolio, and its compliance with Council's Investment Policy are provided below. Details include the financial institutions with which the investments were made, the maturity date (where applicable), the rate of return achieved, the credit rating of the institutions both in the short term and the long term, the percentage of the total portfolio, exposure to credit ratings bands and the spread of maturities.

1. Composition of Investment portfolio

Tables 1 to 3 below provide details regarding the \$110.4 million in investments as at 31 December 2022.

Table 1 – Summary of Council's Investment Portfolio as at 31 December 2022

Product Type	Face Value	% of Total
At Call Deposits	\$46,000,000	41.7%
Term Deposits - Fixed Rate	\$63,500,000	57.5%
NSW TCorp Long Term Growth Fund	\$910,344	0.8%
Grand Total	\$110,410,344	100.0%

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Table 2 – Total Investments by Issuer’s Long – Term Credit Rating

Long Term Credit Rating	Face Value	% of Total
AA-	\$107,500,000	97.4%
BBB+	\$2,000,000	1.8%
NSW TCorp Managed Funds	\$910,344	0.8%
Grand Total	\$110,410,344	100.0%

Table 3 – Fixed Term Deposits

Institution	Long Term Rating	Short Term Rating	Maturity	Rate	Face Value
Bank of Queensland	BBB+	A-2	04-Mar-24	1.70%	\$2,000,000
Commonwealth Bank of Australia	AA-	A-1+	10-Feb-23	3.48%	\$4,000,000
			02-Mar-23	0.85%	\$2,000,000
			15-Mar-23	3.73%	\$3,000,000
			22-Mar-23	3.78%	\$3,000,000
			21-Apr-23	2.20%	\$2,000,000
			05-May-23	3.08%	\$2,000,000
			08-Jun-23	3.68%	\$1,500,000
			20-Nov-23	0.65%	\$1,000,000
National Australia Bank	AA-	A-1+	10-Apr-24	3.01%	\$2,000,000
			05-Jan-23	3.10%	3,000,000
			22-Feb-23	0.50%	\$2,000,000
			08-Mar-23	0.50%	\$1,000,000
			28-Mar-23	3.85%	\$5,000,000
			31-May-23	4.15%	\$5,000,000
			08-Sep-23	0.60%	\$1,000,000
			19-Aug-24	0.75%	\$3,000,000
			10-Sep-24	0.80%	\$1,000,000
			19-Nov-24	0.75%	\$1,000,000
			15-Jan-25	0.80%	\$500,000
			05-Mar-25	1.05%	\$1,500,000
			03-Nov-25	0.95%	\$500,000
			19-Nov-25	0.90%	\$500,000
13-Jan-26	1.00%	\$500,000			
04-Mar-26	1.30%	\$1,500,000			

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Institution	Long Term Rating	Short Term Rating	Maturity	Rate	Face Value
Westpac	AA-	A-1+	11-Jan-23	0.79%	**\$3,000,000
			25-Jan-23	3.10%	\$2,000,000
			10-Feb-23	0.88%	**\$2,000,000
			11-Apr-23	1.86%	\$1,500,000
			09-Jun-23	0.90%	**\$1,000,000
			27-Jun-23	3.81%	\$3,500,000
			10-Nov-23	1.11%	**\$1,000,000
Grand Total					\$63,500,000

**Environmental, Social and Governance **Environmental, Social and Governance (ESG) investments as per Council's Investment Policy.

2. Environmental, Social and Governance (ESG) Investments

Tables 4 and 5 below provide the details on Environment, Social and Governance (ESG) investments and the proportion compared to the total Investment Portfolio.

Table 4 – ESG Investments

Institution	Long Term Rating	Short Term Rating	Maturity	Rate	Face Value
Westpac	AA-	A-1+	11-Jan-23	0.79%	\$3,000,000
			10-Feb-23	0.88%	\$2,000,000
			09-Jun-23	0.90%	\$1,000,000
			10-Nov-23	1.11%	\$1,000,000
Grand Total					\$7,000,000

Table 5 – Summary of Council's Investment Portfolio in Terms of ESG

Product Type	Face Value	% of Total
Environmental, Social and Governance (ESG)	\$7,000,000	11.02%
Other	\$56,500,000	88.98%
Grand Total	\$63,500,000	100.0%

3. Compliance to Investment Policy

Tables 6 to 7 below summarise Council's exposure limits to the credit ratings bands, term to maturity parameters and compliance with Council's Investment Policy.

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Table 6 – Exposure Limits to credit ratings bands

Long-Term Credit Rating	Exposure of Entire Portfolio		
	Actual	Maximum	Compliant
AAA to AA- or Major Bank and below	97.4%	100%	Yes
A+ to A- and below	0.0%	50%	Yes
BBB+ to BBB and below	1.8%	40%	Yes
BBB- and below	0.0%	10%	Yes
NSW TCorp Funds	1.2%	20%	Yes

Table 7 – Term to Maturity

Long-Term Credit Rating	Term to Maturity	
	Maximum	Compliant
AA+, AA, AA- (and Major Banks)	5 years	Yes
A+, A, A-	3 years	Yes
BBB+, BBB, BBB-	3 years	Yes
Non-rated ADIs	1 year	Yes

4. Portfolio Return

Council's investment portfolio (excluding At Call Deposits and NSW TCorp Managed Funds) provided a weighted average return (running yield) as shown in Table 8 below.

Table 8 – Portfolio Return

31 December 2022	Monthly Return	Annual Return
Hawkesbury City Council – Investment Portfolio	0.201%	1.291%
Benchmark – Bloomberg Ausbond Bank Bill Index	0.250%	1.254%
Performance Relative to Benchmark	-0.048%	0.037%

Based on Council's Investment Advisor, Amicus Advisory Pty Ltd's advice, the running yield is the most appropriate for Council's portfolio. The rationale for this conclusion is that if all investments are purchased at par and mature at par, then the return over the holding period of that investment is simply the running yield.

Relevant Legislation

According to Clause 212 of the Local Government (General) Regulation 2021, the Responsible Accounting Officer must provide the Council with a written report setting out details of all money that the Council has invested under Section 625 of the Local Government Act 1993. The report must include a certificate as to whether investments have been made in accordance with the Act, the Regulation, and the Council's Investment Policy.

ORDINARY MEETING

4. REPORTS FOR DETERMINATION

Meeting Date: 14 February 2023

Investment Certification

The Responsible Accounting Officer hereby certifies that the investments listed in this report have been made in accordance with Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulation 2021 and Council's Investment Policy.

DISCUSSION

Council's investments and returns achieved are driven and impacted by economic and market conditions. Council's Investment Advisor, Amicus Advisory Pty Ltd has reviewed Council's investments as at 31 December 2022 and has advised as follows:

- *Council's investment portfolio annual return is around 4bps above the Bank Bill index. This return excludes at Call Accounts and NSW TCorp Managed Fund. However as explained in recent Amicus reports, the benchmark index is of shorter duration than the portfolio and therefore responds (rises) more quickly in a rising interest rate environment. While absolute investment portfolio performance has risen as per the chart above, performance relative to the benchmark has fallen and we expect both trends to continue in coming months.*
- *The benchmark index rose by 25bps over the month and is expected to increase by 25bps to 30bps going forward. The 12-month rolling rate will also increase by approximately this same margin each month until May 2023 simply because between December 2021 and May 2022, the cumulative index return was less than 1bp so effectively each monthly increase will add the same to the 12-month rolling return. In contrast Council made positive returns in the period December 2021 to May 2022 and therefore we expect Council's performance relative to the index on a 12 month rolling basis to fall simply because these positive months for Council are "rolling off" and this is not offset by positive months for the index "rolling off".*
- *On a 12-month rolling basis we do not expect Council's investment performance to remain above the index going into 2023 and we would expect the 12 month return to fall below the index as soon as next month. This is primarily due to two factors.*
 - *Even if investment portfolio performance kept pace with the index on a monthly basis earning 20bps to 25bps as above, the 12-month rolling performance would still fall as Council made positive returns in the December 2021 to May 2022 period (as explained above)*
 - *Due to the need to utilise investment funds in Council's operations, maturing funds have not been re-invested. This has meant Council has been unable to take advantage of Term Deposits most recently paying between 4% and 5% interest rates and floating rate notes with coupon margins above 100bps that would have boosted investment performance in both the short and longer term.*
- *Amicus suggests Council pursues these strategies with regards to any excess liquidity:*
 - *Invest in a Major Bank or other highly rated FRN so long as the credit margin is above 100bps. It might be worth considering putting surplus funds aside for future FRN opportunities (rolling \$1 million earmarked for FRNs) so Council could invest as they arise. The rationale being:*
 - *FRN's are currently offering better value than Term Deposits.*

ORDINARY MEETING

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- *It is part of the overall agreed investment strategy to invest in Term Deposits when they offer better value than FRN's and vice versa, but in practice this policy cannot be implemented until Council is willing to invest in FRNs.*
- *New issue FRN's offer the best value but the timeframes for making an investment decision are around one-half day (or one full day at most) and so Hawkesbury needs to have the internal processes in place to respond within these timeframes.*
- *Usually once a Council has purchased its first FRN, the subsequent purchases are much easier because everyone involved in the process within Council is far more familiar and comfortable with the process, but this level of familiarity and comfort cannot be gained until the first purchase is made.*
- *While this is a short-term objective it is of longer term strategic value effectively opening up this area of the market for ongoing investments for Council to be accessed when FRN's offer better value than Term Deposits.*
- *Invest in the best Term Deposit rates available within the capacity of Policy limits.*
- *Take limited exposures to issuers outside the Major Banks in short-dated Term Deposits if rates are attractive. No more \$4 million of the total portfolio per entity is recommended based on the assumption the portfolio size will not fall below \$40 million and cause a breach of the 10% limit, i.e., \$4 million / \$75 million = 5.3% (current portfolio size), \$4 million / \$39 million = 10.3%. This is a very low risk strategy given the steps taken by the Reserve Bank of Australia to ensure no Authorised Deposit Taking Institutions will fail due to liquidity reasons in the short-term.*
- *Consider investing in longer dated fixed rate investments. While interest rates may rise, taking a limited exposure to longer dated fixed rate investments to enhance current portfolio is prudent so long as these investments are with high quality institutions (Major Banks and other ADIs rated "A" or above).*
- *Amicus estimates, based on a portfolio size of around \$55 million, Council will earn an estimated \$900K for the Financial Year 2022 – 2023. This is due to Term Deposit investments made earlier at interest rates of less than 1% mature and are re-invested at much higher interest rates current available in the market. However, Council has made some legacy investments when rates were lower (such as longer dated NAB TDs totalling \$10 million that mature between 2025 and 2026 that have a weighted average rate of 0.92%) which will provide a drag on overall investment returns.*
- *Overall, exposures to individual entities and to credit limits have been well managed. However, Council's total exposure to CBA exceeds portfolio limits. However, this breach is due to a large balance in the CBA at call account of \$46 million, which represents around 42% of total portfolio. We generally recommend investment amounts be kept at 80% or below of the policy limit to avoid policy breaches due to portfolio size changes (a smaller overall portfolio increases the percentage exposure to any entity assuming the investment in that entity is unchanged).*
- *Progress has been made in investing in ESG investments as part of the overall portfolio. However, to increase current levels, Council will need to aggressively pursue opportunities when they arise.*

ORDINARY MEETING
4. REPORTS FOR DETERMINATION
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Restriction of Funds

Council's total investment portfolio as at 31 December 2022 included funds that are restricted as to what they can be expended on.

Table 9 – Restriction of Funds

Restriction Type	Amount	%
External Restrictions - S7.11 and S7.12 Developer Contributions	\$19,518,802	17.68%
External Restrictions - Western Parkland City Liveability Program	\$1,713,614	1.55%
External Restrictions - Bushfire and Flood Grants	\$5,963,855	5.40%
External Restrictions - Other (e.g., domestic waste, sewerage, loans)	\$55,480,081	50.25%
Internal Restrictions (e.g. election, workers compensation, Employee Leave Entitlements)	\$18,368,217	16.64%
Unrestricted	\$9,365,775	8.48%
Total	\$110,410,344	100.00%

Unrestricted funds, whilst not subject to a restriction for a specific purpose, are fully committed to fund operational and capital expenditure in line with Council's adopted Operational Plan. As there are timing differences between the accounting for income and expenditure in line with the Plan, and the corresponding impact on Council's cash funds, a sufficient level of funds is required to be kept at all times to ensure Council's commitments are met in a timely manner. Council's cash management processes are based on maintaining enough cash levels to enable commitments to be met when due, while at the same time ensuring investment returns are maximised through term investments where possible.

In addition to funds being fully allocated to fund the Operational Plan activities, funds relating to closed self-funded programs and that are subject to legislative restrictions cannot be utilised for any purpose other than that specified. Externally restricted funds include funds relating to Section 7.11 and Section 7.12 Contributions, Domestic Waste Management, Sewerage Management, Stormwater Management and Grants.

Funds subject to an internal restriction refer to funds kept aside for specific purposes, or to meet future known expenses. This allows for significant expenditures to be met in the applicable year without having a significant impact on that year. Internally restricted funds include funds relating to Tip Remediation, Workers Compensation, and Elections.

COMMUNITY ENGAGEMENT

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy.

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2022-2042

The proposal is consistent with the following Long-Term Community Objectives set out within the CSP.

Reliable Council

4.3 Build strong financial sustainability for now and future generations.

ORDINARY MEETING
4. REPORTS FOR DETERMINATION
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FINANCIAL IMPACT

The matters raised in this report have direct financial implications. The income applicable was provided for in the 2022/2023 Adopted Operational Plan.

ATTACHMENTS

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

4. REPORTS FOR DETERMINATION

Meeting Date: 14 February 2023

4.5. INFRASTRUCTURE SERVICES

Nil reports.

ORDINARY MEETING

5. REPORTS OF COMMITTEES

Meeting Date: 14 February 2023

5. REPORTS OF COMMITTEES

Nil reports.

ORDINARY MEETING
6. NOTICES OF MOTION
Meeting Date: 14 February 2023

6. NOTICES OF MOTION

Nil reports.

ORDINARY MEETING

7. QUESTIONS FOR NEXT MEETING

Meeting Date: 14 February 2023

7. QUESTIONS FOR NEXT MEETING

7.1.1. Response to Councillor Question Taken on Notice at the Council Meeting - 31 January 2023 - (79351)

The following question was raised from a Councillor regarding matters on the Council Meeting Business Paper of 31 January 2023. The question was taken on notice and the response is provided below:

#	Councillor	Question	Response
1	Wheeler	In regards to question 3 in the business paper, with mention of the two dimensional Hawkesbury – Nepean Flood Study. Will that incorporate the surrounding catchments including South Creek and those in The Hills Local Government Area and their impact on Flooding in the Hawkesbury - Nepean?	<p>The Acting Director of City Planning advised it is expected that as with the Hawkesbury-Nepean Valley Regional Flood Study 2019, the new 2D Hawkesbury – Nepean Flood Study will be a technical document that describes the existing flood behaviour of the main Hawkesbury-Nepean River from Bents Basin near Wallacia downstream to Brooklyn Bridge, and the backwater flooding associated with river flooding.</p> <p>In terms of this backwater flooding, the Study will review a number of tributaries and their catchments that contribute to flooding from the river, or riverine flooding.</p> <p>In the Hawkesbury Local Government Area this will include the following main tributaries:</p> <ul style="list-style-type: none">• Grose River• South Creek• Colo River• Macdonald River <p>It is Officers understanding that the Study will not review the effects of localised, shorter duration flooding, caused by local runoff during rainfall events the floods.</p>

oooO END OF REPORT Oooo

ORDINARY MEETING
8. CONFIDENTIAL REPORTS
Meeting Date: 14 February 2023

8. CONFIDENTIAL REPORTS

8.1. GENERAL MANAGER

Nil reports.

8.2. CITY PLANNING

Nil reports.

8.3. CORPORATE SERVICES

8.3.1. CS - Expression of Interest - Provision of Code of Conduct Review Services - (95496)

Previous Item: 039, Ordinary (26 February 2019)

Directorate: Corporate Services

REASON FOR CONFIDENTIALITY

*This report is **CONFIDENTIAL** in accordance with the provisions of Part 1 of Chapter 4 of the Local Government Act 1993 and the matters dealt with in this report are to be considered while the meeting is closed to the press and the public.*

Specifically, the matter is to be dealt with pursuant to Section 10A(2)(c) of the Act as it relates to details concerning submissions for the supply of services to Council and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the Council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

In accordance with the provisions of Section 11(2) & (3) of the Local Government Act 1993, the reports, correspondence and other relevant documentation relating to this matter are to be withheld from the press and public.

ORDINARY MEETING
8. CONFIDENTIAL REPORTS
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8.3.2. CS - Administration of the 2024 Hawkesbury City Council Local Government Elections - (95496, 96333)

Directorate: Corporate Services

REASON FOR CONFIDENTIALITY

*This report is **CONFIDENTIAL** in accordance with the provisions of Part 1 of Chapter 4 of the Local Government Act 1993 and the matters dealt with in this report are to be considered while the meeting is closed to the press and the public.*

Specifically, this matter is to be dealt with pursuant to Section 10A(2)(c) of the Local Government Act, 1993 as it relates to details concerning pricing for the supply of services to Council and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the Council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

In accordance with the provisions of Section 11(2) and (3) of the Local Government Act 1993, the reports, correspondence and other relevant documentation relating to this matter are to be withheld from the press and public.

8.4. INFRASTRUCTURE SERVICES

Nil reports.



Ordinary meeting

End of Business Paper

This business paper has been produced electronically to reduce costs, improve efficiency and reduce the use of paper. Internal control systems ensure it is an accurate reproduction of Council's official copy of the business paper.