



Hawkesbury City Council

attachment 4
to
item 30

Council's letter dated 19 October 2016
and
DP&E letter dated 18 November 2016

date of meeting: 28 February 2017
location: council chambers
time: 6:30 p.m.

Hawkesbury City Council

Our Ref: LEP006/15
Your Ref: PP_2016_HAWKE_004_00

19 October 2016

Ms Catherine Van Laeren
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms Van Laeren,

Planning Proposal to amend Hawkesbury Local Environmental Plan 2012 - Various properties at the Richmond Lowlands and Richmond

Reference is made to the Gateway determination issued by the Department of Planning and Environment (DP&E) on 6 July 2016 (DP&E ref: PP_2016_HAWKE_004_00).

The purpose of this letter is to respond to certain matters in the Gateway determination, and seek direction from the DP&E regarding future steps in the planning proposal process.

Condition 1 of the Gateway determination stated.

1. The prior to community consultation planning proposal is to be amended to:
 - a. include the insertion of a local provision in the *Hawkesbury Local Environmental Plan 2012* that requires the preparation of a Risk Management and Evacuation Plan in consultation with the NSW State Emergency Services prior to the granting of development consent for any use that increases visitation to the site; and
 - b. clarify the tourist accommodation/temporary accommodation uses currently permissible on the site and those that will be added via the planning proposal prior to consultation.

Condition 1a requires the insertion of a local provision relating to flood risk management and evacuation. The planning proposal forecasts the following amendment to Schedule 1 Additional Permitted Uses of *Hawkesbury Local Environmental Plan 2012* (LEP 2012).

20 Use of certain land at Ridges Lane, Triangle Lane, Cornwells Lane, Powells Lane and Old Kurrajong Road, Richmond

- (1) *This clause applies to land zoned RU2 Rural Landscape at Ridges Lane, Triangle Lane, Cornwells Lane, Powells Lane, Old Kurrajong Road and Edwards Road, Richmond being part of Lot 1 and 2 DP206104, Lot 1 DP70128, Lot 25 DP1100252, Lot 25 DP663770, Lot 27 DP566434, Lot 1 and 2 DP1168610, Lot 1 DP659412, Lot 1 DP972649, Lot 1 DP120794, Lot 1 – 3 DP997087, Lot 1 DP797310, Lot 1 DP77207, Lot 1 DP997086, Lot 4 and 5 DP112860, Lot A DP365391, Lot 128 and 129 DP1151145, Lot A and B DP89087, identified as area '7' on the Additional Permitted Uses Map.*
- (2) *Development for the purposes of advertisement, advertising structure, car park, food and drink premises, eco-tourist facilities, function centres, industrial retail outlet, light industry, kiosk, market, medical centre,*

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recreation facility (major), recreation facility (outdoor), sewage reticulation system, sewage system, sewage treatment plant, shop, veterinary hospital, water supply system is permitted with consent.

In lieu of a separate local provision (most likely in Part 6 of the LEP) it is proposed that the following text be added to the forecast amendment to Schedule 1.

- (3) *Development consent must not be granted for any purposes in sub-clause (2) that will increase visitation to the land to which this clause applies, unless the consent authority has, in addition to any other requirement specified by this Plan, considered a Risk Management and Evacuation Plan that has been prepared in consultation with the NSW State Emergency Services.*

It is considered that the above text satisfies the purpose of the required local provision and will be more readily found within the LEP than if it was included as a separate matter elsewhere in the LEP.

With respect to condition 1b, this office has been advised by the proponent that the existing tourist facilities on site are located at Lot B DP 89087, 122 Old Kurrajong Road, Richmond and consist of four by two bedroom cabins. These were approved by development consent DA0564/05 issued on 21 December 2005.

The proponent has also provided the following response to the future tourist/temporary accommodation on the site.

The rezoning is not proposing tourist/temporary accommodation be a permitted use on the site. There is only a minor component of temporary accommodation ancillary to the World Cup Polo event for which full details have been provided in the Planning Proposal.

It is intended that the site be able to accommodate low-scale tourist facilities that enhance and showcase the environmental qualities of the location. This may be provided as an eco-tourist facility or tourist cabins, and will be of a similar scale and nature to the existing 'rural tourist facilities' located on the site and adjoining land. (Planning Proposal, p.20)

It is proposed that the eco-tourism facility is a low impact use with its own separate definition that is quite different to a typical tourist accommodation use (which is separately defined).

Notably, the eco-tourist use is proposed to be included as a permissible use in the RU2 zone under Council's Housekeeping LEP and the Department has supported the addition of this use at Gateway.

No specific designs for the eco-tourist facility have been prepared at this time. These details will be determined at the development application stage at which point a rigorous assessment of the flood implications of the proposal will be carried out. It is intended that any eco-tourist facility be located on the least flood-affected parts of the site and will be subject to minimum design standards (prepared in consultation with relevant authorities) to ensure that habitable floors are above the 1 in 100 year flood level at a minimum. An evacuation management plan would also be submitted with any application for a eco-tourist facility.

Condition 1 requires that the planning proposal be amended prior to community consultation. At present the planning proposal has not been amended as this office seeks the DP&E's opinion as to whether or not the above responses to conditions 1a and 1b are satisfactory. Further, it is proposed that this office prepare an addendum to the planning proposal, as clarification, rather than the proponent preparing an amended



planning proposal.

The DP&E is also advised that consultation has occurred with various public authorities and responses have been received from Endeavour Energy, Sydney Water, Heritage Council of NSW, Department of Industry Resources and Energy Division, Office of Environment and Heritage, Roads and Maritime Services, State Emergency Service, Infrastructure NSW. Copies of the submissions received are enclosed with this letter.

The Department of Industry Resources and Energy Division's (DP&I) submission notes that the land the subject of the planning proposal is within an identified resource area known as the "Richmond Lowlands Sand and Gravel Resource" and that the proposed development has the potential to restrict access to and may ultimately sterilise a significant part of the Richmond Lowlands resource area.

DP&I comments are noted, however at present no amendment to the planning proposal is proposed as it is considered that any mining or extractive industry activities in the Richmond Lowlands resources area are unlikely in the short or medium term and would require the satisfactory resolution of a number of matters including the impact on the cultural heritage, scenic and environmental values, tourism potential, and flood affectation of the Richmond Lowlands as well as the area's proximity to existing urban, defence and recreational development in adjoining townships. The DP&I's comment are provided to DP&E in accordance with the provisions of Section 117 Direction 1.3 sub-clause 5(c).

The OEH and RMS have requested additional information be provided and accordingly the proponent has been requested to provide responses to those matters. Is it proposed that matters raised by OEH and RMS be addressed concurrently with the forthcoming public exhibition of the planning proposal.

Finally, it is noted that the Gateway determination provided Council with an authorisation to exercise delegation to make the local environmental plan associated with this planning proposal. You are advised that this office did not request such delegation and does not wish to exercise such a delegation. In this respect it is anticipated that if this matter is to proceed to an amendment to LEP 2012 the planning proposal and plan amendment will be forwarded to the DP&E for finalisation and making. In light of this can you please advise what should be included in Council's public exhibition documentation where Council is required to *confirm whether the Minister has chosen to delegate the making of the LEP to Council* (see page 24 of *A guide to preparing local environmental plans*, April 2013).

It is requested that the DP&E consider the above matters and suggested approach and advise if there is any impediment to Council progressing to public exhibition of the planning proposal with proposed addendum.

Should you require any additional information or have any further queries, please contact Mr Philip Pleffer, Strategic Planning Co-ordinator, on 4560 4544.

Yours faithfully


Matthew Owens
Director City Planning



16/14224

Mr Laurie Mifsud
Acting General Manager
Hawkesbury City Council
PO Box 146
Windsor NSW 2756

Attention: Philip Pleffer

Dear Mr Mifsud,

**Planning proposal to amend Hawkesbury Local Environmental Plan 2012 –
Various Properties at the Richmond Lowlands and Richmond**

I am writing in response to Council's letter of 19 October 2016 requesting direction from the Department concerning progression of planning proposal PP_2016_HAWKE_004_00.

For the purposes of exhibition, I agree that proposed sub clause (3) is suitable for inclusion in the planning proposal in the manner recommended in your letter. As this subclause and associated subclauses have not been subject to legal drafting, a note should also be included that these clauses may change at legal drafting stage.

While I have noted your advice about the tourist accommodation on the site, to satisfy condition 1b of the determination, I ask that section 2.4 *Existing Uses and Development of the Site* of the proposal be amended to clearly indicate whether tourist accommodation and temporary accommodation uses are currently permissible on the site and the manner in which the planning proposal seeks to make these uses permissible.

I also thank you for providing copies of the responses from authorities as required by condition 2 of the determination. I note that in consultation with the Department of Primary Industry, that department has not formally objected to the proposal proceeding but has provided advice on the suitability of the proposal. Council has accordingly complied with the requirements of section 117 Direction 1.3 Mining, Petroleum Production and Extractive Industries. It will be a matter, however, for Council to closely consider this advice as the proposal proceeds and, if necessary, seek approval for any inconsistency with this Direction prior to the proposal being finalised.

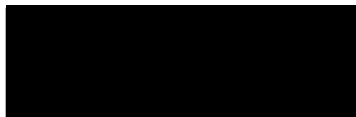
Similarly, in consulting with State Emergency Services; NSW Rural Fire Service; and, Infrastructure NSW, I am of the view that Council has satisfied condition 2. Given the nature of the responses, amendment of the planning proposal is not required. I would ask, however, that Council gives close consideration to the issues raised in these letters as the proposal proceeds.

While I also note Council's request to prepare an addendum to the planning proposal, to ensure clarity with the community consultation process, the proposal document is to be amended to include the requested changes, as required by the Gateway condition.

I also acknowledge your views over the manner in which Council wishes to address requests made by the Office of Environment and Heritage and the Road and Maritime Service. While I have no objection to Council proceeding as indicated, this process is a matter for Council. I also acknowledge Council's advice that it will not exercise the plan making function.

Subject to amendment of the planning proposal as outlined in my letter, I am of the view that Council has satisfied the requirements of conditions 1 and 2 of the determination. Consequently, I trust my advice will allow Council to make early arrangements for the commencement of the exhibition process. Should you wish to clarify my letter, however, Mrs Catherine Van Laeren, Director of the Department's Sydney Region West office, can provide assistance and may be contacted on phone no. (02) 9860 1520.

Yours sincerely



18-11-2016

Ashley Albury
Acting Executive Director, Regions
Planning Services