



Hawkesbury City Council

Attachment 2 to item 104

Exhibited Planning
Proposal

date of meeting: 31 may 2011
location: council chambers
time: 6:30 p.m.

Planning Proposal

**Rezoning of Lot 1 DP 159404, Lot 1
I P 741997 and Lot 1 DP609363 (66,
68 and 70 The Terrace), Windsor**

Hawkesbury City Council

Planning Proposal to Rezone Lot 1 DP 159404, Lot 1 DP 741997 and Lot 1 DP609363 (66, 68 and 70 The Terrace), Windsor

Part 1: Objectives or intended outcomes of the proposed instrument

The intended outcome of the proposed instrument is to rezone Lot 1 DP 159404, Lot 1 DP 741997 and Lot 1 DP609363 (66, 68 and 70 The Terrace), Windsor zoned Housing to Business General 3(a) zone under Hawkesbury Local Environmental Plan 1989 (HELP 1989). This is to enable development of the land for future retail/commercial purposes close proximity to existing retail/commercial area within Windsor Town Centre and public infrastructure.

Part 2: Explanation of the provisions that are to be included in the proposed instrument

The proposed instrument includes an amendment to:

- the Hawkesbury Local Environmental Plan 1989 (HLEP 1989) map in accordance with the proposed zoning map shown in Attachment 1; and,
- the definition of "the map" in Clause 5 of the Hawkesbury Local Environmental Plan 1989 to include appropriate reference to this instrument.

Part 3: Justification for objectives, outcomes and provisions and the process for their implementation

Introduction

Council received a Planning Proposal seeking the rezoning of the subject site consisting of above three separate residential allotments to Business General 3(a) to allow retail/commercial and some shop top housing on the land. The subject site is located at the corner of New Street and The Terrace. The site is bounded by The Terrace to the north, New Street to the South-West, Howe Park to the North-East and some residential properties to which the draft HLEP 1989 (Amendment 154) applies to the South-East (see Attachment 2). The site has an area of approximately 2215m² and 64.1m main frontage to The Terrace. Currently, a dwelling house is on each allotment. The surrounding land uses within a walking distance to the site are main retail/commercial area in the Windsor Town Centre, Howe Park and a mix of dwelling houses and multi unit housing.

The Draft Hawkesbury Local Environmental Plan 1989 (Amendment 154) which is currently being with the Department of Planning for finalisation and gazettal aims to rezone certain properties adjoining the subject site and the existing Riverview Shopping Centre, Windsor to Business General 3(a) zone to enable a retail/commercial development with some shop top housing on that land. Consequently, the subject site would be the only residential land in isolation within the block which is bounded by George Street, Johnston Street, New Street and the Terrace (see Attachment 3). Also, with the future redevelopment of the land to which the draft HLEP 1989 (Amendment 154) applies for up to 10 metre high retail/commercial development, the amenity of the remaining residential properties within the block may be significantly affected.

Given the above circumstances, rezoning of the remaining residential properties within this block to Business General 3(a) zone will not only address the above issues but also will enable more economical and appropriate use of the land and improved urban outcome through the expansion of the existing retail/commercial area to strengthen the image of the Windsor Town Centre as an attractive place to shop, work and live.

Section A - Need for the planning proposal.

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

The draft North West Subregional Strategy 2007 provides a long term framework for land use planning, development of the area, government investment and linking local and state planning issues. It also identifies a number of key directions for the region. Plan to meet employment and housing capacity targets and strengthen the roles of centres are two key directions.

The subregional strategy identifies additional 3,000 jobs and 5,000 dwelling target for Hawkesbury Local Government Area by 2031. The adopted draft Hawkesbury Employment Lands Strategy 2008 indicates that in order to support the above dwelling target, 7,342m² of supportable retail floor space would need to be provided within the existing town centres within the Hawkesbury LGA. The draft subregional strategy classifies Windsor which is one of the Hawkesbury's main commercial/retail centres as a 'Town Centre'.

This could only be achieved through expansion or renewal of the existing town centres. According to the Employment Land Strategy 2008, Windsor Town Centre has little or no additional potential under the existing provisions or controls. Hence, the Planning Proposal to rezone the subject properties to Business General 3(a) zone to enable a retail/commercial development close proximity to existing public transport system and public infrastructure is warranted.

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

As previously mentioned, the subject site will be the only residential land within the block bounded by George Street, Johnston Street, New Street and the Terrace, as the adjoining residential properties to which the draft HLEP 1989 (Amendment 154) will be redeveloped for retail/commercial purposes. This redevelopment may likely to impact the amenity of the existing dwelling houses on the site. Given the strategic location of the site and its easy access to existing public infrastructure and services in the locality, it is considered more appropriate to redevelop the land for retail/commercial purposes to achieve improved urban design outcomes for the locality. However the current zoning of the land is Housing and this zone does not permit retail/commercial premises on the land. In order to achieve the best urban outcome and the economical use of the land, rezoning of the land to a suitable zone which allows retail/commercial premises is considered the most appropriate option.

Therefore, the Planning Proposal which seeks to rezone the land from Housing to Business General 3(a) zone to allow a range of retail/commercial uses is considered the best means of achieving the intended outcome. The proposal will not only realise the above intended outcomes but also help achieve the Hawkesbury's employment target and strengthen Windsor Town Centre's image as a pleasant place to work, shop and live consistent with the aims and objectives of the draft Subregional Strategy.

3. Is there a net community benefit?

The Planning Proposal will enable the increased area of retail/commercial facilities and a range of businesses/services within the Windsor Town Centre to meet the varying needs of the existing and future local community. It will also enable increased local job and training opportunities within a reasonable walking distance from the surrounding residential areas thereby reducing the reliance of motor vehicles and the travel distance.

Section B - Relationship to strategic planning framework.

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

The Sydney Metropolitan Strategy and the Draft North West Subregional Strategy set out a broad planning framework and a number of key directions for the long-term development of the region, guiding government investment and linking local and state planning issues. One of the key directions for the subregion is to meet employment and housing capacity targets within the region. Both the Metropolitan and the draft subregional strategies place a clear focus on centres as the preferred locations for growth in employment.

The draft Subregional Strategy contains employment targets for all relevant LGAs and the subregion as a whole. According to these targets, Hawkesbury would need to provide 3,000 additional jobs within the LGA by 2031.

Therefore, Council is required to plan for sufficient land and infrastructure to achieve employment capacity targets. In line with this employment target, the adopted Hawkesbury Employment Lands Strategy (2008) has identified certain existing business centres/areas and other potential target sites within the LGA to meet the employment target. The strategy also recommends to facilitate renewal of existing centres to allow increased floor areas for retail/commercial uses. The current planning proposal which seeks to rezone the properties to Business General 3(a) zone to facilitate additional retail/commercial area adjoining the Windsor Town Centre is therefore consistent with the aims and objectives of both the Subregional Strategy and the draft Employment Lands Strategy.

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

On 13 October 2009 Council adopted Hawkesbury Community Strategic Plan (HCSP). The HCSP contains five different themes, and one of the themes is known as 'Supporting Business and Local Jobs' which deals with the Hawkesbury's new and existing businesses/industries, centres and employment opportunities. The vision for this theme is:

"In 2030 we want Hawkesbury to be a place where we have new and existing industries which provide opportunities for a range of local employment and training options, complimented by thriving town centres".

The Directions that accompany this vision include:

- *Plan for a range of industries that build on the strengths of the Hawkesbury to stimulate investment and employment in the region.*
- *Offer an increased choice and number of local jobs and training opportunities to meet the needs of Hawkesbury residents and to reduce their travel times.*
- *Help create thriving town centres, each with its own character that attracts residents, visitors and businesses.*

The Planning Proposal is consistent with the HCSP's Strategy of:

- *Implement Employment Lands Strategy.*

The Proposal is consistent with the HCSP's Goals of:

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

6. Is the planning proposal consistent with applicable state environmental planning policies?

Relevant SEPPs that are applicable to the site are:

- State Environmental Planning Policy (Building Sustainability Index: BASIX) – 2004
- Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2—1997)
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

It is considered that the planning proposal is consistent with the abovementioned plans.

In terms of Clause 6 (1) of State Environmental Planning Policy No 55—Remediation of Land it is considered that the given the current and past uses of the subject properties for residential purposes, the properties are not contaminated.

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following information lists the Section 117 Directions that are considered of relevance to the proposed rezoning.

Direction 1.1 Business and Industrial Zones

Direction 1.1 requires the inclusion of appropriate provisions that encourage the provision of housing that will:

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

The Planning Proposal will give effect to the objectives of the Direction 1.1 through the provision of additional retail/commercial area adjoining the Windsor Town Centre to attract new businesses/services to facilitate increased local employment opportunities within the town centre and improve the town centre's viability.

The Planning Proposal will not only enable increased choice and number of employment and training opportunities close proximity to the surrounding residential area thereby reducing travel times but also strengthen the image of the Windsor Town Centre as a place to shop, live and work and also facilitate viability of the town centre consistent with the draft subregional strategy.

will not only provide increased choice and number of local jobs existing services and facilities will not only enable the efficient use of these facilities and services and the improved viability of the public transport system, but also to minimise potential development of land at the urban fringe for urban purposes.

Direction 3.1 Residential Zones

The objectives of this Direction are:

- a) to encourage a variety and choice of housing types to provide for existing and future housing needs,
- b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- c) to minimise the impact of residential development on the environment and resource lands.

The subject site comprising of three residential properties is currently zoned Housing and contains a single dwelling on each allotment. Under the current HLEP 1989, the Planning Proposal seeks to rezone the land to General Business 3(a) to allow a mixed use development containing retail/commercial area and some shop top housing on the land. Future redevelopment of the site as a mixed use development facilitating some shop top housing will increase the choice of residential development types for the area to meet the varying needs of the local community

Given the site's close proximity and easy accessibility to existing infrastructure and services within the Windsor Town Centre, redevelopment of the site for mixed use development will not only make efficient and economical use of the existing infrastructure and services but also will increase the viability of the public transport system in the area.

Also, the future redevelopment of the site as a mixed use development with the incorporation of some dwellings will reduce the consumption of land for housing and associated urban development on the urban fringe by providing increased number and choice of dwellings within the Windsor Town Centre.

Direction 3.4 Integrated Land Use and Transport

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

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

The proposed rezoning of the subject properties adjoining the already established retail/commercial area within the Windsor Town Centre and close proximity to the surrounding residential area, facilities and services will provide improved and easy access to jobs and services by walking, cycling and public transport, reduce the reliance of private cars and make viable the existing public transport in the area. It is considered that the proposed LEP is consistent with this Direction.

Direction 4.1 Acid Sulphate Soils

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils. The subject area is identified as "Class 5" (less constrained) on the Acid Sulphate Soils Planning Maps having a probability of containing acid sulphate soils, as shown on Acid Sulphate Soils Planning Maps held by the Department of Planning.

Any works proposed to be undertaken in Class 5 land which may lead to the lowering of the water table below one metre Australian Height Datum in adjoining Class 1, 2, 3 or 4 land would require the matter to be addressed in an application to Council. However the adjoining properties are also classified as "Class 5", and future redevelopment of the land for retail/commercial purpose may not lead to the lowering of the water table below one metre Australian Height Datum. Therefore, acid sulphate soils risk assessment may not be required.

Also, in general the use of Class 5 land for normal residential occupation will not be affected by the possibility of acid sulphate soil.

Direction 4.3 Flood Prone Land

The objectives of this direction are:

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

In accordance with the Floodplain Development Manual 2005, Council engaged Bewsher Consulting Pty Ltd to prepare the Flood Risk Management Study and Plan for the Hawkesbury River within the Hawkesbury LGA in June 2010, and it is expected to be completed late 2011 or early 2012. The implementation of the Hawkesbury Flood Risk Management Plan will enable effective development and management of flood prone land with minimal impact of flooding on individual owners and occupiers of flood prone property and reduction in private and public losses resulting from major floods. In the interim Council resolved to proceed with the Planning Proposal similar to the current Draft HELP 1989 (Amendment 154) which aims to rezone certain flood prone land adjoining the subject site for retail/commercial purpose.

It should be noted that the above draft LEP includes a restrictive clause to limit the future dwelling yield on the land in response to the State Emergency Service's (SES) ongoing concerns over the capability of the existing flood evacuation system in the area. The intent of the applicant of the current Planning Proposal is clearly to provide for mixed uses, including shop top housing. Therefore, an approach similar to Draft HELP 1989 (Amendment 154) to restrict the number of shop top housing on

the land may need to be used in response to SES ongoing concerns until such time Council adopt and implement the Hawkesbury Flood Risk Management Plan.

Consultation will be undertaken following Gateway Determination with the relevant government authorities/bodies.

Direction 6.1 Approval and Referral Requirements

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

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

Direction 6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessary restrictive site specific planning controls. The proposal is consistent with this direction as it does not specify any restrictive provisions for future development on the land other than those already specified in Hawkesbury LEP 1989 for the Housing Zone.

However, given the subject site is partly flood affected, a suitable provision as a precautionary measure to limit the number of shop top housing on the land in response to SES's concerns over the capability of the existing flood evacuation system in the area may be required in the draft LEP until such time Council adopt and implement the Hawkesbury Flood Risk Management Plan similar. This is similar to the draft HLEP 1989 (Amendment 154) which seeks to rezone certain land adjoining the subject site to General Business 3(a) to allow a retail/commercial development and some shop top housing on the land.

Direction 7.1 Implementation of the Metropolitan Strategy

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the Metropolitan Strategy. The planning proposal is consistent with the *Metropolitan Strategy*. The key the objective of the proposal is to provide opportunity for additional employment/business land area within the Windsor Town Centre to assist achieve Council's employment target under the *Metropolitan Strategy*. This planning proposal is therefore consistent with the NSW Government's Metropolitan Strategy: *City of Cities, A Plan for Sydney's Future*, published in December 2005 ('the Metropolitan Strategy').

Section C - Environmental, social and economic impact.

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

Preliminary investigations indicated that the land does not contain any threatened flora or fauna or any endangered ecological communities, and therefore the proposal will not adversely affect on any critical or threatened species, populations or ecological or their habitats.

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

This proposal is likely to have minimal environmental impacts and there are no other likely environmental effects as a result of the proposal. Should the amendment to Hawkesbury LEP 1989 be made, all future development that will result from the proposed amendment will be subject to individual development applications. Through this process, any impacts on the environment can be identified and addressed.

10. How has the planning proposal adequately addressed any social and economic effects?

The assessment of the Planning Proposal found that it has significant potential to provide the following economic and social benefits to the community:

- Increased number and variety of job and training opportunities for the local community;
- Increased housing choice to meet the changing needs of the local community;
- Increased access to local businesses and services within a reasonable walking distance from the surrounding residential developments;
- Windsor Town Centre as a better place to shop, work and live;
- Improved local economy and increased competition among businesses;
- Improved liveliness of the Windsor Town Centre

Given the above circumstances, it is considered that the Planning Proposal will provide significant community benefits.

Section D - State and Commonwealth interests.

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

The area is well served with the existing public transport infrastructure, roads, and utility services including electricity, telecommunications, water supply and sewer to enable future development on the area for residential purposes.

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

Consultation will be undertaken with the government authorities/bodies as per the Gateway Determination of the proposal under Section 56 of the EP & A Act 1979.

4. Maps for proposed land use zones; heritage areas; flood prone land—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument,

Attached are the following maps:

Locality Map
Subject Site Map
Current Zoning Map
Proposed Zoning Map
Flood Map showing 1-in-100year flood level

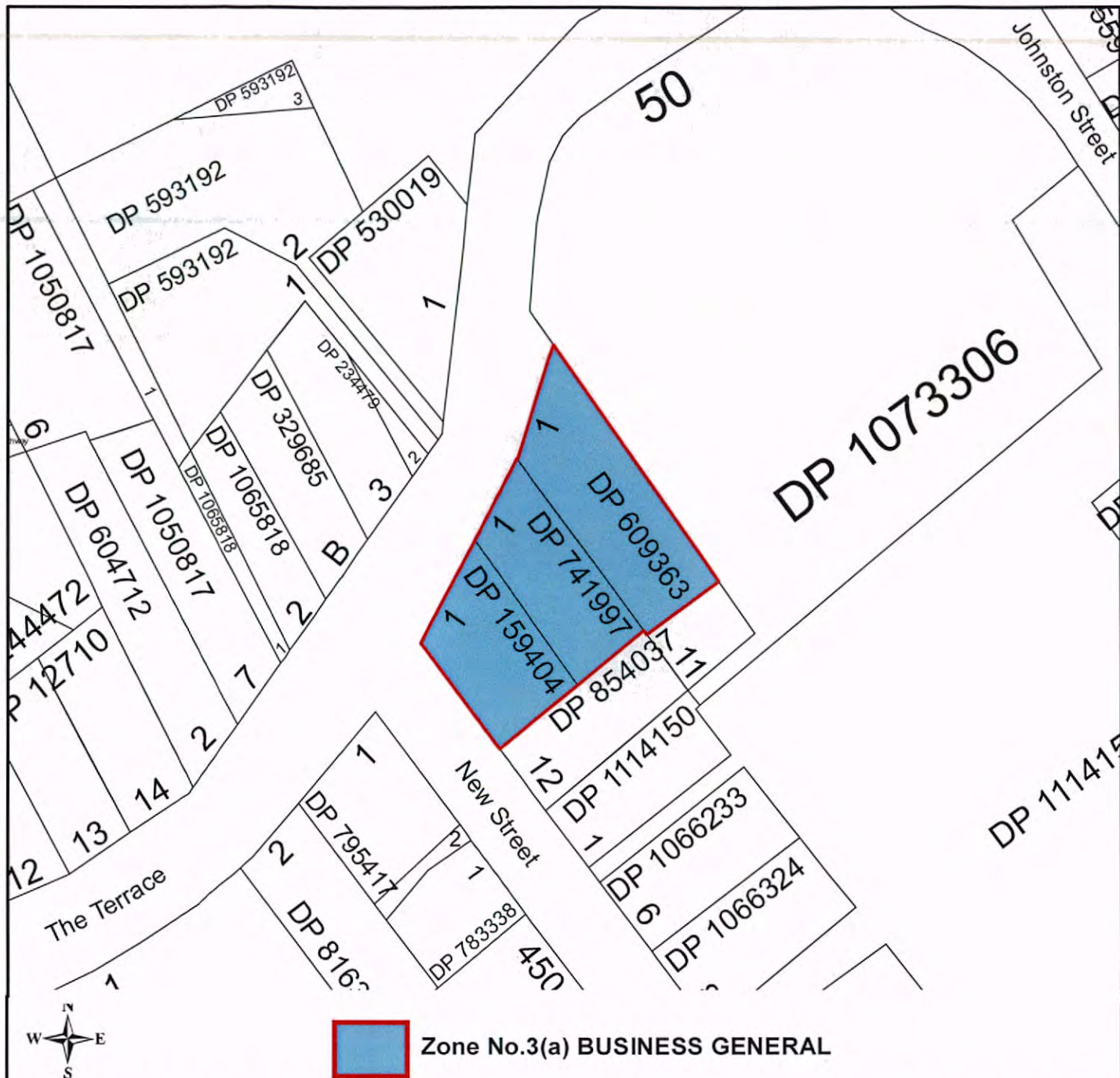
5. Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

Community consultation would need to be undertaken as per the Gateway Determination.

Attachments:

Attachment 1 – Maps
Attachment 2 – Council report dated 8 December 2009
Attachment 3 – Rezoning application from Montgomery Planning Solutions July 2010

Dated: 19 November 2010



1:1,200

COUNTY - CUMBERLAND

PARISH - ST MATTHEW

LOCALITY - WINDSOR

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

CITY OF **HAWKESBURY**

HAWKESBURY LOCAL ENVIRONMENTAL PLAN 1989 (AMENDMENT NO 158)

DRAWN BY: C. URZUA-MONSALVE DATE: 24/11/2010

SUP. DRAFTSPERSON: T.JOHNSON

PLAN OFFICER:

COUNCIL PLAN NO:

DEPT. FILE NO:

PUBLISHED ON THE NSW
LEGISLATION WEBSITE:

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

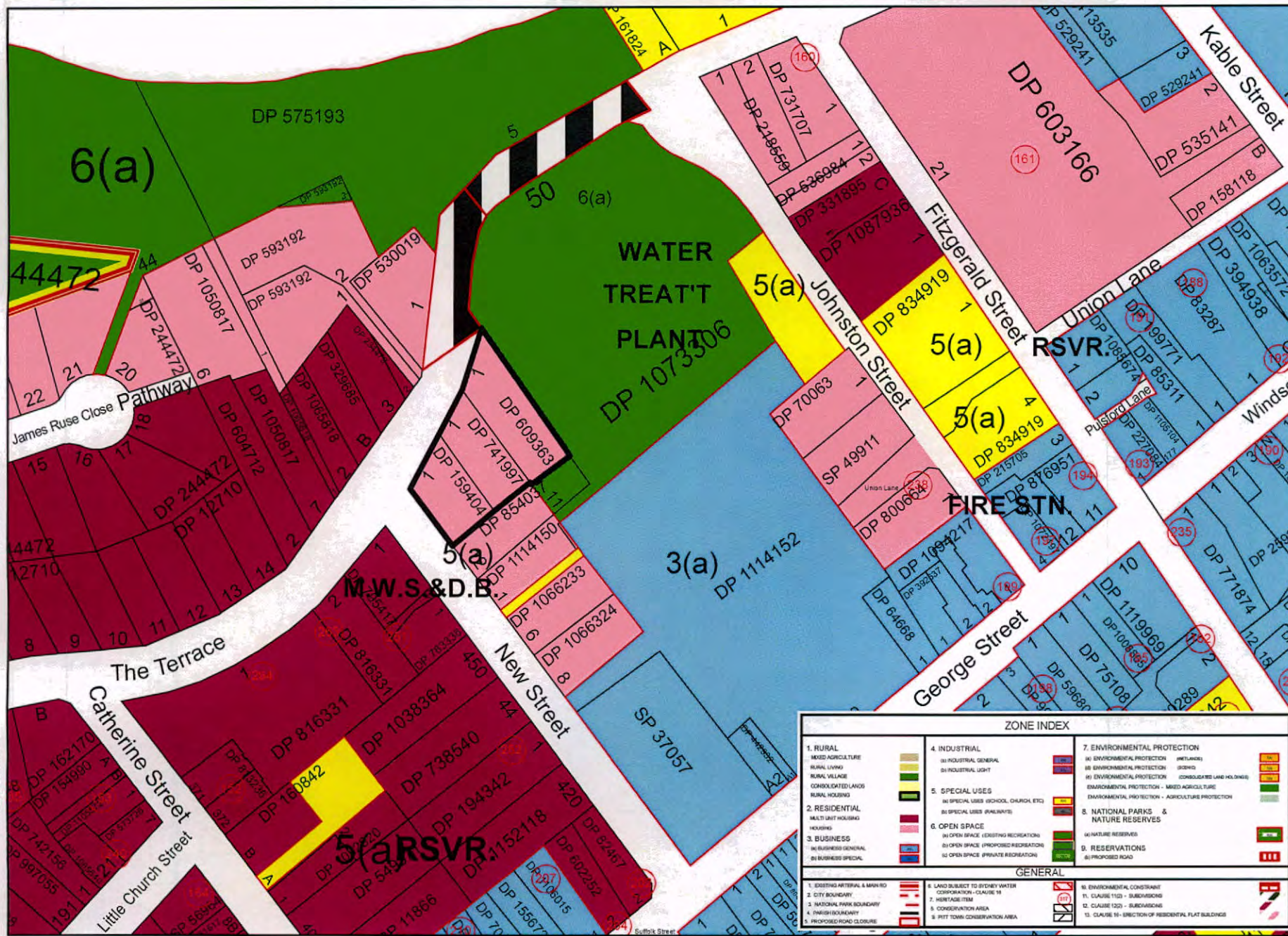
**THIS PLAN AMENDS HAWKESBURY LOCAL
ENVIRONMENTAL PLAN 1989**

CERTIFICATE IN ACCORDANCE WITH THE ENVIRONMENTAL
PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS
GENERAL MANAGER: DATE:



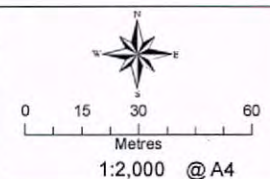
HAWKESBURY CITY COUNCIL

PO Box 146, Windsor NSW 2756
Website: www.hawkesbury.nsw.gov.au
Email: council@hawkesbury.nsw.gov.au
Hours: Monday to Friday 8.30am - 5.00pm
Phone: 02 4560 4444



Legend

- Subject Site
- Land Parcels



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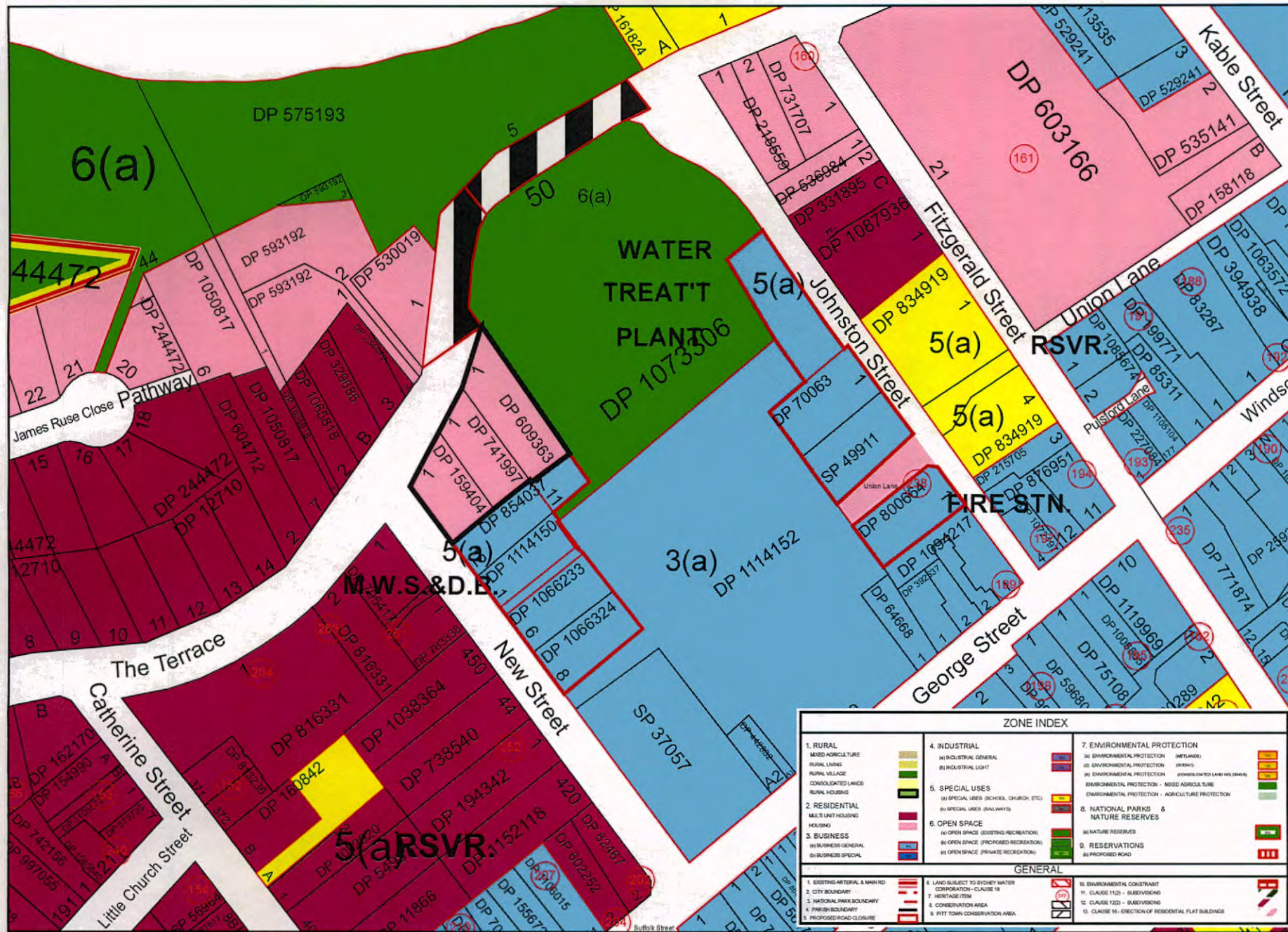
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Hawkesbury Local Environment Plan - Amendment 158 Location Map



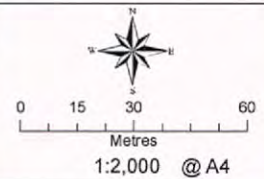
HAWKESBURY CITY COUNCIL

PO Box 146, Windsor NSW 2756
Website: www.hawkesbury.nsw.gov.au
Email: council@hawkesbury.nsw.gov.au
Hours: Monday to Friday 8.30am - 5.00pm
Phone: 02 4560 4444



Legend

- Land Parcels
- Subject Site
- Future General Business 3(a) Draft HLEP 1989 (Amendment 154)



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ZONE INDEX		
1. RURAL (a) MIXED AGRICULTURE (b) RURAL VILLAGE (c) CONSOLIDATED LANDS (d) RURAL HOUSING	4. INDUSTRIAL (a) INDUSTRIAL GENERAL (b) INDUSTRIAL LIGHT	7. ENVIRONMENTAL PROTECTION (a) ENVIRONMENTAL PROTECTION (WETLANDS) (b) ENVIRONMENTAL PROTECTION (BARRIERS) (c) ENVIRONMENTAL PROTECTION (CONSOLIDATED LAND HOLDINGS) (d) ENVIRONMENTAL PROTECTION - MIXED AGRICULTURE (e) ENVIRONMENTAL PROTECTION - AGRICULTURE PROTECTION
2. RESIDENTIAL (a) MULTIPLE UNIT HOUSING (b) HOUSING	5. SPECIAL USES (a) SPECIAL USES (SCHOOL, CHURCH, ETC.) (b) SPECIAL USES (RECREATION)	8. NATIONAL PARKS & NATURAL RESERVES (a) NATURAL RESERVES (b) RESERVATIONS (c) PROPOSED ROAD
3. BUSINESS (a) BUSINESS GENERAL (b) BUSINESS SPECIAL	6. OPEN SPACE (a) OPEN SPACE (EXISTING RECREATION) (b) OPEN SPACE (PROPOSED RECREATION) (c) OPEN SPACE (PRIVATE RECREATION)	
GENERAL		
1. EXISTING ARTERIAL & MARKED	4. LAND SUBJECT TO EVIDENT WATER CORROSION - CLAUSE 18	10. ENVIRONMENTAL CONSTRAINT
2. CITY BOUNDARY	5. HERITAGE ITEM	11. CLAUSE 11(2) - SUBDIVISION
3. NATIONAL PARK BOUNDARY	6. CONSERVATION AREA	12. CLAUSE 10(2) - SUBDIVISION
4. PARISH BOUNDARY	7. CITY TOWN CONSERVATION AREA	13. CLAUSE 11(1) - DIRECTION OF RESIDENTIAL FLAT BUILDINGS
5. PROPOSED ROAD CLOSURE		

Attachment 2

Council Report dated 8 December 2009

Item: 278 CP - Draft Hawkesbury Local Environmental Plan 1989 (Amendment 154) - Rezoning of land in New Street and Johnston Street, Windsor - (95498)

REPORT:

Introduction

Council at its Ordinary Meeting of 24 June 2008 resolved to rezone certain land in New and Johnston Streets, Windsor to either Business General 3(a) under Hawkesbury Local Environmental Plan 1989 or B2 Local Centre under the Standard Template LEP.

The purpose of this report is to advise Council of the public authority consultation and public exhibition of Draft Hawkesbury Local environmental Plan 1989 (Amendment 154) and recommend that the Plan be forwarded to the Department of Planning for finalisation and gazettal.

Sections 54 and 62 consultation with government agencies

On 2 July 2008 Council wrote to the Department of Planning (DoP) pursuant to Section 54 of the EP & A Act 1979 advising of Council's 24 June 2008 resolution. The DoP subsequently advised Council on 1 August 2008 that Council may continue with the preparation of the draft LEP and that the LEP was contain provisions for the control of height and floor space ratios.

On 12 January 2009 Council wrote to the following public authorities under Section 62 of the EP & A Act 1979.

- Roads and Traffic Authority
- Department of Tourism Sport and Recreation
- Deerubbin Local Aboriginal Land Council
- Integral Energy
- Telstra
- Telstra Countrywide-Nepean Hawkesbury Macarthur
- Urban Growth, Sydney Water
- NSW Department of Aboriginal Affairs
- Rail Estate
- NSW Department of Primary Industries – Minerals
- NSW Fire Brigade
- NSW State Emergency Service
- Transgrid
- Department of Defence
- NSW Department of Planning - Heritage Office

Replies were received from Transgrid, Telstra, Sydney Water, NSW Department of Primary Industries, NSW Fire Brigades, Department of Defence, Roads and Traffic Authority, and the DoP - Heritage Branch. None of these public authorities raised objection to the rezoning, however some did alert Council to matters to be considered by Council when assessing any subsequent development applications. In general these matters relate to the provision of services, traffic matters, external lighting and reflective surfaces and the potential of these to interfere with pilots and operations of the RAAF Base Richmond. These matters can be readily dealt with at development application stage and need not be addressed in detail at the rezoning stage.

On 26 June 2009 Council forwarded a copy of the draft LEP, copies of public authority submissions and associated material to the DoP and requested permission to publicly exhibit the draft LEP. It was submitted that Council should not be required to include floor space ratio provisions however did include a

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height limit of 10m in the draft plan. This height limit is consistent with the proposed height limit to be adopted in the Standard instrument LEP.

The DoP provided Council with permission to public exhibit the draft LEP on 4 August 2009. A copy of the draft LEP is attached to this report.

Public Exhibition of the draft LEP

The draft LEP was exhibited from 22 October to 23 November 2009. Five submissions were received, two from Sydney Water and Department of Defence who raised no objection to the proposal, and three from the owners of 66, 68 and 70 The Terrace, Windsor who requested that their properties be included in the rezoning.

In the original rezoning application to Council, the proponent requested that 66, 68 and 70 The Terrace, Windsor be rezoned to Business General 3(a). These properties are currently zoned Housing and each contain a single dwelling. The dwellings on 66 and 68 The Terrace present as single storey in height, with 70 The Terrace being a mix of single and two storey building elements. In considering the rezoning, the report to Council on 24 June 2008 stated:

"The application seeks to rezone 3 properties along The Terrace, being No.s 66, 68 and 70. Whilst these properties are not listed as heritage items they contribute significantly to the streetscape and character of The Terrace and represent the inter-war style of housing. The re-development of these properties has the potential to adversely affect the character of Windsor. Adaptive re-use of the dwellings are encouraged and may compliment development on the adjoining site, however this can be achieved under the current provisions of Hawkesbury LEP 1989."

Council subsequently resolved not to include these properties in the draft LEP. Furthermore, the DoP - Heritage Branch advised via the Section 62 consultations as follows:

"The Heritage Branch also supports the non inclusion of No.s 66, 68 and 70 The Terrace Windsor in the rezoning on the basis that redevelopment of these properties has potential to adversely affect streetscape and character of The Terrace. The Heritage Branch encourages the adaptive reuse of No.s 66, 68 and 70 The Terrace Windsor."

The owners of 66, 68 and 70 The Terrace have requested inclusion in the rezoning to Business General 3(a) for the following reasons:

"To have businesses all around us and not be able to likewise development is in our opinion unjust

The 3 houses in the Terrace would be the only residential properties in the entire block within the boundaries of George, Johnston, New and the Terrace. There would be no buffer between commercial and residential, usually a street or a park.

The Council maintain that they want to retain the streetscape, residential environment, of the Terrace but not that of New St. or Johnston St.

The Terrace has already 2 commercially zoned properties being the 3 storey Professional Retail Centre on the corner of Kable Street and the car park and toilet block on the opposite corner. There is also at least 3 professional premises in The Terrace Physiotherapy with a hydrotherapy pool, Surveyors and a Massage and Aromatherapy business. The Terrace between New and Catherine Street is fully parked out during business hrs by staff from the commercial area. We find this not to be a typical residential environment.

If the properties are re-zoned commercial the council will remain in control of the type and design of the structure. Therefore why is it assumed that any new development would be detrimental to the streetscape."

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Several properties that border the rear of my property have been rezoned to business general and I now face the prospect of having buildings to a maximum of 10 metres high being erected on my back boundary and looking into my property and destroying my privacy.

My property and my two neighbours are now unfairly affected with no proper buffer between our properties and the high rise behind us.

A proper buffer between high rise commercial and residential should be the Terrace itself and Hollands Paddock and New Street.

If my property remains "residential" Council's actions has seriously diminished its value.

Properties along The Terrace in the vicinity of the land proposed to be rezoned can be characterised as having either a low scale residential or park land character. The majority of the dwellings in this area are single storey in height and the park land has an open nature affording views between the river and town centre/residential area. Importantly, due to their elevated and prominent position, the cluster of properties at 66 - 70 and 61 - 67 The Terrace act as a physical and visual transition from the residential area in the south-west to the open park land to the north-east. It is considered that this important physical and visual transition should be maintained and that the 66 - 70 The Terrace should not be rezoned to Business General 3(a) as it would be difficult to maintain or replicate this transition with commercial style re development of these properties.

Finally, it is noted that some properties in The Terrace are being used for medical and surveying services. This is because these activities fall within the definition of "professional and commercial chamber" which are permissible within the Housing zone. As 66 - 70 The Terrace are also zoned Housing these uses would also be permissible subject to Council consent on these properties hence adaptive re-use of these properties is possible.

Conclusion

The submissions received as a result of consultation with public authorities and the community either raise no objection to the draft LEP or raise matters which do not require the draft LEP to be amended or abandoned or a public hearing (as defined by the EP & A Act 1979) to be conducted in respect of the draft LEP. Accordingly, it is recommended that Council forward Draft Hawkesbury Local Environmental Plan 1989 (Amendment 154) to the Department of Planning for finalisation and gazettal.

Conformance to Strategic Plan

The proposal is consistent with the Community Strategic Plan, *Supporting Business and Local Jobs* Direction:

"Help create thriving town centres, each with its own character that attract residents, visitors and business."

The additional commercial zone adjacent to the existing town centre will assist in providing the opportunity for existing and new businesses to expand and add to the existing services of the town.

Funding

There are no funding implications.

Planning Decision

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

ORDINARY MEETING

Meeting Date: 8 December 2009

RECOMMENDATION:

That Council forward the Draft Hawkesbury Local Environmental Plan 1989 (Amendment 154) to the Department of Planning requesting that the plan be finalised and made.

ATTACHMENTS:

- AT - 1** Draft Hawkesbury Local Environmental Plan 1989 (Amendment 154) Written Instrument and Map
- AT - 2** Locality Plan

ORDINARY MEETING

Meeting Date: 8 December 2009

AT - 1 Draft Hawkesbury Local Environmental Plan 1989 (Amendment 154)

Written Instrument and Map

**DRAFT HAWKESBURY LOCAL ENVIRONMENTAL PLAN 1989
(AMENDMENT No. 154)**

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the
Environmental Planning and Assessment Act 1979.

()
Minister for Planning

**DRAFT HAWKESBURY LOCAL ENVIRONMENTAL PLAN 1989
(AMENDMENT No. 154)**

under the

Environmental Planning and Assessment Act 1979

1. Name of plan

This plan is *Hawkesbury Local Environmental Plan 1989 (Amendment No. 154)*.

2. Aims of plan

This plan aims to rezone the land to which the plan applies from:

- a. Housing to Business General;
- b. Special Uses 5(a)-Water Treatment to Business General;
- c. Open Space (Existing Recreation) to Business General.

3. Land to which plan applies

This plan applies to land in Johnston and New Streets, Windsor, as shown on the map marked "Hawkesbury Local Environmental Plan 1989 (Amendment No. 154) deposited in the office of the Council of the City of Hawkesbury.

4. Amendment of Hawkesbury Local Environmental Plan 1989

Hawkesbury Local Environmental Plan 1989 as set out in Schedule 1

Schedule 1 Amendments**[1] Clause 5 Definitions**

Insert in the appropriate order in the definition of ***the map*** in clause 5(1):

Hawkesbury Local Environmental Plan 1989 (Amendment No. 154)

[2] Clause 58

Insert after Clause 57:

Clause 58 Residential development at Johnston and New Streets, Windsor

- (1) This clause applies to the following lots as shown coloured blue on the map marked Hawkesbury Local Environmental Plan 1989 (Amendment No. 154):

<i>Property Description</i>	<i>Address</i>
<i>Lot 8 DP1066324</i>	<i>8 New Street</i>
<i>Lot 6 DP1066233</i>	<i>6 New Street</i>
<i>Part Lot 51 DP1073306</i>	<i>Walkway to New Street</i>
<i>Lot 1 DP804295</i>	<i>4 New Street</i>
<i>Lot 11&12 DP854037</i>	<i>2 New Street</i>
<i>Part Lot 51 DP1073306</i>	<i>Land on the south western side of Johnston Street</i>
<i>Lot 1 DP70063</i>	<i>17 Johnston Street</i>
<i>SP49911</i>	<i>19 Johnston Street</i>
<i>Lot 1 DP800664</i>	<i>23-27 Johnston Street</i>

- (2) In this clause, ***commencement day*** means the day on which *Hawkesbury Local Environmental Plan 1989 (Amendment No 154)* commenced.
- (3) Notwithstanding Clause 9, a dwelling that was lawfully situated on any land before the commencement day may, with the consent of the Council, be extended, altered, added to or replaced however the number of dwellings on the land shall not be increased. Where no dwelling existed on any land before the commencement day, the Council may consent to the erection of one but no more than one dwelling.
- (4) The height of a building on any land shall not exceed 10 metres.

ORDINARY MEETING

Meeting Date: 8 December 2009

AT - 2 Locality Plan



oooO END OF REPORT Oooo

ORDINARY MEETING
MINUTES: 8 December 2009

Item: 277 **CP - Representations to Ageing, Disability and Home Care, NSW Department of Human Services - (95498, 96328, 116110, 108433)**

MOTION:

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

Refer to RESOLUTION

451 RESOLUTION:

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

That Council make written representations to the Regional Director for the Metro North Region, Ageing, Disability and Home Care, NSW Department of Human Services, on behalf of the Hawkesbury Community Care Forum in relation to the issues identified in this report.

Item: 278 **CP - Draft Hawkesbury Local Environmental Plan 1989 (Amendment 154) - Rezoning of land in New Street and Johnston Street, Windsor - (95498)**

Councillor Bassett declared a significant non-pecuniary conflict of interest in this matter as the applicant donated to the Londonderry State Election Campaign and he was a candidate at the last state election. He left the Chamber and did not take part in voting or discussion on the matter.

Councillor Conolly declared a significant non-pecuniary interest in this matter as the applicant made a donation to the Liberal Party prior to the 2007 State Election which directly benefited his campaign as candidate for Riverstone. He left the Chamber and did not take part in voting or discussion on the matter.

452 RESOLUTION:

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

That Councillor Paine assume the Chair as the Mayor and Deputy Mayor have declared interests in this matter.

Councillor Paine assumed the Chair.

Ms Cheryl Price, proponent, addressed Council.

MOTION:

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

Refer to RESOLUTION

ORDINARY MEETING
MINUTES: 8 December 2009

453 RESOLUTION:

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

That:

1. Council forward the Draft Hawkesbury Local Environmental Plan 1989 (Amendment 154) to the Department of Planning requesting that the plan be finalised and made.
2. Council resolve to rezone the following properties from Housing to Business General 3(a)/B2 Local Centre

Lot 1 DP159404	70 The Terrace, Windsor
Lot 1 DP741997	68 The Terrace, Windsor
Lot 1 DP609363	66 The Terrace, Windsor

3. A Planning Proposal be prepared, at the landowner's expense, to support the rezoning of the properties.
4. Prior to the finalisation of the draft LEP, a Development Control Plan be prepared for Windsor, in accordance with the principles of the Windsor Master Plan, to assist in the guidance of development on these properties in relation to setbacks, height and heritage matters.
5. The Draft LEP and the draft Standard Template LEP be consolidated prior to sending to the Minister for gazettal if the progress and timing of the two draft plans becomes aligned.

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

For the Motion	Against the Motion
Councillor Mackay	Councillor Calvert
Councillor Porter	Councillor Williams
Councillor Rasmussen	Councillor Paine
Councillor Reardon	
Councillor Stubbs	
Councillor Tree	
Councillor Whelan	

Councillors Bassett and Conolly declared a significant non-pecuniary conflict of interest in this matter and were not in the Chamber when the vote was taken.

Councillor Basset assumed the Chair as Mayor.

Attachment 3

**Rezoning application from
Montgomery Planning Solutions
July 2010**

Planning Proposal

Montgomery
Planning
Solutions

Lot 1 DP 609363 (No. 66),
Lot 1 DP 741997 (No. 68) and
Lot 1 DP 159404 (No. 70)

The Terrace, Windsor



Submitted to
Hawkesbury City Council

July 2010

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1. Introduction & Background

Montgomery Planning Solutions has been engaged by the owners of 66, 68 and 70 The Terrace, Windsor to prepare a planning proposal to support the rezoning of the properties from Housing to Business General 3(a) or B2 Local Centre.

The land, which is 2,214 square metres in area, is currently zoned Housing under the provisions of Hawkesbury Local Environmental Plan 1989. The Council has prepared a draft local environmental plan to rezone the remaining residential properties on the northern side of New Street from Housing to a Business zone. The subject land will therefore be effectively surrounded by commercial development.

On 24 June 2008 Hawkesbury City Council considered an application to rezone a number of properties adjoining Hollands Paddock, Howe Park and the Terrace to Business General 3(a). The application included the subject land; 66 – 70 The Terrace. However, due to concerns raised at the time about the contribution to the streetscape by the existing dwellings, the subject land was excluded from the rezoning.

A draft local environmental plan was prepared and exhibited during October and November 2009. The owners of 66-70 The Terrace made submissions concerning the exclusion of the properties from the draft local environmental plan. After considering these submissions, the Council resolved on 8 December 2009 (in relation to the subject properties) that:

“.....2. Council resolve to rezone the following properties from Housing to Business General 3(a)/B2 Local Centre

Lot 1 DP159404	70 The Terrace Windsor
Lot 1 DP741997	68 The Terrace Windsor
Lot 1 DP609363	66 The Terrace Windsor

3. A Planning Proposal be prepared, at the landowner's expense, to support the rezoning of the properties.”

Attachment 1 is a letter dated 22 December 2009 addressed to Mr & Mrs Woodford, which places the above quote in context.

This Planning Proposal provides a review of environmental considerations and the information necessary to prepare a draft local environmental plan in accordance with the Council's resolution. A framework is also suggested for a site specific development control plan.

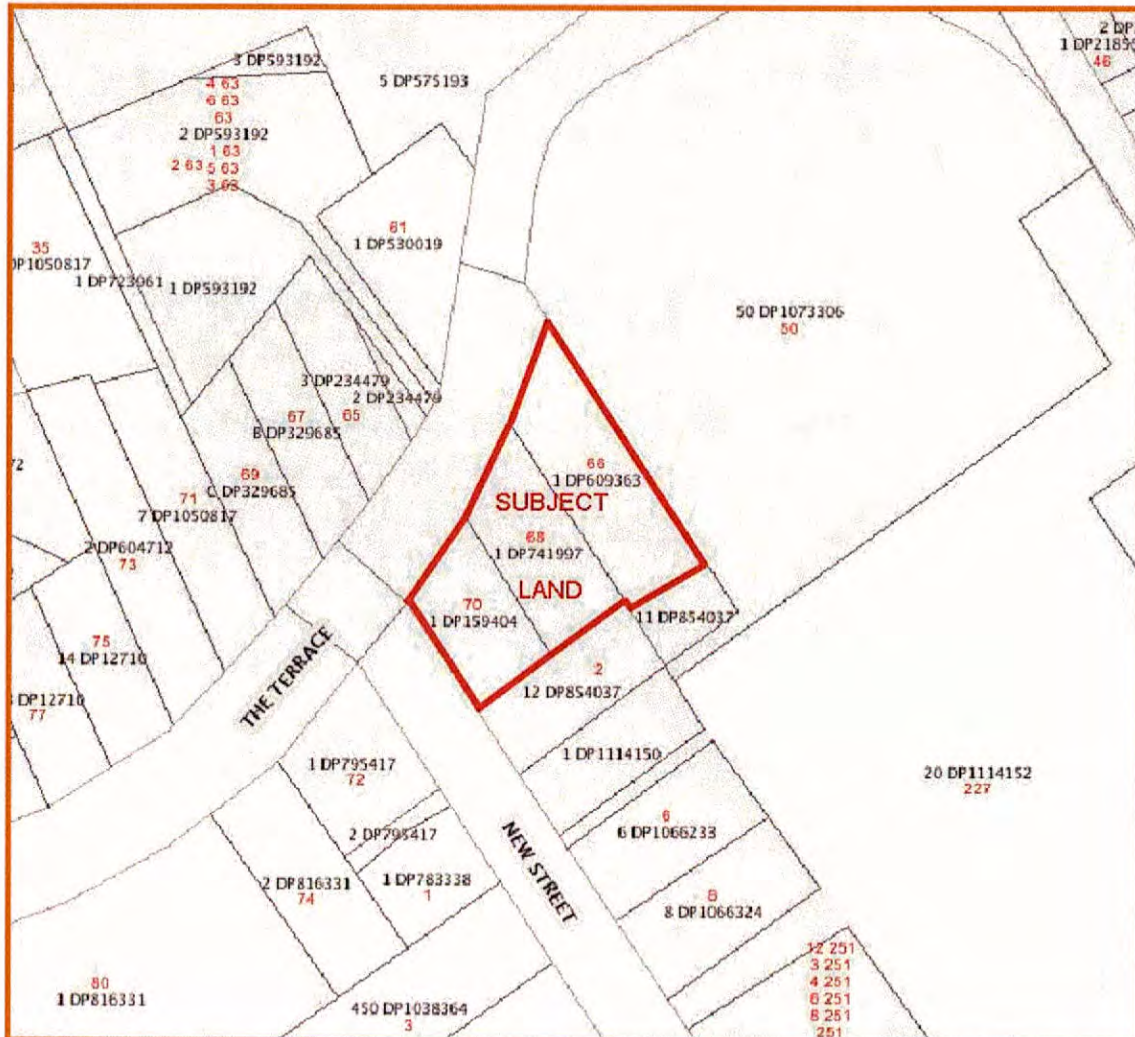
It is recommended that Council prepare a draft local environmental plan to rezone the land to 3(a) (Business General). Should the template LEP precede this draft plan, the appropriate zone for the land is B2 Local Centre.

2. The Site & Surroundings

2.1 Description of Site

The land is described as Lot 1 DP609363, Lot 1 DP741997 and Lot 1 DP159404 (Nos. 66-70) The Terrace, Windsor. The land is an irregular shape with an area of 2,214m² and a frontage to The Terrace of 64.1 metres and frontage to New Street of 22.7 metres.

Figure 1: Subject Land Source – NSW Department of lands SIX Viewer



The land is located on the north-east corner of the intersection of the Terrace and New Street. A separate dwelling is erected on each of the three lots, along with ancillary outbuildings etc.

Figure 2: Dwellings 66 – 70 The Terrace

2.2 Surrounding Land Use

The land is surrounded by a variety of land uses. Howe Park adjoins the land to the north-east. Land adjoining to the south-east comprises single dwellings. Dwellings are also located on the opposite side of New Street and The Terrace. The Riverview Shopping Centre, which comprises a supermarket, specialty shops and undercroft parking, is also adjacent to the site to the south-east.

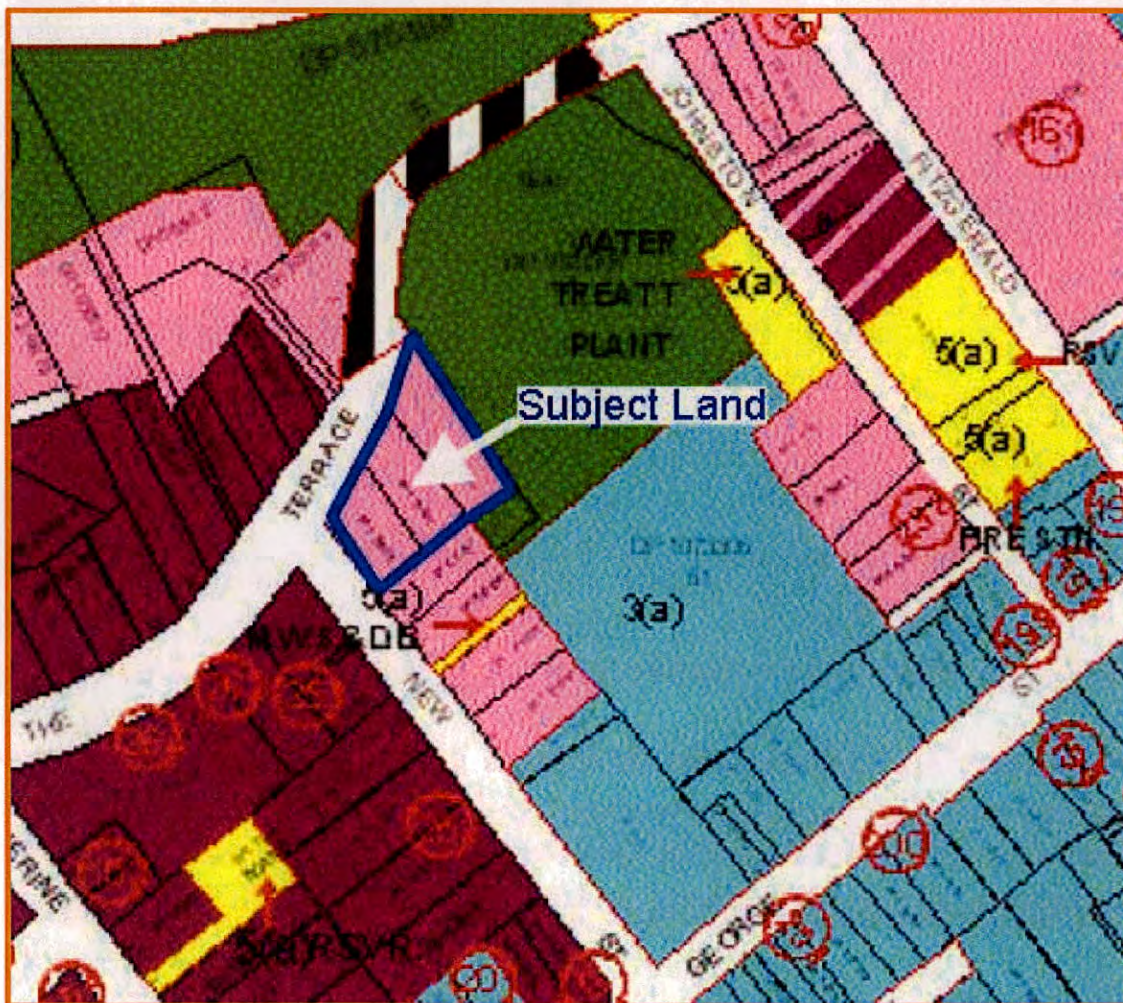
Figure 3: Surrounding Land Use Source – Source – NSW Department of lands SIX Viewer

2.3 Surrounding Zoning

The adjoining Howe Park is zoned 6(a) Open Space (Existing Recreation). Land opposite the site on the north-west side of The Terrace is a mix of Housing and Multi Unit Housing zones. The land on the south-west side of New Street is zoned Multi Unit Housing.

The four dwellings on the northern side of New Street are currently zoned Housing, however this land is the subject of Draft Local Environmental Plan 1989 Amendment 154. This amendment will zone all of the remaining residential zoned land within the block bounded by George Street, Johnston Street, The Terrace and New Street to General Business 3(a). Draft LEP 1989 Amendment 154 is *Attachment 2*.

Figure 4: Surrounding Zoning Source - LEP 1989 Map Sheet 4



3. Statutory Context

The land is controlled by Hawkesbury Local Environmental Plan 1989 (HLEP 1989) and Sydney Regional Environmental Plan No. 20 Hawkesbury - Nepean River (SREP 20). There are also two relevant draft local environmental plans.

3.1 Hawkesbury Local Environmental Plan 1989

The land is zoned Housing under the provisions of Hawkesbury LEP 1989. The objectives of the Housing Zone are:

- (a) *to provide for low density housing and associated facilities in locations of high amenity and accessibility,*
- (b) *to protect the character of traditional residential development and streetscapes,*
- (c) *to ensure that new development retains and enhances the existing character,*
- (d) *to ensure that development is sympathetic to the natural amenity and ecological processes of the area,*
- (e) *to enable development for purposes other than residential only if it is compatible with the character of the living area and has a domestic scale and character,*
- (f) *to control subdivision so that the provision for water supply and sewerage disposal on each resultant lot is satisfactory to the Council,*
- (g) *to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services.*

Although the existing dwellings on the land would satisfy most of the objectives for the Housing zone, the level of residential amenity is questionable given the proximity of the Riverview Shopping Centre to the land and the current draft LEP to rezone all remaining residential land within this block to Business General.

Clause 25 – Development of flood liable land

The 1 in 100 year flood level for Windsor is 17.3m AHD. The subject land ranges in elevation from approximately 14.5m to 19.5m AHD.

Any future buildings will satisfy the relevant provisions of Clause 25, ie

- 2) *A building shall not be erected on any land lying at a level lower than 3 metres below the 1-in-100 year flood level for the area in which the land is situated, except as provided by subclauses (4), (6) and (8).*
- 3) *Each habitable room in a building situated on any land to which this plan applies shall have a floor level no lower than the 1-in-100 year flood level for the area in which the land is located.*
- 5) *The Council shall, in the assessment of a development application, consider the flood liability of access to the land and, if the land is within a floodway, the effect of isolation of land by flooding, notwithstanding whether other aspects of this clause have been satisfied.*

Accordingly, it is considered that the proposal is consistent with Clause 25 of Hawkesbury LEP 1989.

3.2 Hawkesbury LEP 1989 Draft Amendment 154

Following public exhibitions and receipt of submissions, Hawkesbury City Council resolved on 8 December 2009 to forward the Draft Hawkesbury Local Environmental Plan 1989 (Amendment 154) to the Department of Planning requesting that the plan be finalised and made. *Attachment 2* is a copy of the draft plan as submitted to the Department of Planning.

It can be seen under Amendment 154 that the subject land is the only remaining residential zoned land within the block bounded by George Street, Johnston Street, The Terrace and New Street. The Council also resolved as follows in relation the subject land.

".....2. Council resolve to rezone the following properties from Housing to Business General 3(a)/B2 Local Centre

Lot 1 DP159404	70 The Terrace Windsor
Lot 1 DP741997	68 The Terrace Windsor
Lot 1 DP609363	66 The Terrace Windsor

3. A Planning Proposal be prepared, at the landowner's expense, to support the rezoning of the properties."

3.3 Hawkesbury Draft LEP 2009

Hawkesbury Draft Local Environmental Plan 2009 applies to the subject land. The zoning of the subject land is R2 Low Density Residential.

Figure 5: Draft Hawkesbury LEP 2009 Extract from Map 18



It is noted that the major difference between the current Housing zone and the proposed R2 zone is that the Housing zone permits a range of professional and commercial chambers, whereas the R2 zone limits this type of commercial use to health consulting rooms.

3.4 Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River

The aim of SREP 20 is to protect the environment of the Hawkesbury – Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

Part 2 of SREP 20 provides general planning considerations, specific planning policies and recommended strategies. The following specific policies and strategies are relevant to the proposed development:

(7) Riverine scenic quality

Policy: The scenic quality of the riverine corridor must be protected.

Strategies:

- (a) *Maintain areas of extensive, prominent or significant vegetation to protect the character of the river.*
- (b) *Ensure proposed development is consistent with the landscape character as described in the Scenic Quality Study.*
- (c) *Consider the siting, setback, orientation, size, bulk and scale of and the use of unobtrusive, non-reflective material on any proposed building or work, the need to retain existing vegetation, especially along river banks, slopes visible from the river and its banks and along the skyline, and the need to carry out new planting of trees, and shrubs, particularly locally indigenous plants.*
- (d) *Consider the need for a buffer between new development and scenic areas of the riverine corridor shown on the map as being of significance beyond the region (which are also scenic areas of significance for the region) or so shown as being of regional significance only.*
- (e) *Consider the need for controls or conditions to protect those scenic areas.*
- (f) *Consider opportunities to improve riverine scenic quality.*

It is considered that the proposed rezoning is consistent with the Riverine Scenic Quality strategy of SREP 20.

(10) Urban development

Policy: All potential adverse environmental impacts of urban development must be assessed and controlled.

Strategies:

- (a) When considering a proposal for the rezoning or subdivision of land which will increase the intensity of development of that land (for example, by increasing cleared or hard surface areas) so that effluent equivalent to that produced by more than 2,500 people will be generated, consider requiring the preparation of a Total Water Cycle Management Study or Plan.*
- (b) Consider urban design options to reduce environmental impacts (such as variable lot sizes and shapes, and the clustering of development).*

The proposal will not significantly increase the intensity of development on the land. Urban design matters and any increase in runoff related to future development will be subject to Council's development control plan and will be dealt with in future development applications for the site.

(12) Metropolitan strategy

Policy: Development should complement the vision, goal, key principles and action plan of the Metropolitan Strategy.

Strategies:

- (a) Consider the impacts of transport infrastructure proposals on water quality and air quality.*
- (b) Consider the impacts of metropolitan waste disposal on water quality.*
- (c) Consider the impacts of development on air quality.*
- (d) Consider the need for waste avoidance, waste reduction, reuse and recycling measures.*
- (e) Consider the implications of predicted climate change on the location of development and its effect on conservation of natural resources.*

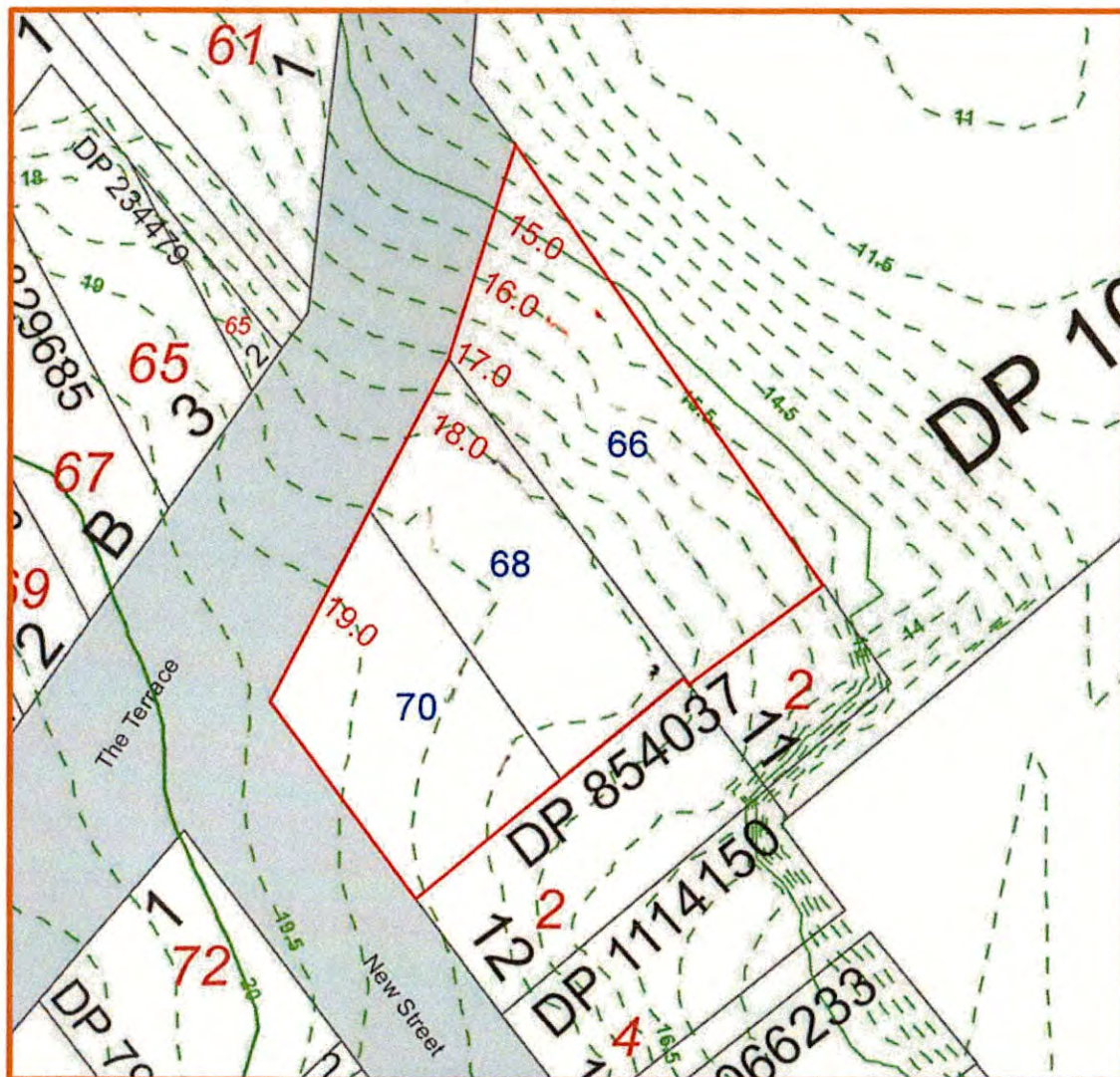
It is considered that the proposal will enable the land to be developed for commercial purposes and therefore provide additional variety and availability of business land within the Windsor town centre. The impacts in terms of the Metropolitan Strategy are negligible, however the proposal accords with the Strategy.

4. Environmental Considerations

4.1 Flooding

The 1 in 100 year flood level for Windsor is 17.3m AHD. The subject land ranges in elevation from approximately 14.5m to 19.5m AHD. Figure 6 shows contours at 0.5m intervals over the land.

Figure 6: Contours Source – Hawkesbury City Council GIS extract



It can be seen that numbers 68 and 70 are at or above the 1 in 100 year flood level. Number 66 varies in height from approximately 14.5m to 18m and is therefore partially affected by the 1 in 100 year flood level. As the lowest level is 14.5m, there is no statutory prohibition under Hawkesbury Local Environmental Plan 1989 to future development of the land.

This area is likely to be isolated in a 1 in 100 year flood event and it could therefore be argued that commercial use of the land is preferable to residential.

The New South Wales Floodplain Development Manual published in April 2005 states;

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

- Flood prone land is a valuable resource that should not be sterilised by unnecessarily precluding its development; and
- If all development applications and proposals for rezoning of flood prone land are assessed according to rigid and prescriptive criteria, some appropriate proposals may be unreasonably disallowed or restricted, and equally quite inappropriate proposals may be approved."¹

The Manual also includes the following policy statement at page 1:

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

- A merit approach shall be adopted for all development decisions in the floodplain to take into account social, economic and ecological factors, as well as flooding considerations."

The Manual clearly advocates that decisions should be made on the merits of each specific proposal.

In my opinion, the proposed use of the land for commercial purposes rather than residential is a more appropriate use of the land in terms of the Floodplain Development Manual.

4.2 Traffic and Access

Access to the land is available from The Terrace and also from New Street (in an overall redevelopment). New Street and this section of the The Terrace are currently subjected to traffic circulating around the Windsor commercial centre. The existing road network has capacity for any additional traffic which may be generated by future commercial development on the site.

On-site parking arrangements would be subject to a future development application, in compliance with the Hawkesbury Development Control Plan.

It is considered that the proposed rezoning will have no significant impact on traffic in the vicinity.

¹ Floodplain Development Manual: the management of flood liable land, NSW Government, April 2005, pg 1.

4.3 Services

All services are connected to the site, ie water, power, sewer and telecommunications.

5. Appropriate Zone for the Site

Hawkesbury City Council has considered the appropriate zone for the site and on 8 December 2009 Council resolved to rezone the site from Housing to Business General 3(a) /B2 Local Centre.

Business General 3(a) is the appropriate zone under Hawkesbury Local Environmental Plan 1989. However, should the draft LEP for the subject site be finalised after the gazettal of Hawkesbury LEP 2009, B2 Local Centre would be the appropriate zone.

6. Strategic Context

6.1 North West Subregional Strategy

This Draft Strategy was released for comment in December 2007. The Strategy identifies an employment capacity target for Hawkesbury of 3,000 new jobs by 2031. This proposal will assist in adding to commercial land stocks and meeting the target.

6.2 Hawkesbury Employment Lands Study

The Hawkesbury Employment Lands Study was adopted by Council in December 2008. The study was prepared to provide a planning framework to support and enhance the economic competitiveness of the Region. It was undertaken within the employment lands planning framework set by the Metropolitan Strategy and the draft North West Subregional Strategy.

A key finding of the study is that although there is no immediate shortage of industrial or business zoned land, constraints to development are apparent. In commercial / business areas existing lot configurations, heritage and existing development constrains the potential for renewal and reinvestment.²

It is considered that this minor addition of commercial / business land to the Windsor commercial centre will assist in providing additional unconstrained land for development.

² Hawkesbury Employment Land Strategy, adopted report Dec 2008, SGS Economics and Planning, pg 111

7. Section 117 Directions

The following S117 Directions (as issued by the Minister for Planning on 17 July 2007) are relevant to the proposal.

Direction	Consistency	Reason
1.1 Business and Industrial Zones	Yes	<p>The draft LEP will give effect to the objectives of the Direction by encouraging employment growth in a suitable location.</p> <p>The draft North West Subregional Strategy identifies Windsor as Town Centre and suggests that although potential for growth is limited due to flooding constraints, there remains the opportunity to renew and improve the physical, economic and cultural environment of the centre.</p> <p>The draft LEP will partially address the key finding of the Hawkesbury Employment Lands Study.</p>
3.1 Residential Zones	Yes	<p>The draft LEP proposes rezoning land from <u>Housing</u> to <u>Business General 3(a)</u>. This will allow the site to be redeveloped for mixed use, including some shop top housing</p>
3.4 Integrated Land Use and Transport	Yes	<p>The land to which the draft LEP applies is located within the Windsor Town Centre, approximately 1,000m from Windsor Station (which is located outside of the Town Centre). The draft LEP will provide additional employment opportunities in a locality which is well serviced by public transport. The draft LEP is consistent with the relevant guidelines and policy.</p>
4.3 Flood Prone Land	Yes	<p>The provisions of the draft LEP that are inconsistent are of minor significance as only a small portion of the site is below the 1 in 100 year.</p> <p>The subject land is better suited to business use than residential.</p> <p>It is considered that proposal is consistent with the principles of the NSW Floodplain Development Manual.</p>
5.1 Implementation of Regional Strategies	Yes	<p>The draft North West Subregional Strategy is relevant to the proposal. The draft strategy identifies Windsor as Town</p>

		Centre and suggests that although potential for growth is limited due to flooding constraints, there remains the opportunity to renew and improve the physical, economic and cultural environment of the centre. The draft plan is consistent with the draft Subregional Strategy.
6.1 Approval and Referral Requirements	Yes	The draft LEP will not require the concurrence of the Minister or a public authority and will not identify any use as designated development.

It is considered that the proposal is consistent with all relevant Section 117 Directions.

8. NSW Department of Planning Circulars

PS 06-005: Local environmental plan review panel – 16 February 2006

The Circular explains the role of the LEP review panel and sets out the evaluation criteria to be used.

Attachment 2 to this submission is the LEP pro-forma evaluation criteria for spot rezoning with comments relevant to the proposal. The draft LEP would meet the evaluation criteria.

PS 06-008: Standard Instrument (LEPs) Order 2006 – 3 April 2006

The Circular gives an overview of the Order and its implications for preparing local environmental plans. Council has prepared and exhibited draft Hawkesbury LEP 2009 which is a city wide plan prepared in accordance with the Standard Instrument.

This planning proposal supports the Council's resolution that the land be rezoned to General Business 3(a) or alternatively, B2 Local Centre, should the template LEP precede this draft plan.

PS 06-013: Local environmental studies – 2 May 2006

The Circular explains the processes used to identify when a local environmental study is required for an amendment to a local environmental plan. The Circular gives guidance on process, to the information required to support rezoning applications, who prepares a local environmental study, terms of reference and what should occur with material prepared on behalf of a proponent.

In particular, the Circular states:

"The decision to rezone land and the amount of information required to make this decision is a matter for council. However, it is not appropriate that detailed local environmental study style rezoning applications be expected before council or the Director-General has agreed to proceed with a rezoning.

As such councils should refrain from asking for excessive amounts of detail before a proposal is considered by council and the Director-General."

The Circular then provides a list to be used as a guideline for information to be provided.

Council has already resolved to prepare the draft local environmental for the site. It is submitted that this planning proposal contains sufficient information to allow Council to proceed to preparation of the draft local environmental plan. A local environmental study is not required.

PS 06-015: Spot rezoning – 15 June 2006

The Circular restates the evaluation criteria set down in PS 06-005 and concludes that the Department will continue to assess spot rezoning proposals on a merit basis.

It is submitted that the proposal has sufficient merit to warrant consideration under this Circular.

9. Justification for Rezoning

The NSW Department of Planning Circular PS 06-013, issued on 2 May 2006, suggests that the information submitted in support of a rezoning application should include compelling reasons for the proposed rezoning.

The reasons in support of the proposed rezoning are summarised as:

1. With the recent adoption of draft amendment 154 to Hawkesbury LEP 1989, the subject land is the only remaining residential zoned land within the block bounded by George Street, Johnston Street, The Terrace and New Street.
2. The residential amenity of the subject land has been affected by the construction of the adjacent Riverview shopping centre. The residential amenity will be further diminished by construction of future commercial development on the land adjoining the subject land (land rezoned by draft LEP amendment 154).
3. The proposed rezoning will make better use of existing infrastructure and public transport services.

4. The proposal will assist in providing additional unconstrained land for new commercial development, and subsequent employment opportunities in the Windsor Town Centre.
5. The proposal will provide the public road (The Terrace) as physical separation between the commercial and residential zones.
6. The proposed R2 Low Density Residential zone will severely limit the ability for adaptive re-use of the dwellings, as the zone prohibits professional and commercial chambers.

11. Development Controls

In response to Section 62 consultations in respect of draft LEP 1989 (amendment 154), the Heritage Branch of the Department of Planning advised:

"The Heritage Branch also supports the non inclusion of No.s 66 ,68 and 70 The Terrace Windsor in the rezoning on the basis that redevelopment of these properties has potential to adversely affect streetscape and character of the Terrace. The Heritage Branch encourages the adaptive reuse of No.s 66, 68 and 70 The Terrace Windsor."

Following the Council's subsequent decision to rezone 66-70 The Terrace, MPS has discussed the matter with the Council's Director of City Planning. MPS was advised that it would be appropriate to prepare the framework for a development control plan which will ensure that future development of the site is in character with the established streetscape of the Terrace.

In our observation of the character and streetscape of The Terrace, it would be appropriate to control the following aspects of any future development on the site:

- Building Height
- Building Bulk and Appearance
- Roof Form
- Boundary Setback
- Front Gardens

11.1 Building Form

The Terrace comprises a mix of detached dwellings and some multi unit housing. The existing dwellings encompass a number of heritage listed cottages and examples of cottage styles from various decades of the 20th Century. Although the subject land contains no heritage listed buildings and is at the town centre end of The Terrace, there is merit in retaining some aspects of the existing building form.

Figure 7 shows the dwelling at No. 66 The Terrace with No. 68 in the background. This image was taken across Howe Park from the north-east. Figure 8 shows the dwelling at No. 70 The Terrace with No. 68 in the background.

Figure 7: 66 & 68 The Terrace**Figure 8: 70 & 68 The Terrace**

It can be seen from these photos that No. 66 is part single storey, part two storey, while Nos. 68 & 70 are two storey buildings. It is also observed that the building heights follow the natural landform to some extent. There is a difference of approximately 5 metres in ground level from New Street to the northern corner of No. 66. The building roof heights tend to follow this.

It is also noted that the adjacent Riverview shopping centre is of similar height as seen in the background of Figure 9.

Figure 9: 66 -70 The Terrace (Riverview Shopping Centre background left)*Proposed Development Controls – Building Form*

1. Buildings shall have a maximum of two storeys, measured from natural ground level.
2. Should a single building be constructed on the site, the roof shall take the form of three separate buildings.
3. Buildings shall relate to The Terrace with a pedestrian scale, and at least one pedestrian entrance from The Terrace.
4. Buildings must include windows facing The Terrace on each floor.
5. An application for development shall be accompanied by a character statement which demonstrates how the proposed building is appropriate in terms of the character of the locality.

11.2 Boundary Setback

The setback of existing dwellings to The Terrace varies generally between 0 and approximately 10 metres. The most common setback is approximately 4 to 5 metres. The three dwellings on the subject site all have different setbacks as follows:

No. 66:	Approx 12m – 20m
No. 68	Approx 1m -7m
No. 70	Approx 5m – 7m

It is noted that as a result of the narrow road pavement in front of the subject land, the grassed footway in this location is approximately 5.0 - 5.5 metres wide. By comparison, the general footway width in the residential section of The Terrace is approximately 2.5 – 3.0 metres.

There is currently no setback requirement for commercial development on land within the 3(a) Business Zone. The challenge for this site is to retain elements of the residential streetscape, while not unduly reducing the depth and width of the land. The wide grassed footway will add to the effective visual setback. Accordingly, the following development controls are proposed.

Proposed Development Controls - Setback

1. Any wall which faces The Terrace shall have a maximum continuous length of 10 metres without articulation.
2. Any wall facing The Terrace which is longer than 10 metres must include varying setbacks from the Terrace.
3. Buildings shall be setback a minimum of 2.5 metres from The Terrace.

It is considered that building setbacks are not required for New Street or for Howe Park.

11.3 Landscaping

An important part of the existing streetscape of The Terrace is the domestic cottage-style front gardens. Any proposed new development should include landscaping within the setback to The Terrace which is of domestic scale.

Proposed Development Controls - Landscaping

1. The area between the building and the boundary to The Terrace shall be landscaped with a variety of lawn, trees, shrubs and gardens to reflect the domestic streetscape of The Terrace.
2. An application for development shall be accompanied by a detailed landscaping plan which demonstrates compliance with paragraph 1 above.

12. Conclusion

The purpose of this planning proposal is to examine the suitability of the land for rezoning to business general. The current *Housing* zone is inappropriate given the existing and proposed commercial uses on adjoining and adjacent land.

It is considered that the *R2 Low Density Residential* zone proposed by draft Hawkesbury LEP 2009 does not give sufficient flexibility in terms of permissible commercial/business uses for the adaptive reuse of the existing dwellings. Also conversion of the existing dwellings is not necessarily the most economic use of the land.

A purpose built commercial building, subject to appropriate controls as recommended will provide a far better outcome for the site in terms of economic use, internal layout and urban design.

Hawkesbury City Council has resolved to rezone the site for business purposes. This Planning Proposal is prepared in support of the Council's decision to rezone the land.

Having considered all matters relevant to the preparation of a draft local environmental plan, I make the following conclusions:

1. The land is suitable for commercial / business development, or a mixed use development which includes first floor residential accommodation.
2. The proposal is consistent with State and Regional Policies.
3. There will be no adverse environmental impacts arising from the proposal.
4. The concerns raised in relation to the character of the area can be satisfied by incorporating the proposed controls into the Hawkesbury Development Control Plan.
5. The appropriate zone for the site is Business General 3(a) under Hawkesbury LEP 1989, or the equivalent B2 Local Centre under draft Hawkesbury LEP 2009.

Accordingly it is recommended that Council proceed with preparing the draft local environmental plan in accordance with Council's resolution of 8 December 2009.



Robert Montgomery
BApSc (Environmental Planning) MPIA CPP
Principal
July 2010

Attachments:

- Attachment 1 – HCC Letter dated 22 December 2009 to Mr & Mrs Woodford
Attachment 2 – Draft LEP 1989 Amendment 154
Attachment 3 - LEP Pro-forma Evaluation Criteria Category 1: Spot Rezoning LEP

Attachment 1:

Hawkesbury City Council

Our Ref: HLEP 1989 (Amendment 154)

22 December 2009

Mr L and Mrs B Woodford
17 Tollhouse Way
WINDSOR NSW 2756



366 George Street
(P.O. Box 148)
Windsor NSW 2756
Phone: 02 4550 4444
Facsimile: 02 4550 4400
OX: 6901 Windsor

Dear Mr and Mrs Woodford

Draft Hawkesbury Local Environmental Plan 1989 – Amendment 154

Rezoning of land in New Street, The Terrace and Johnston Street, Windsor

Reference is made to the above rezoning proposal.

You are advised that on 8 December 2009 Council resolved as follows:

That:

1. Council forward the Draft Hawkesbury Local Environmental Plan 1989 (Amendment 154) to the Department of Planning requesting that the plan be finalised and made.
2. Council resolve to rezone the following properties from Housing to Business General 3(a)/B2 Local Centre

Lot 1 DP159404	70 The Terrace, Windsor
Lot 1 DP741897	68 The Terrace, Windsor
Lot 1 DP609363	66 The Terrace, Windsor

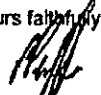
3. A Planning Proposal be prepared, at the landowner's expense, to support the rezoning of the properties.
4. Prior to the finalisation of the draft LEP, a Development Control Plan be prepared for Windsor, in accordance with the principles of the Windsor Master Plan, to assist in the guidance of development on these properties in relation to setbacks, height and heritage matters.
5. The Draft LEP and the draft Standard Template LEP be consolidated prior to sending to the Minister for gazettal if the progress and timing of the two draft plans becomes aligned.

Where people make the difference.

All communications to be addressed to the General Manager
P.O. Box 148, Windsor NSW 2756
Website: www.hawkesbury.nsw.gov.au
E-mail: council@hawkesbury.nsw.gov.au
Hours: Monday to Friday 9.30am - 5.00pm

With respect to resolution number 3, it is recommended that an appropriately qualified and experienced planning consultant be engaged jointly by yourself and the other affected landowners to prepare the Planning Proposal for submission to Council and that the relevant consultant meet with Council staff prior to preparing the proposal. For your information enclosed is the Department of Planning's document titled "A guide to preparing planning proposals".

Yours faithfully



Philip Pfeffer
Strategic Planning Co-ordinator
Ph: 4560 4544

Encl.

Attachment 2 – Draft LEP 1989 Amendment 154

Zone No.3(a) BUSINESS GENERAL

1:1,300 COUNTY - CUMBERLAND PARISH - ST MATTHEW LOCALITY - WINDSOR

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

CITY OF **HAWKESBURY**

HAWKESBURY LOCAL ENVIRONMENTAL PLAN 1989
(AMENDMENT NO 154)

DRAWN BY: T.JOHNSON	DATE: 20/4/2010	STATEMENT OF RELATIONSHIP WITH OTHER PLANS
SUP. DRAFTSPERSON: T.JOHNSON		THIS PLAN AMENDS HAWKESBURY LOCAL ENVIRONMENTAL PLAN 1989
PLAN OFFICER:		
COUNCIL PLAN NO: LEP 1/06		
DEPT. FILE NO: P 06/00197-1		CERTIFICATE IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 AND REGULATIONS GENERAL MANAGER: <i>[Signature]</i> DATE: 21/4/10
PUBLISHED ON THE NSW LEGISLATION WEBSITE:		

DataWorks Document Number: 3395486

Attachment 3:
LEP Pro-forma Evaluation Criteria
Category 1: Spot Rezoning LEP

1.	Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800m of a transit node)?	Yes. The LEP is compatible with the draft North West Subregional Strategy.
2.	Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s.117) directions?	Yes. The LEP will be consistent with State and Regional Policies and Ministerial (s117) Directions. In regional terms the proposal is relatively minor and should be considered on merit.
3.	Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub regional strategy?	No. The land is located within Windsor, an identified town centre under the draft North West Subregional strategy.
4.	Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	Yes. The LEP will facilitate permanent employment generating activity.
5.	Will the LEP be compatible/complementary with surrounding land uses?	The LEP will be compatible and complementary with the surrounding land uses. The surrounding uses are a mix commercial and residential.
6.	Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders?	No. The site is the only land which is zoned residential within a block which is essentially commercial in zone and use.
7.	Will the LEP deal with a deferred matter in an existing LEP?	No.
8.	Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Yes. This is an extension to the area which is the subject of draft Hawkesbury LEP 1989 Amendment 154. The cumulative effects are considered to be acceptable.