



Hawkesbury Local Planning Panel Meeting

Date of meeting: 17 November 2022
Location: By audio-visual link
Time: 10:00 a.m.

BUSINESS PAPER

HAWKESBURY LOCAL PLANNING PANEL MEETING

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Item: 14 **CP - DA0182/22 - Lot 6028 DP 1169449, 7 Fernadell Drive, Pitt Town - Torrens Title Subdivision (Two Lots) (95498)**

Directorate: City Planning

DEVELOPMENT INFORMATION

File Number: DA0182/22
Legal Description: Lot 6028 DP 1169449
Property Address: 7 Fernadell Drive PITT TOWN NSW 2756
Applicant: McKinlay Morgan & Associates Pty Ltd
Owner: Hawkesbury City Council
Proposal Details: Subdivision – Torrens title subdivision to create a residential lot and public recreation lot
Estimated Cost: \$20,000.00
Area: 9.9549Ha
Zone: RE1 Public Recreation and RU2 Rural Landscape
Date Received: 30 May 2022
Advertising: 14 to 28 June 2022
Submissions: Nil

Key Issues: ♦ Lot Size Controls
 ♦ Pitt Town – Development History
 ♦ Essential Services – Sewer

RECOMMENDATION:

Approval subject to conditions.

EXECUTIVE SUMMARY:

Reason for Consideration by Local Planning Panel

Conflict of Interest – The subject site is owned by Council.

Proposal

The proposal involves the subdivision of Council land at 7 Fernadell Drive, Pitt Town.

The subject site is located within the Fernadell Precinct of the 'Pitt Town Residential Precinct'. The land was created and dedicated to Council as part of Stage 7 of a Torrens title subdivision approved with Development Consent No. DA0081/11.

The subject site comprises of a single parcel of land with an area of 9.9549Ha and is split into two areas by a road. The larger eastern portion of the allotment comprises Fernadell Park, for which funding has been received and is being developed in a community park. The smaller western portion was originally intended to accommodate a community centre.

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The subdivision of the land is proposed to create a residential allotment identified as Proposed Lot 1 and a public recreation allotment identified as Proposed Lot 2. Proposed Lot 1 is to have an area of approximately 4,299m² and is to consist of the vacant western portion of the land. Proposed Lot 2 is to have an area of approximately 9.525Ha and is to consist of Fernadell Park (the eastern portion of the subject site).

Council resolved to adopt a Plan of Management and Masterplan for the development and ongoing management of Fernadell Park at its Ordinary Meeting of 11 October 2022. The adopted Masterplan outlines that the proposed Pitt Town community centre is now to be located within the eastern portion of the subject site comprising of Fernadell Park. The smaller western portion of the land that is to form Proposed Lot 1 is therefore surplus to Council's requirements.

Permissibility

The proposed subdivision is permissible with consent under Clause 2.6(1) of the Hawkesbury Local Environmental Plan (LEP) 2012.

The land is zoned RE1 Public Recreation and RU2 Rural Landscape under the provisions of Hawkesbury LEP 2012. The proposed residential lot, Proposed Lot 1, satisfies the minimum lot size control of 4,000m² that applies to the portion of the site zoned RU2 Rural Landscape under Clause 4.1(3) and the Lot Size Map of the Hawkesbury LEP 2012.

No minimum lot size control applies to the RE1 Public Recreation zone.

Consultation

The application was notified between 14 to 28 June 2022 in accordance with Part A Chapter 3 of the Hawkesbury Development Control Plan (DCP) 2002 and the Hawkesbury Community Participation Plan. No submissions were received in response to the notification of the application.

Sections of the subject site are categorised as bushfire prone land and accordingly the application was referred to the Rural Fire Service (RFS) as 'integrated development'. Upon review of the supplied Bushfire Assessment Report the RFS have issued their General Terms of Approval for the development.

Key Issues

The key issues of the development application are:

- Lot Size Controls
- Pitt Town – Development History
- Essential Services – Sewer

Recommendation

Proposed Lot 1 satisfies the minimum lot size controls of the Hawkesbury LEP 2012 and is connected to Altogether Group's reticulated sewer system. No minimum lot size control applies to Proposed Lot 2 however this public recreation lot is consistent with the adopted Plan of Management and Masterplan for Fernadell Park.

The proposed subdivision is acceptable and is therefore recommended for conditional approval.

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REPORT:

Detailed Description of Proposal

Pursuant to Section 4.12(1) of the EP&A Act 1979 (as amended) this application seeks the consent of the Hawkesbury Local Planning Panel to undertake a Torrens title subdivision to create a residential lot and a public recreation lot at 7 Fernadell Drive, Pitt Town.

The proposal involves a two lot subdivision of the subject site to create the following:

- Proposed Lot 1: This proposed allotment is to have an area of approximately 4,299m² and is currently vacant. The allotment is provided with a level building platform and is likely to accommodate future residential development.
- Proposed Lot 2: This proposed allotment is identified as Fernadell Park and is to have an area of approximately 9.525Ha. The allotment contains a stormwater basin and a series of drainage swales. The land is subject to the recently adopted Plan of Management for Fernadell Park but is yet to be developed.

A plan of the proposed subdivision is attached as Attachment 1 to this report.

Figures 1 and 2 below identify the land that is subject to the proposed subdivision.



Figure 1: The portion of the land that is to form the residential allotment (Proposed Lot 1).



Figure 2: The portion of the land that is to form Fernadell Park (Proposed Lot 2).

A Council sewer main is located within Fernadell Park and the connection of Proposed Lot 2 to reticulated sewer would be subject to any future development of the reserve. An underground sewer pod has been installed and the supplied documentation and survey indicate that Proposed Lot 1 is connected to the private sewer system operated by Altogether Group.

The land is located within the Fernadell Precinct of the Pitt Town Residential Precinct. The rezoning and development of the Pitt Town Residential Precinct was the subject of a Part 3A Concept Plan Approval issued by the Department of Planning and Environment. Following the Part 3A Concept Plan Approval, Development Consent No. DA0081/11 was issued by Council for a Torrens title subdivision involving the creation of 196 residential lots and a public reserve/community lot. The subject site was created and registered as Stage 7 of this subdivision.

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The Masterplan included as part of the adopted Plan of Management indicates that Fernadell Park will accommodate a community facility and hub, a series of sporting fields and courts, an amenities building, recreational facilities and carparking. An extract of the Masterplan provided within the Plan of Management attached as Attachment 2 to this report.

The eastern portion of the subject site that is to form Proposed Lot 2 is classified as Community Land, whilst the eastern portion that is to form Proposed Lot 1 is classified as Operational Land.

The application is being reported to the Hawkesbury Local Planning Panel for determination as the land is owned by Hawkesbury City Council.

Site and Locality Description

Pitt Town is located approximately 46kms northwest of the Sydney CBD and 6km northeast of Windsor.

The subject site is legally described as Lot 6028 in DP 1169449 and has an area of approximately 9.9549Ha. The subject site comprises of two areas that are separated by Stables Street and Fernadell Drive. The large eastern portion of the allotment comprises of Fernadell Park and contains a stormwater basin, whilst the smaller western portion is vacant and was originally nominated to accommodate a community centre.

Development within the vicinity of the subject site generally consists of residential and rural residential land as shown in Figure 3 below. To the west and northwest are the Fernadell and Bona Vista Precincts of the Pitt Town Residential Precinct. Dwelling houses and associated structures have been constructed within the majority of properties within these precincts. Residential properties within the original portion of Pitt Town are located to the south, whilst larger rural residential properties exist to the east.



Figure 3: Aerial imagery of subject site

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A sewer treatment facility owned by Altogether Group and a private reserve owned by Johnson Property Group are located to the north off Bootles Lane. Altogether Group is a private sewer and water treatment authority that services the majority Pitt Town Residential Precinct.

Pitt Town Public School is located on Buckingham Street to the west.

Background and History

On 10 July 2008 the Minister for Planning granted a Part 3A Major Project (MP) Approval and Concept Plan Approval (MP 07_0140) for the development of 659 residential lots, community parks and a boat ramp within the Pitt Town Residential Precinct. This approval has been amended with a number of modification applications to increase the maximum allowable number of residential lots within the development to 664.

Condition B3 of the Part 3A Concept Plan Approval establishes the maximum number of lots within the precincts of the Pitt Town Residential Precinct as follows:

- Fernadell: 210 lots;
- Bona Vista: 246 lots;
- Blighton: 24 lots;
- Cleary: 112* lots;
- Thornton: 72 lots.

* The Cleary Precinct will not achieve the maximum yield allowed under the Part 3A Concept Plan Approval, with a total of 106 lots to be provided.

The Fernadell Precinct, including the subject site, was developed by Johnson Property Group. Development Consent No. DA0081/11 for the creation of 196 residential lots, two development lots and a public reserve/community lot was originally issued as a 'Deferred Commencement' Consent on 11 May 2011. This consent was made operational on 2 August 2011.

The land subject to this application was created and registered as part of Stage 7 of this subdivision.

At the time of its creation, the entirety of the subject site was zoned RU2 Rural Landscape and classified as Community Land under the Hawkesbury LEP 2012. At its Ordinary Meeting of 30 October 2018, Council considered a report seeking support for the lodgement of a Planning Proposal to reclassify and rezone the land for the provision of community and recreational facilities on the land. The prepared report outlined that the Planning Proposal sought the "*reclassification of the previously proposed community centre site from Community Land to Operational Land under the Local Government Act 1993 to facilitate its future sale for the purpose of raising revenue for the Pitt Town community*". The report also recommended an amendment to the minimum lot size control for the subdivision of the site.

Council resolved to support the recommendations of the report and Planning Proposal No. LEP001/19 was lodged on 29 April 2019.

The Hawkesbury Local Planning Panel considered a report on the Planning Proposal and recommended that it proceed to Gateway determination on 21 November 2019. Following advice from the Department of Planning and Environment, Council resolved to rezone and reclassify the land with Planning Proposal No. LEP001/19 at its Ordinary Meeting of 14 September 2021.

The amendments to the Hawkesbury LEP 2012 were gazetted on 17 December 2021.

The Plan of Management for Fernadell Park was adopted by Council on 11 October 2022.

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Submissions

The application was notified between 14 to 28 June 2022 in accordance with Part A Chapter 3 of the Hawkesbury DCP 2002 and the Hawkesbury Community Participation Plan. No submissions were received in response to the notification of the application.

Consultation

Internal Consultation	
Engineering	The Development Engineer has raised no objection to the proposal subject to the imposition of conditions.
Infrastructure – Sewer	<p>An existing Council sewer main is located within Fernadell Park. Council's Wastewater Technical Officer has advised that Council's reticulated sewer is therefore available to Proposed Lot 2. The connection to the sewer will form part of any future development of Fernadell Park.</p> <p>Council's records indicate that Proposed Lot 1 was connected to the reticulated system operated by Altogether Group under Development Consent No. DA0081/11. An underground sewer pod has been installed to the north-eastern corner of the proposed allotment, immediately adjoining Fernadell Drive.</p> <p>The imposition of a condition requiring evidence that Proposed Lot 1 is suitably connected to Altogether Group's sewer is recommended.</p>

External Consultation	
Rural Fire Service	The RFS have undertaken a review of the Bushfire Assessment Report prepared in support of the development. Upon review of this documentation the RFS have issued General Terms of Approval for the development.

Legislation, Council Policies, Procedures and Codes to which the Matter Relates

- Part 3A Concept Plan Approval
- State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)
- State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP)
- State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)
- Hawkesbury LEP 2012
- Hawkesbury DCP 2002.

Part 3A Major Project Approval Assessment

Part 3A Major Project Approval No. MP 07_0140 granted a concept plan approval for the creation of 659 residential lots, community parks and a boat ramp within five precincts of Pitt Town. Subsequent modifications to this approval have increased the maximum number of residential lots to 664 lots.

The concept approval was originally approved under Part 3A of the EP&A Act 1979. These Part 3A provisions have generally been wound up, however the EP&A (Savings, Transitional and Other Provisions) Regulation 2017 provides transitional arrangements for modifications to previous approvals. With the repeal of Part 3A, the Schedule 2 transitional arrangements of the EP&A (Savings, Transitional and Other Provisions) Regulation 2017 apply to this concept plan approval.

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Section 3B(2) of Schedule 2 of the EP&A (Savings, Transitional and Other Provisions) Regulation 2017 states:

- (2) *After the repeal of Part 3A, the following provisions apply (despite anything to the contrary in section 75P (2)) if approval to carry out any development to which this clause applies is subject to Part 4 or 5 of the Act:*
- (a) *if Part 4 applies to the carrying out of the development, the development is taken to be development that may be carried out with development consent under Part 4 (despite anything to the contrary in an environmental planning instrument),*
 - (b) *if Part 5 applies to the carrying out of the development, the development is taken to be development that may be carried out without development consent under Part 4 (despite anything to the contrary in an environmental planning instrument),*
 - (c) *any development standard that is within the terms of the approval of the concept plan has effect,*
 - (d) *a consent authority must not grant consent under Part 4 for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan,*
 - (e) *a consent authority may grant consent under Part 4 for the development without complying with any requirement under any environmental planning instrument relating to a master plan,*
 - (f) *the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan,*
 - (g) *any order or direction made under section 75P (2) when the concept plan was approved continues to have effect.*

Pursuant to Clause 3B(2)(d) of Schedule 2 of the EP&A (Savings, Transitional and Other Provisions) Regulation 2017, the proposed subdivision is generally consistent with the Part 3A Concept Plan Approval. In this regard the layout of the subdivision, as well as the residential use of Proposed Lot 1, are consistent with the Pitt Town Masterplan that forms part of the Part 3A Concept Plan Approval.

Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

a) The provisions (where applicable) of any:

i. Environmental Planning Instruments:

State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55) has been repealed and consolidated into the Resilience and Hazards SEPP.

Clause 4.6(1) of the Resilience and Hazards SEPP outlines a consent authority “*must not consent to the carrying out of any development on land unless:*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose”.*

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Remediation works were undertaken in support of Development Consent No. DA0081/11, and both a Validation Report and Site Audit Statement were issued for the creation of the subject site. The Site Audit Statement concludes that the portion of the land that is to accommodate Proposed Lot 1 is suitable for a residential use.

A Detailed Site Investigation Report has also been prepared for the area that is to form Proposed Lot 2 and Fernadell Park. This report outlines that the land is suitable for recreational purposes subject to a number of measures being implemented as part of the future development of Fernadell Park.

The proposed subdivision is therefore considered suitable having regard to the provisions of the Resilience and Hazards SEPP.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20) has been repealed and consolidated into the Biodiversity and Conservation SEPP.

Chapter 9 of the Biodiversity and Conservation SEPP aims "*to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context*". This Policy requires an assessment of development applications with regard to the general and specific considerations, policies and strategies set out in the Policy.

Section 9.9(17) of the Biodiversity and Conservation SEPP further outlines that Council must consider whether "*the proposed development will be capable of connection to a Sydney Water Corporation Limited or council sewerage system either now or in the future*". In this regard it should be noted that both Council and the Altogether Group are sewer authorities operating within Pitt Town.

Council's Wastewater Technical Officer has advised that a Council sewer main is located within Fernadell Park and accordingly Proposed Lot 2 will be able to connect as part of any future development of this reserve.

Proposed Lot 1 was connected to the reticulated system operated by Altogether Group under Development Consent No. DA0081/11. An underground sewer pod has been installed to the north-eastern corner of the proposed allotment, immediately adjoining Fernadell Drive.

The subdivision is consistent with the zoning of the land and is not expected to significantly impact upon the environment of the Hawkesbury-Nepean River in either a local or regional context. The proposal is therefore seen to be consistent with the aims and objectives of the Biodiversity and Conservation SEPP.

State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) has been repealed and consolidated into the Transport and Infrastructure SEPP.

The proposal is not defined as 'traffic generating' development and did not require referral to Transport For NSW under Chapter 2 of the Transport and Infrastructure SEPP.

Hawkesbury Local Environmental Plan 2012

The proposed subdivision is permissible with consent under Clause 2.6(1) of the Hawkesbury LEP 2012.

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The land is zoned RE1 Public Recreation and RU2 Rural Landscape under the provisions of Hawkesbury LEP 2012. The western portion of the subject site is zoned RU2 Rural Landscape whilst the remaining eastern portion of the land is zoned RE1 Public Recreation. Clause 4.1(3) and the associated mapping of the Hawkesbury LEP 2012 establish a minimum lot size control of 4,000m² for the area of the subject site zoned RU2 Rural Landscape. No minimum lot size control applies to the RE1 Public Recreation zone.

The western portion of the land that is to form Proposed Lot 1 is classified as Operational Land under Schedule 4 Part 2 and the associated Land Reclassification Map of the Hawkesbury LEP 2012. The subdivision and potential future sale of this land may therefore be considered. The eastern portion of the land that is to form Fernadell Park is retained as Community Land.

The subject site is not identified as a 'Potential archaeological site' or a "Potential place of Aboriginal heritage significance" on the Pitt Town Heritage Map.

As previously discussed in this report, adequate sewer arrangements are in place or may be installed to satisfy the essential services requirements of Clause 6.7 of the Hawkesbury LEP 2012.

The proposed development will allow for the provision of future housing in a residential setting and retain recreational land in accordance with the adopted Plan of Management for Fernadell Park. The proposal is therefore seen to achieve the objectives of the RE1 Public Recreation and RU2 Rural Landscape zones and the provisions of the Hawkesbury LEP 2012.

ii. Draft Environmental Planning Instrument that is or has been placed on exhibition and details of which have been notified to Council:

Not applicable.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan 2002

The development has been considered against the provisions of the Hawkesbury DCP 2002:

Part A Chapter 3: Notification

The application was notified in accordance with Part A Chapter 3 of the Hawkesbury DCP 2002 and Hawkesbury Community Participation Plan and no submissions were received.

Part D Chapter 3: Subdivision

The proposed subdivision is generally consistent with the provisions of Part D Chapter 3 of the Hawkesbury DCP 2002. Whilst Proposed Lot 1 has a RU2 Rural Landscape zoning, the locality is residential in character. Based on this residential setting and the availability of services, the building envelope and lot size requirements of Section 3.8.1 of Part D Chapter 3 of the Hawkesbury DCP 2002 are not applicable.

The development of Proposed Lot 1 will be subject to the future lodgement and assessment of a development application, however this proposed allotment will satisfy the residential controls of the Part D Chapter 3 of the Hawkesbury DCP 2002 and is capable of accommodating a future dwelling house or dual occupancy.

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The northern section of Fernadell Drive adjoining Proposed Lot 1 is located above the adopted 100 year Average Recurrence Interval (ARI) flood planning level of 17.3m AHD. Accordingly future access to this allotment is capable of satisfying Clause 3.6(b) of Part D Chapter 3 of the Hawkesbury DCP 2002.

iv. Planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4:

Not applicable.

v. (Repealed)

Not applicable.

vi. Matters prescribed by the Regulations:

These matters have been considered in the assessment of this application. Section 7.11 and 7.12 (previously known as Section 94 and 94A) Development Contributions are discussed in the Development Contributions section of this report.

b) The likely impacts of that development, including environmental impacts on both the natural and built environments and the social and economic impacts in the locality:

These matters have been considered in the assessment of this application.

The adopted 100 year ARI flood planning level for the area is 17.3m AHD. The Part 3A Concept Plan Approval does not nominate a habitable floor level for the Fernadell Precinct.

The survey plan prepared in support of the application indicates that the area that is to form Proposed Lot 1 has levels ranging from 15.5m to 19.8m AHD. The eastern portion of the land comprising of Fernadell Park has levels ranging from 12.5m to 21m AHD. Based on these levels, each of the proposed allotments have areas located below the Flood Planning Level of 17.3m AHD and are subject to the flood planning provisions of Section 5.21 of the Hawkesbury LEP 2012, Council's Flood Policy 2020 and Schedule of Flood Related Development Controls.

The majority of Proposed Lot 1 is located above the adopted Flood Planning Level and is capable of accommodating a future dwelling house or attached dual occupancy subject to the obtainment of relevant approvals. The area of Proposed Lot 1 that is located below the Flood Planning Level is limited and, based on predicted flood levels and velocities, would generally have a Hazard Category of H1 to H3 under Table 1 of the Schedule of Flood Related Development Controls. Low scale residential accommodation, such as a single dwelling house or an attached dual occupancy, is a compatible form of development under Table 2 of the Schedule.

Having regard to Clause 5.21(2)(c) of the Hawkesbury LEP 2012 and the safe and efficient evacuation of the people during times of flood, it is noted that the creation of one additional residential lot and the future development of one or two dwellings is consistent with the interim flood planning measures established by the Department of Planning and Environment. The proposed development will not result in the capacity of evacuation routes out of Pitt Town being exceeded, in particular noting that the Pitt Town Residential Precinct has not been fully developed as approved under the Part 3A Concept Plan Approval.

Proposed Lot 2 will accommodate Fernadell Park and will be used for recreational purposes. The areas of this proposed allotment that are located below the Flood Planning Level would be classified as Hazard Categories H1 to H6 under the Schedule of Flood Related Development Controls. Recreation areas are a compatible form of development within the H1 to H6 Hazard Categories under Table 2 of the Schedule of Flood Related Development Controls.

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The proposed subdivision is therefore consistent with the flood planning provisions of Section 5.21 of the Hawkesbury LEP 2012, Flood Policy 2020 and Schedule of Flood Related Development Controls.

No vegetation removal is proposed to facilitate the proposed subdivision.

There are no other natural hazards or other site constraints that are likely to have a significant adverse impact upon the development. The proposed development is considered suitable within the context of the locality.

c) Suitability of the site for the development:

These matters have been considered as part of the assessment of the development application.

Eastern sections of the subject site are categorised as bushfire prone land and the subdivision of land for residential purposes is defined as a 'special fire protection purpose' under Section 100B of the Rural Fires Act 1997. Accordingly the application was referred to the RFS as integrated development.

The Bushfire Assessment Report prepared in support of the application concludes that the subdivision will fully comply with the requirements of Planning for Bush Fire Protection 2019. The report recommends that Proposed Lot 1 is maintained as an Inner Protection Area (IPA).

The RFS have undertaken a review of the Bushfire Assessment Report prepared in support of the proposed development. Upon review of this documentation the RFS have issued General Terms of Approval.

d) Any submissions made in accordance with the Act or the Regulations:

The application was notified in accordance with Part A Chapter 3 of the Hawkesbury DCP 2002 and Hawkesbury Community Participation Plan. No submissions were received.

e) The Public Interest:

The proposed subdivision satisfies the lot size controls of the Hawkesbury LEP 2012 and is consistent with the adopted Plan of Management for Fernadell Park. It is therefore considered that the approval of the application would be in the public interest.

Development Contributions

Neither Section 7.11 nor 7.12 Development Contributions are applicable to the proposed development.

Section 2.7 of the Hawkesbury Section 94 (7.11) Contributions Plan 2015 exempts Council developments from the payment of Section 7.11 Development Contributions. The proposal is also exempt from the payment of 7.12 Development Contributions under Section 2.7 of the Hawkesbury Section 94A (7.12) Contributions Plan 2015 based on the supplied value-of-works.

Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act 1979, with all matters specified under Section 4.15(1) having been taken into consideration. The proposed subdivision is permissible under and satisfies the lot size controls of the Hawkesbury LEP 2012. The subdivision layout is also consistent with the adopted Plan of Management for Fernadell Park.

The development is acceptable and is recommended for approval.

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Reasons for Decision

It is recommended that the application be approved on 17 November 2022 on the following grounds:

1. The proposed development is permissible under the Hawkesbury Local Environmental Plan 2012.
2. The proposed subdivision satisfies the minimum lot size controls of Clause 4.1(2) and Lot Size Map of the Hawkesbury Local Environmental Plan 2012.
3. The proposal is generally consistent with the Hawkesbury Local Environmental Plan 2012, relevant planning instruments, Hawkesbury Development Control Plan 2002 and policies that apply to the development.
4. The proposal is categorised as integrated development and General Terms of Approval have been issued by the Rural Fire Service.
5. The proposal was notified in accordance with the Hawkesbury Development Control Plan 2002 and Hawkesbury Community Participation Plan and no submissions were received.

RECOMMENDATION:

That the Hawkesbury Local Planning Panel as the consent authority pursuant to Clause 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) approve Development Application No. DA0182/22 for a Torrens title subdivision of Lot 6028 in DP 1169449, known as 7 Fernadell Drive, Pitt Town, subject to the following conditions:

Conditions of Consent

Development Description

Subdivision – Torrens title subdivision to create a residential lot and public recreation lot

General Conditions

1. Approved Plans and Supporting Documentation

The development must be carried out generally in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where amended by other conditions of this consent:

a) Plans Reference:

Drawing Number/Name	Prepared By	Date
Drawing No. 94745:DA:2 Sheet 1 'Plan of Proposed Subdivision of Lot 6028 DP 1169449, Pitt Town'	McKinlay Morgan Pty Ltd	13 April 2022

b) Document Reference:

Drawing Number/Name	Prepared By	Date
'Bushfire Hazard Assessment Report' (Reference No. 22.04.158) 1	Control Line Consulting	27 April 2022

No works other than those approved are permitted by this consent.

2. Integrated Development – General Terms of Approval

The following General Terms of Approval, as referred to under Section 4.50 of the *Environmental Planning and Assessment Act 1979*, are attached and form part of the consent conditions for this approval:

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- a) NSW Rural Fire Service – The General Terms of Approval (Reference No. DA20220608008398Original-1)) dated 25 October 2022 are attached and form part of the conditions of this consent.

3. Works on Public Land – Not Permitted Without Approval

No work can be undertaken within public lands (i.e. roads, reserves, parks etc.) without the prior written consent of Council or other relevant authority.

The developer must bear the cost of all works associated with the development that occurs on public land, including the restoration of damaged areas and comply with any other conditions required by Council.

4. Road Opening Permit

Should the subdivision necessitate the installation or upgrading of utility services or any other works on Council land beyond the immediate road frontage of the development site, and these works are not covered by a Subdivision Works Certificate issued by Council under the consent, then a separate Road Opening Permit must be applied for and the works inspected by Council's Construction and Maintenance Services team.

Note: The contractor is responsible for instructing sub-contractors or service authority providers of this requirement. Contact Council's Construction and Maintenance Engineer if it is unclear whether a separate road opening permit is required.

Prior to Issue of a Subdivision Certificate

5. Subdivision Certificate – Final Plan of Subdivision and 88B Instrument

Prior to the release of the Subdivision Certificate it will be required to submit:

- a) four paper prints of the final plan of subdivision prepared to the requirements of NSW Registry Services (formerly known as Land Titles Office) and incorporating Council approved road names;
- b) the original and three paper copies of the 88B Instrument and Administration Sheet; and
- c) all certificates and supplementary information required by this consent.

A Subdivision Certificate Release Fee shall be paid in accordance with Council's adopted Fees and Charges at the time of lodgement of the final plan.

6. Subdivision Certificate – Easements and Restrictions

Lots affected by new easements must be burdened with easements and restrictions on the use of land to the satisfaction of the Principal Certifier and the relevant utility provider prior to release of the Subdivision Certificate.

7. Rural Fire Service – General Terms of Approval

Evidence that the General Terms of Approval (Reference No. DA20220608008398-Original-1)) issued by the Rural Fire Service and dated 25 October 2022 have been satisfied shall be provided to the Principal Certifier prior to the issue of a Subdivision Certificate.

8. Subdivision Certificate – Altogether Sewer

Confirmation from Altogether (formerly known as Flow Systems) that Lot 1 is connected to reticulated sewer shall be provided to the Principal Certifier prior to the issue of the Subdivision Certificate.

9. Subdivision Certificate – Sydney Water Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* from Sydney Water that appropriate arrangements are available must be provided to the Principal Certifier prior to the issue of the Subdivision Certificate.

10. Subdivision Certificate – Energy Provider Certificate

Documentary evidence from an Energy Provider confirming that satisfactory arrangements have been made to serve the development shall be provided to the Principal Certifier prior to the issue of the Subdivision Certificate.

11. Subdivision Certificate – Telecommunication Certificate

Telecommunications infrastructure shall be installed or available to comply with the following:

- a) the requirements of the *Telecommunications Act 1997*;
- b) for a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- c) for a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is to be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of installation, the development must be provided with all necessary pits, pipes and conduits to accommodate the future connection of optic fibre technology telecommunications.

A certificate or evidence from all relevant service providers that the telecommunications infrastructure is installed or available in accordance with all applicable legislation shall be submitted to the Principal Certifier.

Advisory Notes

(i) Works Within Road Reserve

To undertake works within the road reserve an approval under Section 138 of the *Roads Act 1993* must be obtained from Council for local and regional roads or from Transport For NSW for State roads.

Private Registered Certifiers do not have any authority to issue engineering approvals or carry out inspections for works on Public Roads under the *Roads Act 1993*.

(ii) Dial Before You Dig

Prior to commencement of work, the free national community service 'Dial Before You Dig' shall be contacted on 1100 regarding the location of underground services in order to prevent injury, personal liability and even death. Enquiries should provide the property details and the nearest cross street/road.

(iii) Utilities and Services

Utilities, services and other infrastructure potentially affected by the works shall be identified prior to construction to determine requirements for access to, diversion, protection, and/or support. Consultation with the relevant owner and/or provider of services that are likely to be affected by the development shall be undertaken to make suitable arrangements for access to, diversion, protection, and/or support of the affected infrastructure as required.

HAWKESBURY LOCAL PLANNING PANEL MEETING

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The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.

The applicant is advised to consult with:

- (a) Sydney Water Corporation Limited;
- (b) the relevant electricity supply authority; and
- (c) the local telecommunications carrier

... regarding their requirements for the provision of services to the development and the location of existing services that may be affected by the works either onsite or on the adjacent public roads.

(iv) **Workplace Health and Safety**

All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site, and provide a contact telephone number for enquiries.

Further information and details can be obtained from the WorkCover website.

(v) **Works on Public Land – Public Liability Insurance**

Any person or contractor undertaking works on public land must take out a Public Risk Insurance policy with a minimum cover of \$10 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent.

The policy is to note, and provide protection/full indemnification for Council, as an interested party. A copy of the policy must be submitted to Council prior to commencement of any works. The policy must be valid for the entire period that the works are being undertaken.

ATTACHMENTS:

AT - 1 Plan of the Proposal.

AT - 2 Fernadell Plan of Management Extract – Masterplan.

Meeting Date: 17 November 2022

[illegible]

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 17 November 2022

AT - 2 Fernadell Plan of Management Extract – Masterplan



ooo END OF REPORT ooo



Hawkesbury Local Planning Panel 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.