



Hawkesbury City Council

hawkesbury
local
planning
panel
meeting
business
paper

date of meeting: 30 April 2020

location: By Audio-Visual Link

time: 11:00 a.m.

HAWKESBURY LOCAL PLANNING PANEL MEETING

Table of Contents

Meeting Date: 30 April 2020

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE
SECTION 1 – Reports for Determination		5
Item: 001	CP - DA0204/19 - Group Home - Use of Existing Dwelling as Group Home - Lot 82 DP 1204807, 41 Branders Lane NORTH RICHMOND NSW 2754 - (145903, 133853, 95498, 144940)	5
Item: 002	CP - DA0147/19 - Intensive Plant Agriculture - Turf Farm - Lot 3 DP 548570 Vol 11597 Fol 80, 54 Derrig Road TENNYSON NSW 2754 - (20355, 95498, 144940)	43

HAWKESBURY LOCAL PLANNING PANEL MEETING

Table of Contents

Meeting Date: 30 April 2020

hawkesbury
local
planning
panel

section 1

reports
for determination

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

SECTION 3 – Reports for Determination

Item: 001 CP - DA0204/19 - Group Home - Use of Existing Dwelling as Group Home - Lot 82 DP 1204807, 41 Branders Lane NORTH RICHMOND NSW 2754 - (145903, 133853, 95498, 144940)

Directorate: City Planning

DEVELOPMENT INFORMATION

Application Number: DA0204/19
Date Received: 23/05/2019
Proposal Details: Group Home - Use of Existing Dwelling as Group Home
Estimated Cost: No estimated cost of works as no physical works proposed.

Legal Description: Lot 82 DP 1204807
Property Address: 41 Branders Lane NORTH RICHMOND NSW 2754
Area: 11.0000 Hectares
Zoning: RU1 Primary Production under *Hawkesbury Local Environmental Plan 2012*.

Applicant: Think Planners
Owner: Nirmana Vimana Pty Limited
Exhibition Dates: 14/06/2019 - 28/06/2019
Submissions: 11

Key Issues:

- ◆ Amenity
- ◆ Traffic Impacts
- ◆ Suitability of development

Recommendation: Approval

EXECUTIVE SUMMARY:

Reason for Consideration by Local Planning Panel

- Contentious Development – The application has received eleven (11) unique submissions by way of objection.

Proposal

The proposal seeks consent for the change of use of the dwelling to be used as a group home.

Permissibility

The proposed application is permissible under the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*. The site is zoned RU1 Primary Production for which residential development is permissible with consent. Clause 42(b) of the SEPP permits boarding houses within the RU1 Primary Production zone as this zone allows for residential development.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Consultation

In accordance with Part A Chapter 3 of DCP 2002 the proposed application was notified from 14 June to 28 June 2019 inclusive.

Key Issues

The key issues of the development application are:

- Amenity Impacts
- Traffic Impacts
- Suitability of the development

Recommendation

It is recommended that DA0204/19 be approved subject to conditions.

REPORT:

Detailed Description of Proposal

The proposal seeks to convert the existing dwelling into a group home and will provide the following:

- Ground Floor:
 - Site Manager accommodation including office, bedroom accommodating a double bed (bedroom 5), en-suite and walk-in-robe;
 - Rumpus room;
 - Small living/sitting room;
 - Existing kitchen to be converted into a pantry area with laundry and storeroom with toilet;
 - Bedrooms 2, 3, and 4 capable of sleeping two persons per room;
 - Main bathroom;
 - Open plan main kitchen/family/living;
 - Separate dining room and lounge room;
 - Bedroom 1 accommodating two persons with walk-in-robe and en-suite; and
 - Balcony surrounding entire ground floor with multiple entries from various rooms and external stairs down to lower ground floor.
- Lower Ground Floor:
 - Garage and external hard stand parking area;
 - Internal stairs up to ground floor;
 - Bedroom 6 with en-suite capable of sleeping two persons;
 - Laundry; and
 - Large rumpus room.
- Daily Activities including:
 - Individualised Four stage (milestone) rehabilitation programme through the Restoration Centre;
 - Dwelling and Ground maintenance;
 - Horticultural activities; and
 - External group activities offsite.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

The application has sought to accommodate 14 residents; however the site plan indicates that only a maximum of 12 people can be accommodated within the room configuration. This is inclusive of the site manager's accommodation which is shown as a double occupancy.

Accordingly the applicant has been advised of this and has indicated that the occupancy rate will match the floor plan shown. Therefore, the maximum occupancy at any given time will be ten residents and two site managers.

Site Description

The site is legally described as Lot 82 in DP 1204807 and formally known as 41 Branders Lane North Richmond. The site is approximately 11.22ha and currently has an existing split two level dwelling with swimming pool, gazebo, three sheds, three dams and car parking.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Background and History

DA0204/19	
23 May 2019	Application lodged with Council.
12 June 2019	Referrals sent to internal and external referral officers.
14 to 28 June 2019	Notification carried out with 12 submissions received.
19 June 2019	Initial Review letter sent to applicant identifying the following issues: <ul style="list-style-type: none">• Multiple dwellings onsite; and• Fire safety measures.
12 July 2019	Request from applicant for an extension of time to submit information.
15 July 2019	Response to applicant sent granting extension of time and requesting the following further details: <ul style="list-style-type: none">• Confirmation of what type of group home is being proposed as the SEE implies it is to accommodate men suffering from homelessness but then at page 21 talks about providing infrastructure for childcare. It is unclear that the group home is to be used to accommodate the homeless as it does not specifically state the participants of the Restoration Centre are homeless. The application has therefore not demonstrated a clear community need to provide housing for the homeless, particularly in the Hawkesbury Locality;• Full Survey Plan of the site;• Elevation and Section Plans with existing ground floor levels provided;• Landscape Plan identifying what proposed horticultural activities will be carried out on the site;• Amended floor plan clearly identifying:<ul style="list-style-type: none">- which room/s are to be permanent on-site manager accommodation/office space;- bedroom layout plans with number of occupancies in each bedroom with the maximum number of adults per room clearly indicated;• Responses to submissions received by Council addressing concerns raised – submissions are available through Council's DA Tracker. The applicant was also advised that ten submissions had been received and that the application would be determined by the Hawkesbury Local Planning Panel.
30 to 31 July 2019	Amended floor plan and response to submissions lodged.
6 August 2019	Survey, fire safety schedule, Site, floor and elevations and sections lodged.
29 October 2019	RFS General terms of Approval received.
26 to 27 March 2020	Email to applicant requesting confirmation of resident numbers as floor plan indicates maximum of 12 people only, including the site manager/s, can be accommodated in the dwelling at any one time and a condition of consent would reflect this number. Applicant responded by acknowledging these numbers and agreeing to the restriction of numbers to 12 only including the site manager/s.

Submissions

The application was notified from 14 June to 28 June 2019 in accordance with Chapter Three of the Hawkesbury Development Control Plan 2002 (HDCP), Notification of Development Applications. 11 submissions have been received and the issues identified are outlined in the matters for consideration under Section 4.15.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Consultation

Internal referrals

Building Surveyor

No objections are raised subject to the recommended draft conditions.

SMF Officer

The following comments were made by Council's SMF Officer:

- *"The existing SMF approval to operate for the property has expired;*
- *There are no recent AWTs service reports on the property for the system – nothing for well over 3 years;*
- *Statement of Environmental Effects:*
 - *Page 3 - "The development is to provide a 6 bedroom permanent group home within the existing dwelling on the site that is to cater for up to 14 residents."*
 - *Page 28 - "Effluent disposal – A waste water management report is provided with this application which confirms the AWTs + sprinkler system is to be continued to be used, which is satisfactory to cater for the proposed group home."*
- *Wastewater Report – "On-site Wastewater Management Report for 41 Branders Lane, North Richmond for Sanderson, Ref-19-7487-A, dated 5 March 2019"*
 - *Report is based on 10 people not the 14 people that can be there at any given time*
 - *Recommends that the "existing AWTs + sprinkler system is to be continued to be used until it fails or is assessed as no longer operational by Council."*
 - *The existing system is designed for 10 persons NOT 14 therefore a new AWTs that is designed for 15 persons or more is to be installed. There appears to be plenty of area for disposal; that should not be an issue.*
- *A new septic tank application will need to be lodged for the new system with the location of the proposed irrigation area. The irrigation area is to be fenced off to prevent clients from coming into contact with the treated effluent and to avoid vehicle and stock damage."*

Comment: Conditions of consent have been provided by Council's SMF Officer that requires an application to Council for an AWTs to be provided to the site. These conditions have been included in the draft conditions of consent to ensure that the existing system, which has not been assessed by Council, is upgraded to accommodate the group home occupants.

External Referrals

Rural Fire Services

Under the provisions of Section 4.46 of the Environmental Planning and Assessment Act 1979, the proposal is categorised as Integrated Development on the basis that a Bushfire Safety Authority from the Commissioner of the NSW Rural Fire Service is required under the provisions of section 100B of the Rural Fires Act 1997, development of bushfire prone land for a special fire protection purpose. Hotel, motel or other tourist accommodation is identified as special fire protection purposes.

Accordingly, the development was referred to the Commissioner of the NSW Rural Fire Service and the following general terms of approval were received:

"Asset Protection Zones

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

1. *At the commencement of the operation of the facility and for the life of the development, the area surrounding the dwelling shall be managed as outlined within Appendices 2 & 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones' as an Inner Protection Area (IPA) for a distance of 50 metres or to the property boundary.*

Grasslands shall be managed in a minimal fuel condition so there is insufficient fuel available to significantly increase the severity of the bush fire attack. Grass shall be kept cropped short to a nominal height of 100 mm.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

2. *A minimum 20,000 litre water supply shall be provided for bush fire-fighting purposes in accordance with 'Planning for Bush Fire Protection 2006' and:*
 - *Above ground tanks shall be constructed of non-combustible material.*
 - *A 65mm metal Storz fitting and ball or gate valve shall be installed in the tank.*
 - *The gate or ball valve, pipes and tank penetration shall be adequate for full 50mm inner diameter water flow through the Storz fitting and shall be metal.*
 - *An in ground swimming pool can be considered as a suitable SWS.*
 - *There is suitable access for a Category 1 fire appliance to within 4m of the static water supply.*
 - *A standard Static Water Supply (SWS) marker shall be obtained from the District NSW Rural Fire Service as part of the Static Water Supply Program once the tank water supply has been installed. The marker shall be fixed in a suitable location so as to be highly visible and positioned adjacent to most appropriate access for the static water supply.*

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

3. *A Bush Fire Emergency Management and Evacuation Plan shall be prepared for the facility, consistent with 'Development Planning - A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014'.*

Landscaping

4. *The landscaping surrounding the dwelling shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.*

These general terms of approval shall be included in the draft conditions of consent.

Council Policies, Procedures and Codes to which the matter relates

State Environmental Planning Policy No 44—Koala Habitat Protection (SEPP No. 44)
State Environmental Planning Policy No 55—Remediation of Land (SEPP No. 55)
State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP Affordable Housing)
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)
Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) (SREP No. 20)
Hawkesbury Local Environmental Plan 2012 (LEP 2012)
Hawkesbury Development Control Plan 2002 (HDCP 2002)

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

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

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

a) The provisions (where applicable) of

i. Any Environmental Planning Instrument:

State Environmental Planning Policy Basix:

A valid BASIX certificate has been submitted. The certificate demonstrates compliance with the provisions of the SEPP and is consistent with the commitments identified in the application documentation. Were the application to be supported a standard condition would be included as a draft condition of consent requiring compliance with this BASIX certificate.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

SEPP No. 44 applies to land within the Hawkesbury Local Government Area to which a development application has been made and that has an area of more than one hectare.

Circular No. B35 was issued by the former Department of Planning (DIPNR) on 22 March 1995. The purpose of the Circular was to provide information relating to the implementation of SEPP No. 44 and to provide the Guidelines made by the Director for the purposes of the Policy. Section 1.5 of the Circular states, inter alia, that:

"In relation to affected DAs it is the intention of the policy that investigations for "potential" and "core" koala habitats be limited to those areas in which it is proposed to disturb habitat".

The proposal does not include any physical works other than internal works to the existing dwelling. Therefore no impacts on the existing vegetation will occur as a result of the proposal.

It is therefore considered that SEPP No. 44 does not prevent Council from granting development consent in this instance.

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

The aim of this Plan 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. The Plan includes strategies for the assessment of development in relation to water quality and quantity, scenic quality, aquaculture, recreation and tourism.

The proposed development is only for a change of use and does not propose any physical works. No additional stormwater will result from the change of use as the building structure will still be used for residential purposes.

Therefore the proposal has been found to be consistent with the aims of SREP No. 20, the strategies listed in the Action Plan of the Hawkesbury-Nepean Planning Strategy and the specific planning policies and recommended strategies and development controls contained in Clause 6 and Clause 8 of SREP No.20

The development is unlikely to generate significant additional stormwater and is generally consistent with the provisions of SREP No. 20.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

State Environmental Planning Policy No. 55 - Remediation of Land

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. The subject site has a history of residential use and given that there is no physical works being carried out and the site is being maintained for residential purposes, it is unlikely to contain any contamination and further investigation is not warranted in this case.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The Affordable Rental Housing SEPP applies to residential and commercial zones and Clause 42(b) permits boarding houses within the RU1 Primary Production zone as this zone allows for residential development.

Section 3 of the Affordable Rental Housing SEPP outlines the following aims for this Policy:

- “(a) to provide a consistent planning regime for the provision of affordable rental housing,*
- (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*
- (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,*
- (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,*
- (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,*
- (f) to support local business centres by providing affordable rental housing for workers close to places of work,*
- (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.”*

Comment: The group home is consistent with subclause (g) of Section 3 in that it facilitates a development for the homelessness and other disadvantaged people and will provide support services within the group home to support the residents of the group home.

Division 7 Clause 43 of the Affordable Rental Housing SEPP outlines specific controls for group homes and the following must be taken into consideration by the consent authority:

- 46(1) A consent authority must not:*
- (a) refuse consent to development for the purpose of a group home unless the consent authority has made an assessment of the community need for the group home, or*
 - (b) impose a condition on any consent granted for a group home only for the reason that the development is for the purpose of a group home.*

Comment: An assessment of the community need has been provided by the applicant within the Statement of Environmental Effects at page 18 and is provided as Attachment 2 to this report.

It is considered that the applicant has satisfactorily identified a need within the local Hawkesbury community for a group home.

Hawkesbury LEP 2012

Under Hawkesbury LEP 2012, the property is RU1 Primary Production, and the proposed development is permissible with Council's consent.

The following is a summary of the development standards under HLEP 2012 applicable to the development.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Clause 2.2 - Zoning

The site is zoned RU1 Primary Production under the provisions of the LEP 2012. Permissibility of the group home is provided under the provisions of Clause 42(b) State Environmental Planning Policy (Affordable Rental Housing) 2009 which permits boarding houses within the RU1 Primary Production zone as this zone allows for residential development.

Clause 2.3 – Zone Objectives

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives for the RU1 Primary Production zone are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage agricultural activities that do not rely on highly fertile land.*
- *To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.*
- *To promote the conservation and enhancement of local native vegetation including the habitat of threatened species, populations and ecological communities by encouraging development to occur in areas already cleared of vegetation.*
- *To ensure that development retains or enhances existing landscape values including a distinctive agricultural component.*
- *To ensure that development does not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services.*

The group home is not considered to be inconsistent with the above objectives as the site will still be used for residential purposes and is able to support agricultural activities due to the significant size of the site.

The application proposes to utilise the land on the site for landscaping and horticultural purposes as a means of rehabilitation for the residents.

Clause 4.3 - Height of Buildings

The maximum building height under Clause 4.3 for the site is 10m. The proposed development does not seek to carry out any external works to the existing dwelling that will increase the existing building height.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Other Provisions

LEP	Proposed
5.10 Heritage Conservation	The application is not within a heritage conservation area or within the vicinity of a heritage item identified under Schedule 5 of HLEP2009.
6.1 Acid Sulfate soil controls	Class 5 – low impact. The proposal is unlikely to lower the water table or expose acid sulfate soils as no significant excavation is proposed on the site.
6.2 Earthworks	The application does not propose any significant earthworks.
6.3 Flooding	The land is not subject to flood related controls.
6.4 Terrestrial biodiversity	The land is subject to biodiversity mapping at the rear of the site. No works are proposed within this mapped area therefore Clause 6.4 is not applicable to the application.
6.5 Wetlands	The land is not subject to
6.6 Development in areas subject to aircraft noise	The land is not subject to aircraft noise.
6.7 Essential services	The land has access to essential services such as water, sewer, electricity and the like.

- (ii) **Any proposed instrument** - (Draft SEPP, Draft LEP or any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4)

There are no relevant Draft Environmental Planning Instruments for the subject site.

- (iii) **Any development control plan**

Hawkesbury DCP 2002:

A full assessment of the proposal under DCP 2002 is illustrated in the following compliance table. The Non-compliances identified in the table are assessed below.

DCP 2002		
DCP Control	Proposed	Complies
Part A: Introduction		
3.2 Notification		
3.2.1 Residential accommodation		
Group Home		
Letters to adjoining occupiers/owners: required	The proposal was notified from 14 June to 28 June 2019.	Yes
Site Sign: Not required	A site sign was placed on the site.	Yes
Notice in Local Newspaper: Not required	No advertising required.	N/A
	A total of twelve submissions were received and the matters raised in these submissions are discussed in the Community Consultation Section of this report.	

HAWKESBURY LOCAL PLANNING PANEL MEETING**SECTION 1 – Reports for Determination****Meeting Date:** 30 April 2020

DCP 2002		
DCP Control	Proposed	Complies
Part C: General Guidelines		
1.2 Landscaping Requirements		
A landscape concept plan is required for most developments in the Hawkesbury. The landscape plan is to be prepared by a suitably qualified person, and must incorporate the requirements within Section 1.2.	A Landscape plan was not submitted with the application in accordance with Section 1.2, however the Survey and Site Plan lodged with the application provides adequate details of the existing landscaping onsite. No landscaping works are proposed other than maintenance of the grounds around the dwelling and other horticultural activities, such as vegetable beds and the like which will not be a commercial scale and only for the residents.	No – supported due to no external works being carried out.
2.0 Car Parking and Access		
Group Home: Chapter 2 does not have any car parking provisions for group homes, nor does the SEPP; however the current dwelling has a garage which is capable of accommodating up to approximately four vehicles. Therefore it meets any of the comparable forms of development listed under Chapter 2 of Part C of DCP2002. It is noted that the development will be using a mini bus to provide transportation for the residents of the group home and private vehicles will not be permitted at the site. Support staff and visitors will require parking on the site. Currently the site has a circular driveway at the front of the dwelling and a side driveway down to the existing garage. These paved areas can adequately facilitate visitor and support staff parking. Should additional parking be required the site can accommodate this with a section of land that is accessed off the side driveway into a clear paddock. Accordingly the site can accommodate parking given the amount of paved area the driveways have and a condition of consent shall be included to ensure that the existing garage is to be used for the onsite parking of the site manager and the minibus and all support staff vehicles are to be parked onsite.		
4.0 Soil Erosion and Sediment Control		
A plan for soil erosion and sediment control was submitted with the application. Appropriate conditions can be applied to manage sediment and erosion for the site.		
8.0 Management of Construction and Demolition Waste		
Waste management plan in accordance with 8.7 shall be submitted with any application.	A construction waste management plan has been provided with the application. Appropriate conditions can be applied for construction and demolition waste management.	Yes

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

DCP 2002		
DCP Control	Proposed	Complies
9.0 Preservation of Trees and Vegetation		
Consent is required for tree removal in accordance with 9.3.1.		
No existing trees are on site proposed for removal,		
Part D Specific Development		
1.0 Residential Development		
A Group home is a type of residential accommodation as defined in HLEP2012 therefore the proposal is subject to Part D Chapter 1 of DCP 2002.		
1.6 Landscaped Areas		
(a) All forms of residential development are to contain pervious soft landscaped areas to a total of 30% of the total site area. This may be calculated by adding together soft landscaped areas of private and common open space. Development proposals, where required, are to indicate the proportion of the total site area that is: <ul style="list-style-type: none"> total "soft" landscaped area; total ground level private open space; and total common open space. 	Required: Site area: 11.22ha 30% = 33,660m ² Provided: >33,660m ² soft landscaped area including POS.	Yes
1.9 Vehicular Access and Car Parking		
The site will rely upon existing vehicular access. Car parking has been addressed in a previous section of this report.		
1.11 Visual Privacy		
The layout of buildings should avoid first floor or elevated windows facing directly onto the windows, balconies, or overlooking the yards of adjoining dwellings unless effective screening is provided.	The dwelling has adequate privacy setbacks and screening to provide adequate visual privacy to and from the group home.	Yes
1.12 Acoustic Privacy		
Adequate setbacks have been provided to ensure acoustic privacy is maintained.		
1.14 Safety and Security		
(a) Each dwelling is to be provided with direct and convenient pedestrian access to a private or public road.	Existing access provided.	N/A

HAWKESBURY LOCAL PLANNING PANEL MEETING**SECTION 1 – Reports for Determination****Meeting Date:** 30 April 2020

DCP 2002		
DCP Control	Proposed	Complies
1.15 Utility and Site Services		
(a) Where reticulated water is not available, a minimum storage of 100000 litres must be provided. A minimum of 10,000 litres must be available at all times for fire-fighting.	Exiting utilities and services to be retained. Existing wastewater report is based on 10 people, for which the existing system can accommodate. It is noted that the application was originally for 14 people but has now been amended to 12 people, including 2 onsite managers, therefore the existing system will be required to be upgraded to accommodate 12 persons or more.	Yes via conditions.
1.16 Cables		
(a) The design, location and construction of utility services must satisfactorily meet the requirements of both the relevant servicing authority and Council.	Existing provisions to be retained.	Yes
1.17 Recycling, Garbage and Mail Collection Areas		
(a) Collection areas must be integrated into the overall site and building design, such as the example shown in Figure D1.22.	Existing provisions to be retained, however to accommodate the additional residents an additional service shall be conditioned to be required.	Yes

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

There are no planning agreements or draft planning agreements applicable to the application.

iv. Matters prescribed by the Regulations:

In accordance with the matters prescribed by the Regulations, were the application to be recommended for approval, the development would be required to comply with the National Construction Code – Building Code of Australia (BCA) and relevant Australian Standards for demolition.

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

All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report.

The development is considered satisfactory in terms of environmental impacts.

(c) The suitability of the site for the development

The site is considered to be suitable for the proposed development given the significant issues identified within this report.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

(d) Any submissions made in accordance with this Act or the regulations

In accordance with Section 3.2 of Part A of HDCP 2002, owners of surrounding properties were given notice of the application. In response, four submissions were received.

The following issues were raised:

Concern	Comment
1. Privacy. The following concerns have been raised in regards to privacy impacts: <ul style="list-style-type: none"> An additional 14 people will impact the locality. 	The existing dwelling has the capacity to accommodate eight people given the dwelling has two double bedrooms, three single bedrooms and a room downstairs that can be used as a bedroom. The group home will only accommodate twelve persons at any one time, including the group home manager/s, therefore the increase in residents to ten is not considered to have any significant impact on the locality.
2. Development is out of character and not suitable for the zone. Concerns are raised that the proposal is out of character for Branders Lane as the area is a quiet, semi-rural country lane and that an additional 14 male residents will have an unacceptable and irreversible social impact on the amenity of the Lane. The zone is for Primary Production and this is not an appropriate development for this zone.	<p>The zoning of RU1 Primary Production allows dwelling houses with consent. Under Clause 42(1)(b) of SEPP Affordable Rental Housing 2009, a group home is permissible:</p> <p>(b) any other zone in which development for the purpose of dwellings, dwelling houses or multi dwelling housing may be carried out with or without consent under an environmental planning instrument.</p> <p>Accordingly the SEPP overrides Council's LEP and allows this type of development to be permissible within the zone. Group homes are defined under the HLEP2012 as a type of residential accommodation and the existing dwelling can already accommodate up to 12 people.</p>
3. Increased traffic and parking. Concerns are raised that the site will increase traffic movements to and from the site and insufficient parking provisions are available onsite.	The site will accommodate a mini-bus and parking for the site manager. The residents of the centre will be transported via the mini-bus therefore the increase in traffic will be minimal as only one vehicle shall be exiting and entering the site.
4. Lack of public transport. Concerns are raised that the locality does not have any public transport to support the additional residents.	The proposed development will provide a mini bus service to transport residents to and from the group home. This will facilitate residents getting to and from work and accessing other services not provided onsite.
5. Noise impacts. Concerns are raised that the proposed development will have noise impacts.	The dwelling is located on a site of 11.22ha with the nearest dwelling being 35m away. The likelihood of acoustic impacts is considered to be negligible from the group home.
6. Need for the development. Concerns are raised that the proposed development has not addressed the need for the group home.	The applicant has provided detailed documentation on the need for temporary housing with the greater western area including Hawkesbury.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Concern	Comment
<p>7. Transparency of operator and occupancy details. Concerns are raised that no information as to the purpose and function of the group home has been provided and that no information has been provided as to how the occupants of the group home will be determined or what their social demographics are.</p>	<p>The definition of a group home under Division 7 Group Homes, Section 42 Definitions of SEPP Affordable Rental Housing 2009 is:</p> <p>group home means a permanent group home or a transitional group home.</p> <p>group home (permanent) or permanent group home means a dwelling—</p> <p>(a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and</p> <p>(b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged, but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.</p> <p>group home (transitional) or transitional group home means a dwelling—</p> <p>(a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and</p> <p>(b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people, but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.</p> <p>(2) In this clause—</p> <p>(a) a reference to people with a disability is a reference to people of any age who, as a result of having an intellectual, psychiatric, sensory, physical or similar impairment, or a combination of such impairments, either permanently or for an extended period, have substantially limited opportunities to enjoy full and active lives, and</p> <p>(b) a reference to people who are socially disadvantaged is a reference to—</p> <p>(i) people who are disadvantaged because</p>

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Concern	Comment
(7. Continued)	<p>of their alcohol or drug dependence, extreme poverty, psychological disorder or other similar disadvantage, or</p> <p>(ii) people who require protection because of domestic violence or upheaval.</p> <p>Accordingly group homes are specifically to provide accommodation for those residents listed above and there are no provisions within the SEPP that allow for restrictions on who can and cannot access the group home.</p> <p>How a group home is managed in terms of residents accessing the home is up to the operator. However the applicant was requested to provide further details on the potential residents of the group home and clarify how placement would occur. The applicant submitted further information which has been taken into consideration in the assessment of this application.</p>
8. Impacts on value of property. Concerns are raised that the group will impact upon the value of the neighbouring premises.	The applicant has a right under the Environmental & Planning Assessment Act, 1979 to the orderly and economic use and development of the land. Possible variation in surrounding property values does not constitute reasonable grounds for refusal of a development application.
9. Other various issues:	A number of submissions made comments on the application that do not form part of the development application process. These comments related to the owners of the property, type of vetting used for residents, restricting residents of the group home from walking along Branders Lane at night and other issues that cannot be taken into consideration.

The applicant has also provided a statement addressing the submissions and is attached (**AT3**).

(e) The public interest

Having regard to the assessment contained in this report, it is considered that approval of the development is in the public interest.

Development Contributions

Section 7.12 Fixed development consent levies (Hawkesbury Section 94A Contributions Plan 2015)

Development contributions are not applicable to the application as the cost of works are less than \$100,000.00.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Conclusion

The matters required to be consider in relation to Section 4.15 of the Environmental Planning and Assessment Act 1979 have been carried out.

As demonstrated in this report the proposed development is considered to be consistent with the objectives of Clause 4.3 of Hawkesbury LEP 2012. The use of the existing dwelling as a group home satisfies an identified need within the Hawkesbury locality and satisfies the requirements of SEPP (Affordable Rental Housing) 2009.

The proposed development is therefore supported.

RECOMMENDATION:

1. Pursuant to Section 4.16 of the Environmental Planning and Assessment Act, 1979, the following is recommended:
 - a) That the Hawkesbury Local Planning Panel approve development consent to development application DA0204/19 at 41 Branders Lane North Richmond NSW 2753, Lot 82 DP 1204807 for the Change of Use of the existing dwelling to a Group home subject to the recommended conditions listed below; and
2. That those whom made submissions to this application be advised of the determination.

General Conditions

1. Integrated Development - General Terms of Approval

The general terms of approval from the following Authorities, as referred to in Section 4.46 of the *Environmental Planning and Assessment Act 1979*, and referenced below, are attached and form part of the consent conditions for this approval:

- a) NSW Rural Fire Service - The General Terms of Approval as detailed below:

Asset Protection Zones

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

- (i) At the commencement of the operation of the facility and for the life of the development, the area surrounding the dwelling shall be managed as outlined within Appendices 2 & 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones' as an Inner Protection Area (IPA) for a distance of 50 metres or to the property boundary.

Grasslands shall be managed in a minimal fuel condition so there is insufficient fuel available to significantly increase the severity of the bush fire attack. Grass shall be kept cropped short to a nominal height of 100 mm.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

- (ii) A minimum 20,000 litre water supply shall be provided for bush fire-fighting purposes in accordance with 'Planning for Bush Fire Protection 2006' and:
- Above ground tanks shall be constructed of non-combustible material.
 - A 65mm metal Storz fitting and ball or gate valve shall be installed in the tank.
 - The gate or ball valve, pipes and tank penetration shall be adequate for full 50mm inner diameter water flow through the Storz fitting and shall be metal.
 - An in ground swimming pool can be considered as a suitable SWS.
 - There is suitable access for a Category 1 fire appliance to within 4m of the static water supply.
 - A standard Static Water Supply (SWS) marker shall be obtained from the District NSW Rural Fire Service as part of the Static Water Supply Program once the tank water supply has been installed. The marker shall be fixed in a suitable location so as to be highly visible and positioned adjacent to most appropriate access for the static water supply.

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

- (iii) A Bush Fire Emergency Management and Evacuation Plan shall be prepared for the facility, consistent with 'Development Planning - A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014'.

Landscaping

- (iv) The landscaping surrounding the dwelling shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

N/B In the event of any inconsistency between the above condition and the approved Bushfire Assessment Report, the provisions of the above condition prevail.

2. Approved Plans and Supporting Documentation

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

- a) Plans Reference:

Drawing Reference No.	Prepared by	Date
Location and Site Plan No. 1831 A01	ATJ Architects	14.11.18 Iss B July 19
Ground and First Floor Plan No. 1831 A02		
Elevation and Sections		

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

b) Document Reference:

Document Title	Prepared By	Date
Bushfire Assessment Report Ref Number 190358	Building Code & Bushfire Hazard Solutions Pty Ltd	31 October 2019
Plan of Management	Think Planners	23 May 2019

No works, other than those approved (including raising or lowering of ground levels on the site, or construction of retaining walls on any property boundary) are permitted by this consent.

Note: Details of the development shown in the approved plans and documents referenced are altered in the manner indicated by:

- (i) any amendments made by Council on the approved plans or documents;
- (ii) any notes, markings, or stamps on approved plans or documents; and
- (iii) any conditions contained in this consent.

3. Works Must Not Commence Until a Construction Certificate is Issued

Construction or preparatory work (including earthworks or tree and/or vegetation removal) must not commence until:

- a) A Construction Certificate is obtained from either Council or an Accredited Certifier;
- b) A Principal Certifier is appointed; and
- c) A Notice of Commencement is lodged with Council.

Note: If the Construction Certificate is issued by an Accredited Certifier that is not Council it will be necessary to lodge the Construction Certificate and other approved documents with Council within two days of such approval (a registration fee is payable upon lodgement).

4. Appointment of a Principal Certifier

No work shall commence until:

- a) A Principal Certifier is appointed for the building/engineering works and the following details relating to the carrying out of the works have been provided:
 - (i) name and licence number of the builder/contractor undertaking the construction works; or
 - (ii) name and permit number of the owner-builder (if relevant);
- b) The Principal Certifier has:
 - (i) provided a copy of the notice of its determination to the consent authority, and to Council (within two days after the date of the determination);
 - (ii) notified the person having benefit of the consent of any critical stage inspections and other inspections that it requires to be carried out in relation to the approved work;
 - (iii) notified Council of its appointment (not less than two days before commencement of building work);

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

- c) The person having benefit of the consent (if not carrying out work as an owner-builder) has:
 - (i) appointed a principal contractor who must hold a 'contractor licence' if any residential building work is involved;
 - (ii) notified the Principal Certifier of the appointment of the principal contractor;
 - (iii) notified the principal contractor of any critical stage inspections or any other inspections that are required to be carried out in relation to the approved work; and
- d) At least two days' notice are to be provided to Council of the date on which it is proposed to commence work associated with this development consent.

5. Part 6 Certificates Required

The accredited certifier must provide copies of all Part 6 Certificates issued under the *Environmental Planning and Assessment Act 1979* relevant to this development to Council within seven days of issuing the certificate.

Note: A registration fee applies.

6. Occupation Certificate Required Prior to The Use Of The Building

The building must not be occupied or used prior to the issuing of an Occupation Certificate by the Principal Certifier. Where a partial Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

A copy of any Occupation Certificate must be submitted to Council within two days of its issue.

7. Sewer Authority - Hawkesbury City Council

This development falls within the Sewerage Scheme controlled by Council. Therefore Council is the approving authority for all sewer works.

8. Prescribed Conditions - Compliance with National Construction Code

All building works must be carried out in accordance with the requirements of the National Construction Code (Building Code of Australia).

9. Swimming Pool Register

The *Swimming Pool Act 1992* requires that a pool or spa is to be registered on the NSW Swimming Pool Register upon completion. The register can be found at www.swimmingpoolregister.nsw.gov.au.

10. Bushfire Protection.

Bushfire protection measures, as outlined in the stamped bush fire assessment report and certification by Building Code & Bushfire Hazard Solutions Pty Ltd dated 31 October 2018 listed in Condition 1, shall be carried out. The Accredited Certifier shall be satisfied that the premises is in accordance with the recommendations of the approved bushfire assessment report.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Prior to the Issue of Construction Certificate

11. Long Service Levy Payment

The payment of a long service levy as required under Part 5 of the *Building and Construction Industry Long Service Payments Act 1986* is required. Evidence that the levy has been paid, is to be submitted to the Principal Certifier prior to the issue of any Construction Certificate.

Note: All building and construction work costing \$25,000 and above are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Payments Corporation offices or most councils.

12. Access for Persons with a Disability

Details demonstrating compliance with Australian Standard AS 1428.1 - 'Design for Access and Mobility and Disability (Access to Premises - Buildings) Standards 2010' in relation to the development are to be submitted to the Accredited Certifier prior to issue of a Construction Certificate.

13. Compliance with the Building Code of Australia - Fire Services and Equipment

Detailed plans showing the existing and proposed fire services and equipment suitable for the intended class of building and proposed use, is to be supplied.

The design and installation of these services and equipment are to be compliant with the Building Code of Australia and relevant Australian Standards.

Details are to be provided to the Accredited Certifier prior to issue of the Construction Certificate.

14. Bush Fire Safety Authority requirements

The requirements of the NSW Rural Fire Service in the Bush Fire Safety Authority Ref. No. D19/1976 DA19061319116 GB, dated 3 July 2019 shall be incorporated into the construction certificate documentation for approval.

Details demonstrating compliance with the above shall be provided to the Certifying Authority prior to the issue of a construction certificate.

Prior to Any Works Commencing on Site

15. Principal Certifier - Details

The applicant must advise Council of the name, address and contact number of the Principal Certifier, in accordance with Section 6.6(2) of the *Environmental Planning and Assessment Act 1979*.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

16. Toilet Facilities

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet must:

- a) be a standard flushing toilet connected to a public sewer;
- b) be attached to an approved on-site effluent disposal system;
- c) be a temporary chemical closet that is regularly maintained; and
- d) appropriate facilities for the disposal of sanitary items are to be provided within the toilet.

17. Notice of Commencement

No work shall commence until a notice of commencement has been provided to Council. This notice is to be provided not less than two days from the date on which it is proposed to commence work associated with this Development Consent. The notice must also contain:

- a) details of the appointment of a Principal Certifier (PCA) providing name, address and telephone number; and
- b) details of the name, address and licence details of the Builder.

18. Principal Certifier Site Sign

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a) showing the name, address and telephone number of the Principal Certifier for the work;
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

19. Asbestos Material Handling

Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under Clause 458 of the *Work Health and Safety Regulation 2017*.

In addition to the above, the following must be satisfied:

- a) the person having the benefit of this consent must provide the Principal Certifier with a copy of a signed contract with such a person before any development or works commence;
- b) any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the bonded asbestos material or friable asbestos material is to be delivered;
- c) if the contract indicates that bonded asbestos material or friable asbestos material will be removed to a specified landfill site, the person having the benefit of the consent must give the Principal Certifier a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.

20. Erosion and Sediment Control for Minor Development

Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with Hawkesbury Council's publication *Guidelines for Erosion and Sediment control on a building site (2017)*.

During Construction

21. Construction Hours

Clearing of land, running of machinery, excavation, and/or earthworks, building works and the delivery of building materials must be carried out between the following hours:

- a) between 7am and 6pm, Mondays to Fridays inclusive;
- b) between 8am and 4pm, Saturdays;
- c) no work on Sundays and public holidays; and
- d) works may be undertaken outside these hours where:
 - (i) the delivery of vehicles, plant or materials is required outside these hours by the Police or other authorities;
 - (ii) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; and
 - (iii) a variation is approved in advance in writing by Council.

22. Site Management During Construction

The following requirements relating to site management apply during and immediately following construction:

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Copies of receipts stating the following must be given to the Principal Certifier:
 - (i) the place to which waste materials were transported;
 - (ii) the name of the contractor transporting the materials; and
 - (iii) the quantity of materials transported off-site and recycled or disposed of.
- d) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- e) During construction:
 - (i) all vehicles entering or leaving the site must have their loads covered;
 - (ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads; and
 - (iii) any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to the public.
- f) At the completion of the works, the work site must be left clear of waste and debris.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Note: In the event it is not possible to keep the footpath or road reserve clear during construction works written approval from Council must be obtained prior to any closing of the road reserve or footpath area. The closure must take place in accordance with Council's written approval. The area must be signposted and such signposting be maintained in a way that ensures public safety at all times.

23. Critical Stage Inspections

Prior to the commencement of building work and at nominated stages during the construction of the building, a minimum of 48 hours' notice is required to be provided to allow the Principal Certifier to ensure that the critical stage inspections are undertaken.

Note: Critical stage inspections are required to be carried out in accordance with Clause 162A of the *Environmental Planning & Assessment Regulation 2000*.

24. Termite Treatment

The development must be treated for termites in accordance with the National Construction Code and Australian Standard AS 3660.1 - 2014 - 'Termite Management - New Building Work' by a suitably qualified, licenced person.

A Certificate of Compliance is to be provided to the Principal Certifier and a Notice of Treatment is to be provided to the metre box.

Prior to Issue of Occupation Certificate

25. Fire Safety Certificate

A Final Fire Safety Certificate for all new (or altered) fire safety measures is required to be provided to Council prior to the issue of an Occupation Certificate.

Prior to Commencement of Use

A Compliance Certificate may be required to be obtained to satisfy particular conditions below.

26. Sewer Management Facility System

Prior to the commencement of use of the building as a Group Home and prior to any residents occupying the site, a Sewer Management Facility System application shall be submitted to Hawkesbury City Council. The treatment system and disposal method is to comply with Australian/New Zealand Standard 1547:2012 - *On-site domestic wastewater management*.

27. Sanitary Drainage Works

Prior to the commencement of use of the building as a Group Home and prior to any residents occupying the site, inspections for sanitary drainage works must be conducted by Hawkesbury City Council. Inspections must be conducted on the exposed pipes prior to covering. In the case of internal and external drainage, the inspection must be conducted by Hawkesbury City Council's Regulatory Services Branch. Please phone (02) 4560-4444 to arrange inspections.

28. Onsite Sewer Connection

Prior to the commencement of use of the building as a Group Home and prior to any residents occupying the site, a written clearance from Hawkesbury City Council (as the local sewer authority) that the development is suitably connected to the on-site sewerage management system, is required to be issued.

Operational Conditions

29. Car Parking and Vehicle Access

The existing dwelling's garage shall accommodate the parking provisions for the Group Home. The garage shall accommodate the mini-bus and one staff car park. Any additional parking for visitors or the like shall be accommodated fully on the site on the paved driveway areas located at the front of the garage or along the front of the dwelling.

However the site must be maintained to enable the forward entry and exit of vehicles and the driveway is to remain accessible at all times to comply with this requirement.

30. Maintenance of Landscaping

All trees and plants forming part of the approved landscape design must be maintained on an ongoing basis. Maintenance includes watering, weeding, fertilizing, pest and disease control and any other activity required to maintain healthy trees, plants and turfed areas.

31. Swimming Pools - Operation of Plant and Equipment

All swimming pool plant must be operated so as to not cause a nuisance to adjoining properties.

Note: In accordance with the Protection of the Environment Operations Act (1997) and Regulations, all swimming pool pumps should not be audible within a neighbouring premises.

- a) before 8am or after 8pm on any Sunday or public holiday; and
- b) before 7am or after 8pm on any other day.

32. Plan of Management and Incident Register

- a) The approved use of the premises must always be operated in accordance with the Plan of Management stamped and listed in condition 1 of this consent.
- b) A copy of the approved Plan of Management and this development consent must be kept on site and made available to any Council or Police officer upon request.
- c) Access to the Incident Register and register of complaints must be made available for viewing on the request of Council officers and/or the Police.
- d) The Group Home provider must sign the Plan of Management and must ensure compliance with all operational strategies identified in the plan at all times.

33. Public Complaints Management

During the operation of the development, the proprietor must ensure that the following contact details are available for community complaints:

- a) a telephone number on which complaints about operations on the site may be registered
- b) a postal address to which written complaints may be sent
- c) an email address to which electronic complaints may be transmitted.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

The proprietor must ensure that the required details are publicly available including, but not limited to, displaying the information on a sign near the entrance to the site, in a position that is clearly visible to the public. If the proprietor has an internet site these details must also be provided on this site.

34. Use of Premises

The approval is restricted to a Group Home only. The Group Home is to provide accommodation for a maximum of ten (10) persons (men only) and two (2) on-site managers. The Group Home is not to be used as a drug and/or alcohol rehabilitation centre and any of these activities shall not be carried out onsite. Where the need for such services is required, the resident of the Group Home shall be referred on to a suitable service provider.

The use of the premises shall be in accordance with the approved Plan of Management stamped and listed in Condition 1 of this consent. The Plan of Management shall be amended to reflect the above restrictions as to numbers permitted onsite at any given time.

35. Annual Fire Safety Statement

The owner of the building is responsible for the lodgement with Council of an Annual Fire Safety Statement from a competent person so as to confirm the essential fire safety measures required to be provided in the building exist and are being maintained. The Annual Fire Safety Statement must be issued within 12 months of the issue of the Final Fire Safety Certificate, and then on an annual basis thereafter.

A copy of the Fire Safety Statement obtained and Fire Safety Schedule must also be:

- a) Forwarded to the Commissioner of Fire and Rescue New South Wales by email to afss@fire.nsw.gov.au; and
- b) Prominently displayed in the building.

36. Plan of Management

The approved use of the building as Group Home must always be operated / managed in accordance with the Plan of Management approved and listed in condition 1 of this consent.

The Plan of Management is to be reviewed and updated by the operator every two years.

37. Public Complaints Management

During the operation of the Group Home, the Site Manager shall ensure that the following contact details are available for community complaints:

- a) a telephone number on which complaints about operations on the site may be registered
- b) a postal address to which written complaints may be sent
- c) an email address to which electronic complaints may be transmitted.

The Site Manager shall ensure that the required details are publicly available including, but not limited to, displaying the information on a sign near the entrance to the site, in a position that is clearly visible to the public. If the proprietor has an internet site these details shall also be provided on this site.

38. Annual Fire Safety Statement

The owner of the building is responsible for the lodgement with Council of an Annual Fire Safety Statement from a competent person so as to confirm the essential fire safety measures required to be provided in the building exist and are being maintained. The Annual Fire Safety Statement shall be issued within 12 months of the issue of the Final Fire Safety Certificate, and

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

then on an annual basis thereafter.

A copy of the Fire Safety Statement obtained and Fire Safety Schedule shall also be:

- a) forwarded to the Commissioner of Fire and Rescue New South Wales by email to afss@fire.nsw.gov.au; and
- b) prominently displayed in the building.

39. Owner or On-site Manager

Prior to commencement of operation of the group home, notification in writing and evidence must be submitted to the Consent Authority to ensure that the owner of the property or on-site manager has undergone training to obtain certification or be qualified and knowledgeable in:

- a) fire evacuation procedures;
- b) management protocol;
- c) Council requirements and conditions of consent; and
- d) first aid.

Training, including fire safety procedures, management protocol, Council requirements and conditions of consent, is to be provided for each site manager or the owner of the property every 12 months. In addition, a First Aid Certificate is to be kept up to date. Evidence in the form of a Training Register and First Aid Certificate, is to be kept on site and made available to Council Officers on request.

40. Noise Control - Offensive Noise.

The development shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood in respect of noise, vibration, smell, dust, waste water, waste products or otherwise. The provisions of noise management within the Plan of Management listed in condition 1 shall be adhered to at all times.

Advisory Notes (if applicable)

(i) Approval Authority

This development falls within the Sewerage Scheme controlled by Council, therefore Council is the approval authority for all sewer works.

The applicant must consult with the Waste Management Branch regarding any possible new work or upgrades to existing Council sewer mains related to this application.

(ii) Equitable Access

The applicant must make themselves aware of the *Discrimination Against People with Disabilities Act (DDA)* and assess their responsibilities and liabilities with regards to the provision of access for all people.

(iii) Requirements of 88B Instrument

The applicant must make themselves aware of any User Restriction, Easements and Covenants to this property and must comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.

(iv) Utilities and Services

Utilities, services and other infrastructure potentially affected by construction and operation must be identified prior to construction to determine requirements for access to, diversion, protection, and/or support.

Consultation with the relevant owner and/or provider of services that are likely to be affected by the proposed development must be undertaken to make suitable arrangements for access to, diversion, protection, and/or support of the affected infrastructure as required. The cost of any such arrangements must be borne by the developer.

Reasons for Decision

The Panel considers the proposal is acceptable and it is recommended that the proposed development be approved based on the following grounds:

- The proposal is acceptable having regard to the statutory requirements applying to the development.

ATTACHMENTS:

AT - 1 Aerial Locality Map

AT - 2 Assessment of need – Statement of Environmental Effects Extract

AT - 3 Applicant response to submissions

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

AT - 1 Aerial Locality Map



Figure 1: Aerial Locality Map

AT - 2 Assessment of need – Statement of Environmental Effects Extract

SOCIAL IMPACT AND COMMUNITY NEED DISCUSSION

The report titled Heading Home Project Evaluation Final Report prepared by Carolyn Quinn June 2018 (Quinn 2018) provides details of the issues relating to homelessness within Western Sydney. The data used in the Quinn (2018) report is sourced from the Australian Bureau of Statistics and provides an overview of homelessness specific to the Western Sydney area.

As most people are aware homelessness causes can include domestic violence, a shortage of affordable housing, unemployment, mental illness, family breakdown and drug and alcohol abuse. All these issues are the key all contributing factors to homelessness.

The key homelessness estimates for Australia from the 2016 ABS Census are:

- 116,427 people were classified as being homeless on Census night (up from 102,439 in 2011)
- the homeless rate was 50 persons for every 10,000 persons in 2016 (59% male/41% female), up 5% from the 48 persons in 2011 and the 45 persons in 2006
- 20% (or 23,437) are Aboriginal and Torres Strait Islander Australians
- 15% are born over- seas and arrived in the last 5 years
- the homelessness rate rose by 27%, the highest of any state or territory, while Western Australia fell 11% and Northern Territory and Australian Capital Territory each fell by 17%
- Nearly 60% of homeless people in 2016 were aged under 35 years, and 42% of the increase in homelessness was in the 25 to 34 years age group (up 32% to 24,224 homeless people in 2016).

In 2016 on census night there were 35,715 people classified as homeless in NSW (ABS 2016). This is compared to 2011 where there were 28,192 homeless people, the rate as increased by 37%.

The ABS 2016 data reveals that NSW has the fastest growing homelessness rate in Australia rising from 40 per 10,000 people in 2011 to 50 per 10,000 people in 2016.

The number of people in specialist homelessness services in NSW increased by 19% from 4,924 in 2011 to 5,861 in 2016. This reveals there is increased use and therefore need for the provision of Group Home services.

Overall, the number of people rough sleeping in NSW increased by 35% from 1,924 in 2011 to 2,588 in 2016. Considering all the data that has been prepared by the ABS, there is undoubtedly evidence which shows that there is a growing problem of homelessness, particularly in NSW and there is a growing need for accommodation for these people in Group Home style facilities.

The ABS General Social Survey (GSS) provides information about people who have been homeless in the past, but who are now usual residents of private dwellings. The ABS

General Social Survey (2014) asked people about episodes in their lives where they had been home- less and the reasons for those circumstances and found:

- 2.5 million people aged 15 years and over had experienced homelessness at some time in their lives
- About 1.4 million of these people had experienced at least one episode of homelessness in the last 10 years
- 351,000 had experienced homelessness in the last 12 months
- In situations of homelessness, 68% of people had stayed with a relative, 52% with a friend, 13% had slept rough or in an abandoned building, and 7.7% had stayed in a shelter or refuge
- The most common reason for experiencing homelessness in the last 10 years was family, friend or relationship problems, affecting about 622,000 (44%) people in their most recent experience of homelessness. Other reasons included a tight housing or rental market and financial problems (14% and 13% respectively)
- About 28% of people who had experienced homelessness in the last 10 years had been homeless for six months or more during their most recent experience. A further 15% had been homeless for three to six months and 23% had been homeless for one to three months
- Two-thirds (67% or 952,800 people) of those who had experienced homelessness in the last 10 years had not sought assistance from service organisations during their most recent experience of homelessness.
- About 15% of people who had experienced homelessness in the last 10 years sought assistance from housing service providers during their most recent experience of homelessness,
- 7.9% sought crisis accommodation/supported accommodation for the homeless, 7.0% sought a church or community organisation and 6.7% contacted a counselling service.

This picture of homelessness along with the extensive experience of local workers in the field aiming to address homelessness confirms the fact that there is undoubtedly a community need for the Group Home proposed.

One of the key referral agencies for the TRC is Providential Homes. Providential houses around 300 people per night and works to assist people to find suitable housing solutions. They seek to address individual needs of people through the supported temporary accommodation program. Providential will then utilise the referral pathway for clients who would benefit from the TRC program and support that client through the referral process. Referral agencies can be a mixture of government and non-government agencies. TRC has links with housing services including Providential, FACS Housing, Link2Homes, links to DoA services like 180TC and William Booth along with a vast array of services.

The 'multi step' referral begins with a online referral form, this form is to be filled out by the client or the referring agency on behalf of the client. The second step is a telephone contact with the applicant to confirm receipt of the referral and to open up communication with the client. This provides an opportunity to discuss how and why the client has applied to enter the TRC. The third step would be the offsite face-to-face meeting. This allows staff to visually assess the client for their suitability for the program. Please note that if a client was found to be under the influence, this would be unacceptable for the TRC and the client would need to be sent to the detox unit prior to entering the TRC program. If the TRC was not appropriate

for the client, they would be then referred to the most suitable service depending on their need.

Group homes

Group homes are generally just standard, single family houses, leased by group home administrators, to provide accommodation for people who are otherwise unable to join the private rental market. In most cases the group home operation is indistinguishable from other homes in the surrounding neighbourhood.

Group homes are small, residential facilities located within a community and offer long-term care, but some residents will eventually acquire the necessary skills to move to more independent living situations.

In the 1960s and 1970s the development of group homes occurred in response to the deinstitutionalization movement. This is the same time that psychiatric hospitals closed, discharged individuals needed places to live. The environment of the proposed group home is intended to simulate typical family life as much as possible.

The Restoration Centre is a non for profit organisation which seeks to increase the independence of residents so they can move onto the private rental market. The Group Home manager from The Restoration Centre will aim to teach residents daily living and self-care skills, providing as little assistance as possible. Daily living skills include meal preparation, laundry, housecleaning, home maintenance, money management, and appropriate social interactions. Self-care skills include bathing or showering, dressing, toileting, eating, and taking prescribed medications.

The Group Home Manager from The Restoration Centre will ensure that residents receive necessary services from community service providers, including medical care, physical therapy, occupational therapy, vocational training, education, and mental health services. The Group Home Manager will be assigned as a case manager who will oversee their care. Case managers review group home documentation regarding skills learned and services received and make recommendations for adjustments in care.

The proposed Group Home has a ratio of staff to residents of 5:1 which is a small ratio meaning that the manager gets to spend lots of time with the manager and this also assists with creating a home-like atmosphere. The Restoration Centre has successfully operated homes from locations throughout Western Sydney.

The community need and social benefit of aiding people who need it the most. It also assists the wider community by ensuring they do not fall into a state of homelessness.

The public sector does not have adequate facilities to meet the demand for Group Homes and as a result government funding can be secured by organisations such as The Restoration Centre so they can play a significant role to play in providing the social fabric and infrastructure for vulnerable people within the community. Non for profit housing providers are encouraged and guided by relevant planning controls that permit Group Homes in certain zones.

The social benefit of Group Homes that meet community needs and provide a high quality of care for the community is clear. The proposal will contribute to addressing the social needs of the local community, a need that Hawkesbury Council itself has responded to.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Research indicates that there is a long waiting list for similar type services across NSW and the demand continues to grow. With the knowledge and experience gained, The Restoration Centre has been able to develop its programmes to holistically address a range of needs to assist people with getting back on their feet and back into the private rental market.

The proposed development will make a positive contribution to the local community through the expansion and provision of Group Homes with space for up to 14 residents in this Group Home. The design and proposed operation of the proposal has been carefully developed to ensure that the facility achieves best practice care for the future residents. The Group Home will be valuable to the local community of North Richmond while providing employment opportunities within the locality.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

AT - 3 Applicant response to submissions

RESPONSE TO PUBLIC SUBMISSIONS

The following table addresses the submissions that were received in response to the advertising of the proposal.

Public submission Response Table	
Submitter and Issue	Response
No. 193 Crooked Lane, North Richmond	Public Transport
Rosemary Byrnes: <i>"My main concerns are lack of public transport, Devaluation of our property and undesirables that may move into the home".</i>	<p>The residents will predominantly be transported by the minibus to regular group programmes outside of the property.</p> <p>Participants in the early stages of the programme will be accompanied by a staff member while travelling outside of the property, including visits to the local GP or other appointments.</p> <p>As participants successfully move through the programme, they will be given the opportunity to be more independent, they will be directed to engage in paid employment with an employer that is aligned with the Restoration Centre.</p> <p>It is evident that local bus stops are located within a 2.5km distance with only two bus stops per day via Maddens Road. It should be noted the participants will be transported via minibus meaning the use of public transport will be kept to a bare minimum.</p> <p>The public sector does not have adequate facilities to meet the demand for Group Homes and as a result government funding can be secured by organisations such as The Restoration Centre so they can play a significant role to play in providing the social fabric and infrastructure for the group home. Non for profit housing providers are encouraged and guided by relevant planning controls that permit Group Homes in certain zones. The social benefit of Group Homes that meet community needs and provide a high quality of care for the community is clear. The proposal will contribute to addressing the social needs of the local community, a need that Hawkesbury Council itself has responded to.</p>

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

No. 37 Maddens Road, North Richmond

Gloria Outtrim

Lack of transparency

I wish to express my objection the Development Application (DA0204/19) based on the following:

Additional details also provided with this submission seek to clarify and provide more details about the group home.

- *Lack of transparency*

Lack of consultation and demonstration of need

- *Lack of consultation and demonstration of need*

and As per the abovementioned, the public sector does not have adequate facilities to meet the demand for Group Home.

- *Lack of infrastructure*

- *Impact on neighbours*

Non for profit housing providers are encouraged and guided by relevant planning controls that permit Group Homes in certain zones. The social benefit of Group Homes that meet community needs and provide a high quality of care for the community is clear. The proposal will contribute to addressing the social needs of the local community, a need that Hawkesbury Council itself has responded to.

Lack of infrastructure

The residents will predominantly be transported by the minibus to regular group programmes outside of the property.

Participants in the early stages of the programme will be accompanied by a staff member while travelling outside of the property, including visits to the local GP or other appointments.

Impact of neighbours

It is evident the propose development is located within distance from neighbouring dwellings.

The proposal is a low-intensity group home on a site that is more than 11 hectares in area. The dwelling is separated from the nearest dwelling by 35m (to the east) and more than 100m to the nearest dwelling to the west. The land area provides a satisfactory buffer to protect the acoustic amenity of residents on this site as well as residents on adjoining land.

Moreover, it is demonstrated that prior to anyone being accepted into this Group Home, the potential resident is passed through a thorough safety and risk

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

assessment by the Restoration Centre staff and referring agency.

Participants in the Restoration Centre Programme are referred through pathways from other support agencies and self-referrals through online or telephone services.

The Restoration Centre Programme aims to bring restoration to the lives of men through a holistic programme that focuses on bringing restoration to all areas of the participants life including health issues, relationship, finances, employment, education and training for the future. The residents will all be over 18 years of age.

There are 2 on-site managers who both have a background in community services. The on-site manager will be assisted by a variety of The Restoration Centre staff who include counsellors, activities manager, programme coordinator, pastoral support staff and a variety of volunteers.

As such, the type of people within the proposed group home will have to fulfil the criteria within the safety and risk assessment to be accepted in the home.

No. 21 Branders Lane, North Richmond

Bill Koulerakos

"In summary, I am VERY concerned about the type of person being considered as residents for this home, and I do not see sufficient attention being paid by council to the likely risks that would be incurred by local residents or the controls required to contain those risks. "

It is evident that the type of people within the proposed group home will have to fulfil the criteria within the safety and risk assessment to be accepted in the home, noting the organisation will not be proposing a group home to put in people who do not fulfil the criteria in the assessment which will result in none of the men ruining the community vibe.

No. 26 Maddens Road, North Richmond

John and Anne Bouboulas

We and the neighbours, that we have spoken to are concerned re the lack of transparency in the application regarding the purpose and function of the group home and the calibre and type of tenant that will be residing there, The development will add extra traffic as well as havoc to our quiet and safe neighbourhood.

Has been previously addressed within the table from other objections.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

No. 27 Branders Lane, North Richmond

George and Josephine Said

My main concern is that I would like to know the detailed conditions, of which Natalie Piggott (Senior Town Planner) told me you are unable to provide this information the conditions are made as it is assessed. Branders Lane is a quiet safe rural lane, I would like this to continue this way and without knowing the conditions you have left me with no option but to object to this application.

Unsure what the issue being raised is.

No. 96 Slopes Road, North Richmond

We wish to express our objections to the proposed development, DA0204/19 due to the unsuitability of Branders Lane for such a development for the following reasons:

It is evident a group home is permitted in this zone by virtue of the SEPP ARH 2009.

Zoning

Lack of public transport, lack of infrastructure and impact on residents have already been addressed throughout this table.

Lack of Public Transport

Lack of Infrastructure

Impact on Residents

No. 366 George Street, Windsor

Andrew and Monique Walton

We feel with the extra fourteen people erasing in this home plus other workers/visitors will be coming to and from will have an impact on noise, privacy, traffic and dramatically change the life style we have always enjoyed.

The subject proposal is significant separated to neighbouring dwellings. As such, the proposal is considered acceptable in terms of privacy, noise and traffic, noting it will not result in the change of lifestyle for residents.

Harry Elvin (No addressed stated)

Knowledge of the proposed tenants

It is evident that the type of people within the proposed group home will have to fulfil the criteria within the safety and risk assessment to be accepted in the home, noting the organisation will not be proposing a group home to put in people who do not fulfil the criteria in the assessment which will result in none of the men ruining the community vibe.

Remote from Windsor Police and quick response in the event of any trouble is unlikely.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Traffic volume or parking problems.

The proposal will not result in traffic and parking problems considering the nature of the proposal as well as the fact that the minibus will take the tenants to regular activities.

Rebecca Skopek (no addressed stated)

I reside close to this residence and yet have had no notification of this development. Given that there is minimal transparency in regard to what a 'group home' is and lack of information, as well as disregarding our community input, I object to this proposed development

Has been previously addressed within the table from other objections.

oooO END OF REPORT Oooo

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Item: 002 CP - DA0147/19 - Intensive Plant Agriculture - Turf Farm - Lot 3 DP 548570 Vol 11597 Fol 80, 54 Derrig Road TENNYSON NSW 2754 - (20355, 95498, 144940)

Directorate: City Planning

DEVELOPMENT INFORMATION

Application Number: DA0147/19
Date Received: 4/04/2019
Proposal Details: Intensive Plant Agriculture - Demolition of Some Existing Structures, Clearing of Native Vegetation, Decommissioning of Existing Water Storage Facility, Construction of Sediment Control Dams and Regrading of the Site for Use as a Turf Farm
Estimated Cost: 115000.00

Legal Description: Lot 3 DP 548570 Vol 11597 Fol 80
Property Address: 54 Derrig Road TENNYSON NSW 2754
Area: 13.0300 Hectares
Zoning: RU1 Primary Production under *Hawkesbury Local Environmental Plan 2012*.

Applicant: Charles Joseph Muscat
Owner: Mrs CM Muscat, Mr CJ Muscat, Mr BC Muscat, Mrs M Muscat
Exhibition Dates: 9/05/2019 - 6/06/2019
Submissions: 26

Key Issues:

- ◆ Environmental Impacts
- ◆ Amenity
- ◆ Insufficient Information

Recommendation: Refusal

EXECUTIVE SUMMARY:

Reason for Consideration by Local Planning Panel

- Contentious Development – The application has received 26 unique submissions by way of objection.
- Sensitive Development – The application falls into the category of sensitive development as it is:
 - a) Designated development.

Proposal

The application seeks approval for the demolition of an existing dwelling, shed and use of the site as a turf farm with the construction of four sediment/nutrient ponds, removal of vegetation and the establishment of turf and buffer zones.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Permissibility

The site is zoned RU1 Primary Production for which Intensive plant agriculture is permissible with consent. Under Hawkesbury Local Environmental Plan 2012 (LEP2012) the definition of intensive plant agriculture is:

intensive plant agriculture means any of the following—

- (a) the cultivation of irrigated crops for commercial purposes (other than irrigated pasture or fodder crops),
- (b) horticulture,
- (c) turf farming,
- (d) viticulture.

Accordingly the establishment of a turf farm is permissible with consent.

Consultation

The application was notified for a period of thirty days in accordance with Council's DCP 2002. As a result of this notification 26 submissions were received.

Key Issues

The key issues of the development application are:

- Environmental impacts;
- Amenity.

Recommendation

It is recommended that DA0147/19 be refused.

REPORT:

Detailed Description of Proposal

The application seeks to establish a turf farm on the subject site and includes the following works:

- Demolition of one of the existing dwellings and sheds;
- Removal and clearing of trees and vegetation;
- Construction of four sediment and nutrient ponds;
- Removal of one existing small dam; and
- Establishment of buffer plantings.

Site Description

The site is legally described as Lot 3 in DP 548570 and formally known as 54 Derrig Road Tennyson. Current development on the site comprises of two existing dwellings and sheds, one large dam, one small dam and a turf farm at the rear of the site.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Background and History

DA0273/17

11 May 2017

An application for the construction of a sediment control dam, removal of vegetation and the operation of a turf farm was lodged with Council.

DA0273/17 included a Flora and Fauna Assessment Report by Fraser Ecological Consulting, who was engaged to investigate and report on the impacts of the proposal for intensive agriculture - turf farming encompassing most of 982 Kurmond Road, North Richmond (Lot 18 DP 16781) as well as the southern portion of 54 Derrig Road. Of particular note is that Fraser Ecological Consulting has provided a Flora and Fauna Assessment Report, which makes the same references and, at times, contradictory conclusions, to some of the findings of the Flora and Fauna Assessment for DA0273/17.

7 August 2018

The application was determined by way of an approval subject to deferred commencement. The deferred commencement conditions required the following:

- a) Permission to Enter the Property;
- b) Right to Drain Stormwater; and
- c) Sediment Dam details.

October to December 2018

Various documentation lodged with Council in accordance with Deferred Commencement conditions.

S960099/19

20 December 2019 to date

A Section 96 application was lodged to amend the design of the sediment basin. Undetermined as at current date.

Current Application History

DA0147/19	
4 April 2019	Application lodged with Council.
24 April 2019	Referrals sent to internal referral officers and external referral bodies.
30 April 2019	Initial review letter sent requesting payment of advertising fees.
9 May to 6 June 2019	Notification carried out with twenty-six submissions received.
21 August 2019	Site visit carried out by Council Officers Natalie Piggott and Zoran Tripovic with owner Ben Muscat.
16 September 2019	Meeting with applicant and ecologist to discuss the following issues: <ul style="list-style-type: none">• Sediment dam adjoining neighbouring property and potential for overflow to be redirected away from boundary (engineering solution required);• Buffer plantings to be increased to 10m with variations to widths along the side boundary and front boundary;• Endangered ecological community vegetation removal to be reduced;• Asbestos pipe to be covered;• Site plan and landscape plan required; providing full details of proposal.
30 September 2019	Email to applicant advising the following: <i>The main concerns for Council are the buffer zones and the sediment dam adjoining the neighbouring property. I have discussed these two issues and the overall application with our Internal Development Review Panel where it has been concluded that Council cannot support the application on the following grounds:</i> <ul style="list-style-type: none">• <i>The potential environmental impacts the proposal has to the adjoining site in terms of overflow and buffer screening. Whilst an engineering solution was discussed at the meeting, a major flood event would still have impacts to the neighbouring property and this is not supported.</i>

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

(30 September 2019 Continued)	<p><i>The 10m buffer zones were also discussed and whilst this could be accommodated, Council would require the 10m buffer zones to be fully established prior to any turf farming activity being carried out within 30m of the side boundary;</i></p> <ul style="list-style-type: none"><i>The suitability of the location of the turf farm given the 10m slope over a short distance of less than 150m. The Internal Review Panel is of the view that this slope would result in significant soil erosion which would then result in increased run off, dust, etc, which does not meet the objective of sustainable development and would have a significant environmental impact. Whilst this may be addressed by an Agriculture Soil Suitability Report, which could be used to determine the suitability of the soil and the sustainability of the farming activity on the soil given the likely erosion due to the slope that would result from the farming activity, the Internal Development Review Panel still has the view that the farming activity would have a significant environmental impact due to its sloped location.</i> <p><i>You are welcome to submit any additional information that was discussed at the meeting e.g. engineering plans, hydraulic modelling and an Agriculture Soil Suitability Report which can be included in the documentation presented to the Local Planning Panel, however Council will be recommending refusal of the turf farm and it is therefore recommended that you withdraw your application.</i></p>
3 October 2019	Email from applicant advising application would not be withdrawn and additional information would be submitted.
8 January 2020	Email to applicant requesting update.
15 January 2020	Email from Altura Spatial advising of their engagement by the applicant to address issues raised in relation to the application.
22 January 2020	Email from applicant's consultant providing comments in response to the issues raised in Council's email dated 16 September 2019 and advising additional information will be submitted.
23 January 2020 to 5 March	Additional information submitted including amended flora and fauna report, amended site and landscape plans, stormwater assessment and submission responses.

Submissions

The application was notified between 9 May 2019 and 6 June 2019 in accordance with Chapter Three of the Hawkesbury Development Control Plan 2002 (HDCP), Notification of Development Applications. Twenty-six (26) submissions have been received and the issues identified are outlined in the matters for consideration under Section 4.15.

Consultation

Development Engineer

Council's Development Engineering Services Coordinator has provided the following comments:

Civil

- Implementation of Erosion and Sediment control

The submitted Erosion and Sediment Control Plan in SEE requires amendment as additional sediment fences at the downstream of the building waste and horse arena removal areas is required.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Insufficient information has been provided with the application which can not be conditioned due to the requirement of a Soil and Water Management Plan and higher level of Erosion and Sediment Control Plan for major earthworks > 25,000m² being required to be prepared and implemented for which the impacts are not able to be appropriately assessed.

- Dam Design

The dam design requires amendment. The crest width and dams/ponds are required to be enlarged to achieve the requirements of Council's DCP 2002, Appendix E Part I, Section 8.24 Runoff Water Quality. The dams/ponds do not currently comply with DCP 2002.

Drainage

- Stormwater Discharge to Natural Watercourse

Whilst the Post-development stormwater drainage quality control (as shown in submitted Runoff Water Quality Report - ECM 6559525) has indicated the proposed design will have a reduction of TP = 49.5% and TN = 38.5% as shown in Fig 5, it does not comply with Council's current DCP 2002, Appendix E Part I, Section 8.24 requirement for Runoff Water Quality – *"The minimum requirement shall be that the average annual pollutant load discharged from the development site shall be **no greater than** for existing conditions"*.

Whilst the layout and design is considered generally acceptable, a revised design for water overflow control - ponds and catch drain (if and where required) are to be enlarged to a capacity for 1% AEP to achieve the requirement of Appendix E Part I, Section 8.24 Runoff Water Quality of DCP 2002. It is not considered that this can be conditioned as a proper assessment cannot be carried out prior to granting a development consent.

The application also does not make any provisions for water quality testing on an ongoing basis. Were the application to be supported, regular (at least bio-annual, two times per year) water quality monitoring with water samples testing and identify any remediation works required (to achieve average annual pollutant load discharged from the development site shall be no greater than for existing conditions together with a report, prepared by an independent NATA Laboratory, would be required. This should be part of the Plan of Management – Water Quality Facility/ Farm Management Plan.

Traffic

- Commercial Council Road Reserve

Not Affected. Given the subject site is within a bushfire prone area, driveway and internal access road must be designed and constructed to comply with RFS requirements which can be conditioned if the application were to be supported.

- Clear Pedestrian Sight Lines

Not Checked. Unsealed driveway access exists (based on Google street view), sight distance seems to require upgrading a proper assessment needs to be undertaken to confirm this requirement.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Environmental Health Officer

Council's Environmental Health Officer has provided the following comments:

1. Proposed Vegetated Buffer Zone

- a) *There are concerns that the buffer zone will not be established at the commencement of farming. With the vast majority of agricultural properties requested to put in place a buffer zone it never gets fully established and negatively impacts on adjoining properties.*
- b) *The operator usually only plants small saplings/seedlings. In the vast majority of circumstances the species do not reach maturing due to inadequate care and maintenance.*

2. Nutrient Control Ponds

The three nutrient ponds on the eastern side have the potential to adversely impact on the adjoining property through runoff from the spillway discharge points. The applicant has not demonstrated that the water can be adequately retained so as not to impact other properties. The applicant's consultant stating that nutrient load is going to be diluted at the point of discharge has not been scientifically validated. This redirection of water by use of the spillways is also of concern during significant wet weather events. The spillways appear to direct water towards adjoining properties.

The proposed development has not proven beyond reasonable doubt that the overflow from all dams in close proximity to property boundaries, will not cross the property boundary. As per the Local Government Act 1993 Council has the ability to issue Orders against property owners or occupiers should surface water be directed, diverted or allowed to cross boundaries in accordance with the Local Government Act 1993 Orders Table, which states:

Point 12 page 76 - "To do such things as are necessary to control the flow of surface water across land".

Comment: In regard to the nutrient control ponds, Council's Development Engineering Co-ordinator has carried out an assessment of these ponds and the catch drains and found that the size and capacity of these ponds requires a re-design to enable them to cater for the 1%AEP and to ensure that discharge from the development site is no greater than what currently exists. In this regard Council is not satisfied that the proposed nutrient ponds, in their current form, will not have an adverse impact on the neighbouring properties.

The buffer plantings can be conditioned to ensure that canopy, shrubs and ground covers form part of the planting schedule with advanced species being required to be planted. The planting, harvesting and other activities associated with the turf farm can also be managed via conditions of consent to ensure that none of these activities occur prior to the establishment of the buffer plantings.

Environment & Parks Officer

An assessment of the application has been carried out by Council's Environment & Parks Officer whose comments are provided below:

Fraser Ecological Consulting was engaged to investigate and report on the impacts of a proposal for intensive agriculture (turf farming) on part of a property at 54 Derrig Road, Tennyson (Lot 3 DP 548570). The current proposal is to expand a previously approved, similar turf farming development encompassing most of 982 Kurmond Road, North Richmond (Lot 18 DP 16781) as well as the southern portion (only) of 54 Derrig Road (DA0273/17). That proposal was approved for deferred commencement under DA0273/17. References to some of the

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

findings of the Flora and Fauna Assessment previously prepared by Fraser Ecological for DA0273/17 are also made here, where relevant to the current assessment of DA0147/19.

Flora and Fauna Assessment

Fraser Ecological states that the current proposal predominantly comprises the clearing of 8373 m² of native vegetation and also proposes 1.5 ha (15,000 m²) of revegetation works, including enhancement and weeding of a riparian corridor, in order to facilitate the proposed expansion of the previously approved turf farm, owned and operated by the proponent of the current proposal.

Fraser Ecological also states that the vegetation currently on the site is consistent with the Critically Endangered Ecological Communities (EEC) known as Shale Sandstone Transition Forest and/or Cumberland Plain Woodland, both listed under the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* and the NSW *Threatened Species Conservation Act 1995* (now repealed, however the same EEC is also listed under the currently in-force NSW *Biodiversity Conservation Act 2016*).

Fraser's previous Flora and Fauna Assessment report, dated 18 June 2018 for 982 Kurmond Road (for DA0273/17) identified that the impacts of that development could be mitigated via the following action:

'A significant area of EEC vegetation will be retained ... in order to offset the development impacts.'

Consequently, Fraser's 2018 report for DA0273/17 included the following recommendation for mitigation of the impacts proposed (by that development) on this EEC, within the report's recommended *Environmental Protection and Compensation Measures*:

'Significantly better areas of native vegetation predominantly occurring along the northern portion are proposed for retention as part of this development proposal'

Fraser's most recent Assessment report dated 18 February 2020 (for DA0147/19), states that the **same area** of EEC vegetation (i.e. along the northern portion of the existing turf farm development) 'is considered to be in poor condition' and that the impacts proposed on this vegetation by the current proposal would not be significant. Fraser Ecological has not provided any further assessment or clarification to address these contradictory conclusions.

It is also noted, with considerable concern, that the applicant's other consultant Altura Spatial have specified in their email correspondence to Council of 4 March 2020 (together with one of the various attachments to that email, i.e. Sheet No. 4 of 12) that **all** of this previously designated 'significantly better (area) of native vegetation' is currently proposed for removal (refer to the area of land shown yellow on Altura Spatial's Sheet No. 4).

I therefore cannot concur with Fraser's February 2020 conclusion that the current proposal 'will not have a significant impact upon communities listed under the NSW *Threatened Species Conservation Act 1995* (or the) Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*.'

It is also noted that no Vegetation Management Plan (VMP) has been provided detailing the following:

- Details of type(s) of work to be carried out;
- Objectives of work required under the plan;
- Weed management programme including identification of what weeds are to be targeted;
- Identification schedule and map location of weeds to be removed/controlled including any environmental / priority weeds encountered;

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

- Detailed methodology for weed removal;
- Schedule for monitoring of all weeds expected to be found on the property;
- Prioritise / stage all works proposed;
- Supervision of the works by a suitably qualified person required and/or provide guidance as to where further advice can be sought;
- Maintenance program, including inspection and corrective action regimes;
- Mechanism by which the Plan can be reviewed and updated on a continuous basis;
- Provisions for management of the interface between any buffer area(s) and all relevant, adjoining land(s);
- Proposed timeframe for completion of all work required under the Plan;
- Planting requirements for at least one tree every 20m should also be included incorporating the species listed in the conditions of consent from DA0273/17 for replanting;
- Details of the total number of replacement trees required with mature height capability for each tree and/or shrub specie;
- Locations for proposed planting of ground cover species specified. For example, is this to be limited to just along the front edge of a buffer zone, in between all shrubs or trees, etc.
- Planting of at least 10 shrubs and 20 groundcover, interspersed every 10m² (in order to ensure a dense screen to protect neighbouring properties from spray and dust drift) should be included; Wherever any gaps in this screen may appear, over time, the VMP / Landscape Plan should include appropriate provision for additional planting(s) to be conducted and monitored for success, or otherwise;
- The total extent of all approved impact zones should be clearly delineated prior to the commencement of any vegetation removal activities. No construction or other works, including temporary storage of materials shall be allowed outside the limits of these approved impact zones.
- Existing groundcovers, or a mix of existing groundcovers with some native lawn species, should be retained across the area of the proposed APZ to protect that area of the site's soils from erosion. No areas of exposed soils should be present at the conclusion of landscaping works.
- Any fill, other soils or sands imported to the site are to be free of weed seeds, other propagules or potential contaminants to native flora or fauna.
- Fencing materials should not include barbed wire.
- Only native turf / lawn species should be used. Species that are considered likely to displace native vegetation shall not be used. Such species would include, but are not necessarily limited to, Kikuyu (*Cenchrus clandestinus*) and Browntop bent (*Agrostis capillaris*).
- The ongoing health of retained, native trees and shrubs may be impacted by any significant change to either soil nutrient or moisture levels. Potential impacts should be monitored during the construction period and appropriate mitigation actions implemented.
- On-site construction works should be staged such that any clearing or grubbing of vegetation is immediately followed, as far as practicable, by any associated excavation or construction works proposed within the same vicinity, such that various cryptic / burrowing fauna species do not re-inhabit the area prior to any subsequent disturbance works being commenced.
- All vehicles, plant and other equipment entering the site shall be thoroughly cleaned to remove all soils and/or vegetation debris prior to entering the site.

Accordingly, the application cannot be supported in its current form due to the insufficient information provided.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Planning Comment: The objective of Clause 6.4 – Terrestrial biodiversity in the LEP2012 is to maintain terrestrial biodiversity by:

- (a) protecting native fauna and flora, and
- (b) protecting the ecological processes necessary for their continued existence, and
- (c) encouraging conservation and recovery of native fauna and flora and their habitats.

The Clause requires the consent authority to consider:

- (a) whether the development –
 - (i) is likely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
 - (ii) is likely to have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
 - (iii) has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
 - (iv) is likely to have an adverse impact on the habitat elements providing connectivity on the land.
- (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

In this regard insufficient information has been provided with the application to verify the above requirements and therefore in accordance with the provisions of Clause 6.4 of the LEP 2012, the consent authority must not grant development consent as it cannot be satisfied that:

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
- (b) the development has been designed, sited and will be managed to minimise that impact, or
- (c) the development will be managed to mitigate that impact.

Consultation - External Referrals

Natural Resources Access Regulator

General terms of Approval for the application were provided on 13 June 2019. Whilst more details have subsequently been provided, the application remains as proposed and a re-referral is not considered to be warranted in this instance, particularly as the application is not supported.

Were the application to be supported the conditions listed in the GTAs would be included on the draft conditions of consent.

Council Policies, Procedures and Codes to which the matter relates

State Environmental Planning Policy No 44—Koala Habitat Protection (SEPP No. 44)
State Environmental Planning Policy No 55—Remediation of Land (SEPP No. 55)
Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) (SREP No. 20)
Hawkesbury Local Environmental Plan 2012 (LEP 2012)
Hawkesbury Development Control Plan 2002 (HDCP 2002)
Development of Flood Liable Land Policy 2012

STATUTORY PROVISIONS

Environmental Planning and Assessment Act 1979 and its Regulation 2000

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Schedule 3 of the Environmental Planning and Assessment Regulation 2000 lists what constitutes designated development. Turf farms are identified as designated development if they meet the criteria listed under Clause 31, which states:

Turf farms-

- (a) *that are located—*
 - (i) **within 100 metres of a natural waterbody or wetland, or**
 - (ii) *in an area of high watertable or acid sulphate, sodic or saline soils, or*
 - (iii) *within a drinking water catchment, or*
 - (iv) **within 250 metres of another turf farm, and**
- (b) *that, because of their location, are likely to significantly affect the environment.*

In order for the proposal to be designated development, the proposal must meet (a) **and** (b) of the above and in order to determine this, the following assessment has been applied.

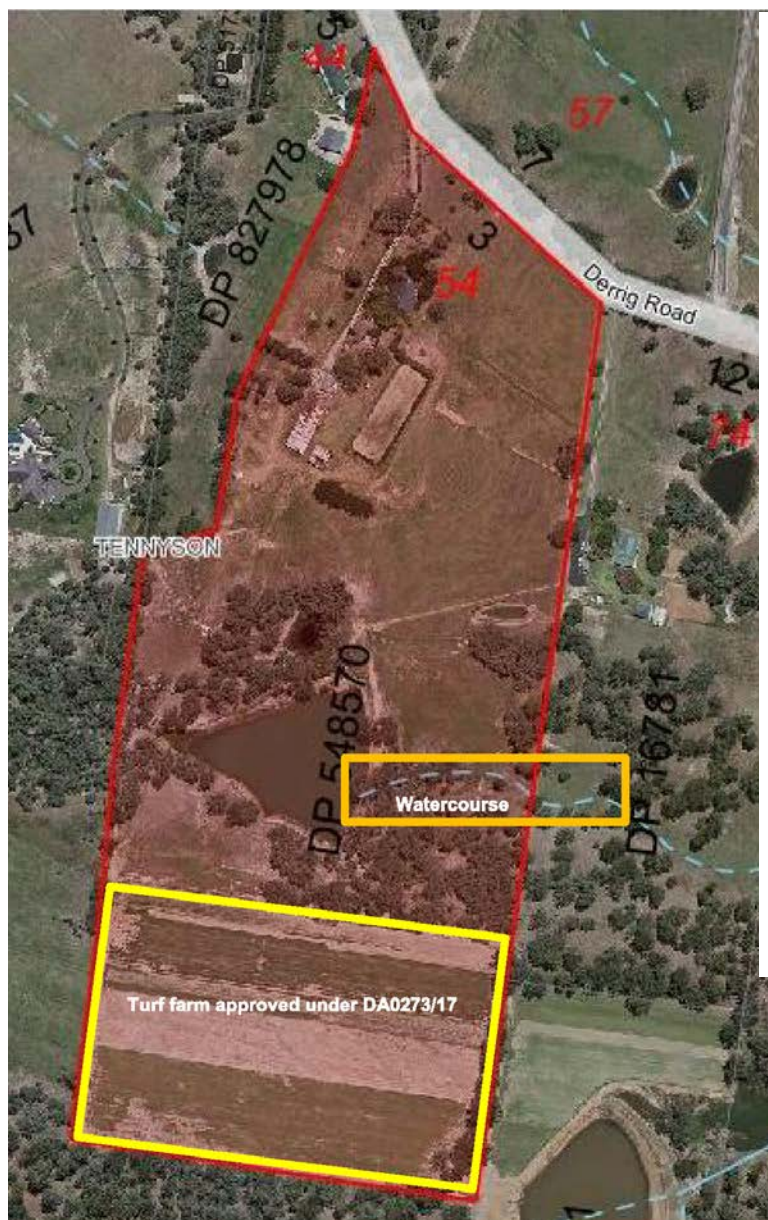


Figure 1: Watercourse and turf farm locations

- **(a)(i) Within 100 metres of a natural waterbody**

The subject site has a natural watercourse which traverses the site, as indicated in Figure 1 below.

The applicant has submitted that the waterbody is considered to be an 'ephemeral' watercourse and therefore does not meet the above criteria, however the definition of a natural waterbody under the standard instrument is:

waterbody (natural) or natural waterbody means a natural body of water, whether perennial or intermittent, fresh, brackish or saline, the course of which may have been artificially modified or diverted onto a new course, and includes a river, creek, stream, lake, lagoon, natural wetland, estuary, bay, inlet or tidal waters (including the sea).

The definition of a waterbody ranges from perennial to intermittent and the site is mapped as having a waterbody on the subject site. The applicant has not provided any data to demonstrate that the waterbody is less than intermittent and therefore cannot state that (a)(i) is not applicable.

- **(a)(iv) Within 250 metres of another turf farm.**

The site already has an operating turf farm located at the rear of the site and the applicant has stated that the proposal is an extension of the already approved turf farm on part of the subject site. However, this turf farm is subject to a separate consent granted under DA0273/17 which was primarily located on the neighbouring property at 982 Kurmond Road. In order for the turf farm approved under DA0273/17 to be extended, a modification to the consent issued under DA0273/17 would be required, therefore it cannot be considered that the subject application is an extension to an existing turf farm.

- **(b) Because of their location, are likely to significantly affect the environment.**

The proposed location of the turf farm will require the removal of the existing native vegetation shown in Figure 2. Whilst the applicant has provided a Flora and Fauna Report, the application has not adequately addressed whether, as a result of the location of the turf farm, it will likely have a significant affect on the environment. The application seeks to remove over 8,000m² of trees and vegetation which is considered to significantly affect the environment. Whilst the application includes revegetation plantings, these planting are primarily buffer plantings along the boundaries which would be required regardless of any tree removal. This buffer planting is to manage dust, spray and other amenity impacts to the neighbouring properties, therefore this buffer planting is not considered to be re-vegetation planting.



Figure 2: Vegetation highlighted in green to be removed

Accordingly, the application is considered to be designated development as it satisfies both (a) and (b) of Clause 31 of Schedule 3 of the Environmental Planning and Assessment Regulation 2000.

Given that the proposed development is considered to be designated development, an Environmental Impact Statement (EIS) is required to be submitted. This EIS would, amongst other things, be required to assess the potential impacts the turf farm would have to surrounding properties.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

The proposed turf farming areas are within close proximity to the adjoining properties' dwellings indicated in Figure 3 below. The EIS would have to demonstrate that the proposal would not have any unacceptable or detrimental impacts to the residents of these dwellings, or their properties, and that no land conflicts would be created as a result of the turf farming activities between the adjoining properties.



Figure 3: Location of neighbouring properties

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

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

a) **The provisions (where applicable) of any:**

i. **Environmental Planning Instrument:**

State Environmental Planning Policy No. 44 – Koala Habitat

SEPP No. 44 (now SEPP Koala Habitat Protection) applies to land within the Hawkesbury Local Government Area to which a development application has been made and that has an area of more than one hectare. Whilst this SEPP has been repealed, the application was lodged prior to the commencement of the replacement SEPP

Circular No. B35 was issued by the former Department of Planning (DIPNR) on 22 March 1995. The purpose of the Circular was to provide information relating to the implementation of SEPP No. 44 and to provide the Guidelines made by the Director for the purposes of the Policy. Section 1.5 of the Circular states, inter alia, that:

"In relation to affected DAs it is the intention of the policy that investigations for "potential" and "core" koala habitats be limited to those areas in which it is proposed to disturb habitat".

The proposed location for the turf farm will require removal of large stands of trees and vegetation. Council has been provided a Flora and Fauna Report by Fraser Ecology which has included an assessment of SEPP 44 and has found no evidence of koala habitation on the site and the subject site is not considered to form core koala habitat.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

<p>(c) whether there are any feasible alternatives to the development or other proposal concerned, and</p> <p>(d) the relationship between the different impacts of the development or other proposal and the environment, and how those impacts will be addressed and monitored.</p>	<p>Strategy 1997.</p> <ul style="list-style-type: none"> The proposed development will implement erosion and sediment control measures during construction and a Management Plan will be implemented to provide monitoring during the operational phase of development. 	<p>The assessment has not clearly identified if there are any feasible alternatives to the development and implementation of sediment controls and management plans do not clearly demonstrate how the development's impact will be managed or monitored.</p>
6 Specific planning policies and recommended strategies		
<p>(1) Total catchment management</p> <p>Total catchment management is to be integrated with environmental planning for the catchment.</p>	<p>The plans prepared by McKinlay and Morgan have designed the drainage such that the levelling out of the swale bank will spread and disperse flow over to 20m area to replicate existing overland flow.</p>	<p>The location of sediment dams 2, 3 and 4 will result in runoff from these dams to be directed into the natural watercourse which traverses the site. This has the potential to create impacts given these dams are sediment control dams and may contain contaminants that could leech into the natural water course.</p> <p>Council does not support any overland flow to neighbouring properties and the documents provided have not adequately demonstrated that the dams and drainage infrastructure will be able to ensure no overland flow will occur as a result of the proposal.</p>
<p>(6) Flora and fauna</p> <p>Policy: Manage flora and fauna communities so that the diversity of species and genetics within the catchment is conserved and enhanced.</p>	<p>It is considered that the Flora and Fauna report submitted provides for amelioration measures to be implemented to manage flora and fauna communities.</p> <p>A majority of the remnant native trees belonging to the Shale Sandstone Transition Forest Endangered Ecological Community is proposed for removal to utilise available harvestable area and to maximise solar access.</p> <p>Tree removal is acknowledged as the major environmental impact of the proposal, and therefore, the maximum number of trees around the existing dwelling will be retained where possible.</p>	<p>The Flora and Fauna Assessment lodged with the application has been assessed. The report contains inconsistencies with a previous report prepared for the adjoining turf farm and has not provided sufficient information for the consent authority to grant consent. Refer to the fauna and flora assessment above. The development can therefore not be supported at this time.</p> <p>Given that the majority of the vegetation is to be removed the provisions of Clause 6.4 of the LEP2012 cannot be satisfied as the proposed development in its current form has not been designed to avoid, minimise or adequately mitigate any significant environmental</p>

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

<i>(Continued (6) Flora and fauna)</i>	There are opportunities to revegetate the rear and western boundary where the 3m setback occurs. Furthermore, Council could be assured that protection of trees around the existing dwelling can be protected from the 10/50 bushfire code by conditioning the retention of particular trees as part of this consent should the proposal become approved.	impacts. The 10/50 Vegetation Clearing Code of Practice provision under the RFS Planning for Bushfire Protection does not apply to this development proposal as it is land mapped as critically endangered ecological community
(7) Riverine scenic quality Policy: The scenic quality of the riverine corridor must be protected.	The site is not located in a riverine scenic corridor.	Noted.
(9) Rural residential development Rural residential development should not reduce agricultural sustainability, contribute to urban sprawl, or have adverse environmental impacts (particularly on the water cycle or on flora or fauna).	The proposal involves an agricultural land use and therefore contributes to the agricultural sustainability of the land.	Whilst the proposal seeks to contribute to agricultural sustainability it has an adverse environmental impact by virtue of the significant amount of flora proposed to be removed and the impact overflow from the nutrient loaded dams may have on adjoining properties.

The applicant has not addressed Clause 6(3) Water quality or Clause 6(3) Water quantity of SREP 20. The sediment dams will potentially overflow into the natural watercourse, and over neighbouring properties, and the application has not provided any information as to how monitoring of water quality will be carried out, nor has any details been provided of the likely water volumes that will discharge into the watercourse.

Therefore the strategies listed within Clause 6(3) Water quality and Clause 6(4) Water quantity have not been satisfactorily addressed.

The application is therefore not considered to be consistent with the aims of SREP No. 20, the strategies listed in the Action Plan of the Hawkesbury-Nepean Planning Strategy and the specific planning policies and recommended strategies and development controls contained in Clause 6 and Clause 8 of SREP No.20 and cannot be supported.

Hawkesbury LEP 2012

Under Hawkesbury LEP 2012, the property is zoned RU1 Primary Production. The following is a summary of the clauses under HLEP 2012 applicable to the development.

Clause 2.2 Zoning of Land to which Plan applies

The site is zoned RU1 Primary Production and Intensive Plant Agriculture is permissible with consent.

Clause 2.3 – Zone objectives and Land Use Table

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives for RU1 Primary Production zone are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage agricultural activities that do not rely on highly fertile land.*
- *To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.*
- *To promote the conservation and enhancement of local native vegetation including the habitat of threatened species, populations and ecological communities by encouraging development to occur in areas already cleared of vegetation.*
- *To ensure that development retains or enhances existing landscape values including a distinctive agricultural component.*
- *To ensure that development does not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services.*

The proposal is not consistent with the objective to ensure that development occurs in a way that does not have a significant adverse impact on water catchments, including surface and groundwater qualities and flows or to promote the conservation and enhancement of local native vegetation and is therefore not consistent with the zone objectives.

6.4 Terrestrial biodiversity

The objectives under Clause 6.4(1) are to maintain terrestrial biodiversity by:

- (a) protecting native fauna and flora, and*
- (b) protecting the ecological processes necessary for their continued existence, and*
- (c) encouraging the conservation and recovery of native fauna and flora and their habitats.*

The subject site is mapped under Council's Terrestrial Biodiversity Map and is therefore subject to the biodiversity controls listed under Clause 6.4(3) and (4) in accordance with Clause 6.4(2).

Clause 6.4(3) and (4) states:

- (3) Before determining a development application for development on land to which this clause applies, the consent authority must consider—*
 - (a) whether the development—*
 - (i) is likely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
 - (ii) is likely to have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
 - (iii) has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
 - (iv) is likely to have any adverse impact on the habitat elements providing connectivity on the land.*
 - (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

- (4) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—*
- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
 - (b) *if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The proposed turf farm application seeks to clear 8,373m² of trees and vegetation to facilitate the use of the site as a turf farm. Buffer plantings along the boundaries, and within the riparian corridor, is proposed which has been identified as over 1.5ha of revegetation works, however the buffer plantings would be required to be provided for management purposes and therefore cannot be considered revegetation planting.

The application has been assessed by Council's Parks and Environment Officer, (whose comments are provided elsewhere in the report) who has noted and commented upon the fact that the site was subject to a previous turf farm application under DA0273/17. This application included the removal of 23 trees from the site. This represented 830m² of vegetation to be removed. This application included a Flora and Fauna Report by Fraser Ecological Consulting dated 18 June 2018 (Flora and Fauna Report 2018). This report concluded that the trees to be removed under this application were identified as being characteristic of the Cumberland Plain Woodland EEC and were *Eucalyptus crebra* (Narrow-leaved Ironbark), *Eucalyptus tereticornis* (Forest Red Gum) and *Eucalyptus fibrosa* (Broad-leaved Ironbark). This removal was not accompanied by any restoration planting.

The justifications used for the removal of these trees under DA0273/17, at page 21 of the Flora and Fauna Report 2018 were:

At paragraph 3: *"Some of the trees were in poor condition with limited life span."* and

At paragraph 6: *"...the overall condition of the vegetation proposed for removal is considered to be in poor condition for the following reasons:*

- *'Isolated paddock trees indicative of CPWL shown limited signs of regrowth*
- *There is little evidence of native regeneration'*

No arboricultural assessment was provided within the Flora and Fauna Report 2018 to demonstrate that these trees were in fact in poor condition and that their safe useful life expectancy (SULE) was compromised. The report also went on to conclude that:

'Significantly better areas of native vegetation predominantly occurring along the northern portion are proposed for retention as part of this development proposal.'

This *"significantly better areas"* referred to along the northern portion are now the vegetation proposed to be removed to facilitate further turf farming on the site. The Flora and Fauna Report 2020 has stated, at page 26, that:

"the overall condition of the vegetation proposed for removal is considered to be in poor condition for the following reasons:

- *Isolated paddock trees for CPWL shown limited signs of regrowth*
- *There is little evidence of native regeneration"*

This is the same conclusion used in the previous report for DA0273/17 and given that this particular vegetation was considered to be significantly better in 2017, it has not been demonstrated that within a 2-3 year period the trees within this location are now considered to be in poor condition. Furthermore no explanation as to what constitutes *'poor condition'* has been provided or what characteristics a tree and vegetation have to display in order for it to be in a poor condition. A tree in

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

good health with no indication of structural defect, disease affectation and insect attack or borer infestation cannot be considered in poor condition simply because no under storey regrowth is evident. The Flora and Fauna Report has not carried out any arboricultural assessment of the trees and vegetation on the site that identifies:

- Species, age, dimensions, health, vigour and structural condition;
- Pest or disease affection, useful life expectancy; and
- Landscape significance and retention value.

Therefore, the Flora and Fauna Report has not adequately demonstrated that the trees and vegetation to be removed are in poor condition. It is acknowledged that the EEC community onsite may be considered to be in poor condition due to the lack of the fully structured vegetation community which is made up of ground covers, shrub layers and canopy trees, however this only relates to the makeup of the community and not the individual trees themselves. Whilst the endangered community may be in poor condition, the trees themselves may not be and this has not been qualified.

Council's Environment & Parks Officer has concluded that insufficient information has been provided to allow an assessment of the application, particularly given there are inconsistencies between the current application and previous application, and the consent authority cannot be satisfied that the proposal is consistent with Clause 6.4 of HLEP 2012.

Other Provisions

LEP	Proposed
Clause 4.3 Height of Buildings	The proposal does not include any structural development that the building height is applicable to.
5.10 Heritage Conservation	The application is not within a heritage conservation area or within the vicinity of a heritage item identified under Schedule 5 of HLEP2012.
6.1 Acid Sulfate soil controls	Class 5 – low impact. The proposal is unlikely to lower the water table or expose acid sulfate soils as no significant excavation is proposed on the site.
6.2 Earthworks	The application does not propose any significant earthworks.
6.3 Flooding	The land is not subject to flood related controls.
6.5 Wetlands	The land is not subject to wetlands controls.
6.6 Development in areas subject to aircraft noise	The land is not subject to aircraft noise.
6.7 Essential services	The land is serviced by electricity, water and sewer.

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

There are no relevant Draft Environmental Planning Instruments for the subject site.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

iii. Development Control Plan applying to the land:

Hawkesbury DCP 2002:

A full assessment of the proposal under DCP 2002 is illustrated in the following compliance table. The Non-compliances identified in the table are assessed below.

DCP 2002		
DCP Control	Proposed	Complies
Part A: Introduction		
3.2 Notification		
3.2.1 Residential accommodation		
<i>Intensive Plant Agriculture</i>		
Letters to adjoining occupiers/owners: required	The proposal was notified from 18 December 2018 to 15 January 2019.	Yes
Site Sign: Required	A site sign was placed on the site.	Yes
Notice in Local Newspaper: Not required	No advertising required. A total of 26 submissions were received and the matters raised in these submissions are discussed in the Community Consultation Section of this report.	N/A
Part C: General Guidelines		
1.2 Landscaping Requirements		
A landscape concept plan is required for most developments in the Hawkesbury. The landscape plan is to be prepared by a suitably qualified person and must incorporate the requirements detailed below.	Landscape plans were submitted with the application however the plans do not accurately detail the existing trees and vegetation onsite nor does it accurately detail the plantings to be carried out. No location or identification schedule has been provided of the existing trees and vegetation or what replacement plantings will be carried out.	No
2.0 Car Parking and Access		
The site has existing parking arrangements for the existing dwelling which will remain onsite, however the details of the proposed upgrade to the internal driveway have not been provided.		
4.0 Soil Erosion and Sediment Control		
A plan for soil erosion and sediment control was submitted with the application. Appropriate conditions can be applied to manage sediment and erosion for the site.		
5.0 Bushfire Prone Land		
The site is bushfire prone land, however no construction of any buildings or any works that are considered to be for a 'special fire protection purpose' are proposed. Accordingly a report by a certified bushfire consultant is not required to be provided demonstrating the application satisfies the requirements of <i>Planning for Bushfire Protection 2006</i> .		
8.0 Management of Construction and Demolition Waste		
Waste management plan in accordance with 8.7 shall be submitted with any application.	A waste management plan has been provided with the application.	Yes

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

DCP 2002		
DCP Control	Proposed	Complies
9.0 Preservation of Trees and Vegetation		
Consent is required for tree removal in accordance with 9.3.1.	The application proposes the clearing of trees and vegetation to enable the establishment of the turf farm. Insufficient details have been provided on the amount of trees to be removed including their species, size and location and what replenishment trees are proposed including what number of trees are to be replanted.	No
Part D Specific Development		
6.0 Dam Construction		
<p>The proposal includes the construction of four sediment control dams. Three are located along the eastern boundary and one is located on the western boundary.</p> <p>Nutrient Pond No. 1 is located on the top western portion of the site and is located in close proximity to the neighbouring dwelling at 44 Derrig Road.</p> <p>Nutrient Pond No. 2 is located on the top eastern portion of the site and is in close proximity to the neighbouring dwelling at 74 Derrig Road.</p> <p>Nutrient Pond No.s 3 and 4 are located below the existing dam.</p> <p>Council's Development Engineer has reviewed the concept designs of these dams and the dams require amending to comply with the Council's DCP requirements.</p>		

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

There are no planning agreements or draft planning agreements entered into for this proposed development.

vi. Matters prescribed by the Regulations:

Division 8A of the EP & A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent.

The relevant prescribed conditions would have been included in the conditions of consent were the application to be approved.

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

All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report. The development is not considered satisfactory in terms of environmental impacts.

c) Suitability of the site for the development:

The site is not considered to be suitable for the proposed development. The Department of Primary Industries has released a guideline titled *Planning for Turf Farms*. This document provides guiding principles for turf farming planning and should be carried out. The site has been found to be unsuitable for the proposed development given the sloping nature of the site, close proximity to the neighbouring residential properties and the location and potential impact sediment pond/dam number 2 may have to the neighbouring property. Overland flows from the is dam onto the neighbouring property has not been adequately addressed.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

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

Concern	Comment
<p>1. Amenity Impacts. Concerns are raised that the turf farm will impact the amenity of the locality by:</p> <ul style="list-style-type: none"> causing odours from fertilisers; noise impacts by not having any operational hours; Dust from harvesting and vehicular access from Derrig Road, which is not sealed, will impact upon neighbouring dwellings; The proposed buffer zones are inadequate and inconsistent with the Department of Primary Industries Guideline: <i>Planning for Turf Farms</i> 	<p>The application has provided a Farm Management Plan (FMP) which provides details on how the turf farm will operate and be managed. It has included hours of operation for machinery, type of fertilizer it will use including organic fertilizer, and what noise generating activities will be carried out including truck movements at harvest time.</p> <p>It is noted that the FMP lacks specific details, for example, it states that plans and strategies have been developed to manage spills and leakages of hazardous substances, however this is not detailed anywhere, however this can be resolved via conditions of consent requiring an updated FMP.</p> <p>The buffer zones, as recommended in the guideline, do not carry any statutory weight and were these zones to be implemented, this would sterilise the majority of the site. Each proposal for a turf farm is assessed on individual merit and widths of buffer zones are determined on each individual circumstance. Buffer zones may be increased or decreased depending on the nature of the neighbouring site or location of dwellings and other structures.</p> <p>Were the application to be approved, conditions of consent can resolve the majority of amenity issues identified.</p>
<p>2. Environmental impacts. Concerns are raised that the turf farm will:</p> <ul style="list-style-type: none"> require significant amounts of water which will impact the current water supply, impact downstream waterways and will contribute to water wastage through evaporation; transfer pesticides, manures and fertilisers onto neighbouring properties and into local catchments; impact local dams which are used for drinking water for livestock; impact ground water by the leaching of pesticides into the soil; cause drift spray from the irrigation, pesticides and fertiliser which will potentially contaminate drinking water by falling onto roofs, which will run into rain water tanks, and cause health issues from breathing in the spray or it landing on 	<ul style="list-style-type: none"> The FMP has included details on water management for the turf farm with the current dam being utilised to collect stormwater and irrigation runoff which will then be used for irrigation purposes. The application also includes the construction of four nutrient dams which have been assessed as being capable of achieving adequate filtration to prevent contaminated water leaching into the natural watercourse and onto neighbouring properties. However Council's Development Engineer has assessed the dam capacities and has found that these dams require amendments to their capacity. The application has also not adequately addressed the issue of potential contamination from the turf farm into the natural watercourse. Buffer zones have been proposed to address drift spray which, were the application to be supported, could be managed via conditions of consent.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Concern	Comment
<p>gardens and clothes out drying;</p> <ul style="list-style-type: none"> • create unacceptable risks to the environment and surrounding properties that have not been adequately addressed within the Farm Management Plan; • impact upon the native wildlife by the removal of trees and vegetation; • soil erosion will occur and topsoil will be lost from the growing and cutting of turf. 	<ul style="list-style-type: none"> • Insufficient information has been provided to allow Council to assess the environmental impacts the tree and vegetation will have on the site and locality. The application is not supported due to this aspect of the proposal. • Soil erosion has been raised with the applicant given the gradient of the site. This has not been adequately addressed.
<p>3. Suitability of the site. Concerns are raised that the site is not consistent with the Department of Primary Industries Guideline: <i>Planning for Turf Farms</i> and the <i>Land Use Conflict Risk Assessment Guideline</i>. Furthermore the sloping nature of the site and being within close proximity to residential dwellings would not make the site suitable for a turf farm.</p>	<p>It is acknowledged that the application has not provided any land use conflict matrix to demonstrate that the turf farm will not conflict with neighbouring properties or their land use. This would usually be done within the Environmental Impact Statement which has not been provided for this application. The turf farm being in close proximity to the neighbouring dwellings has not been addressed by the application.</p> <p>It is also acknowledged that the slope of the land is in excess of the recommended gradients as provided by the Department of Primary Industries (DPI). The slope of the turf farm is 11.7% over a 17m height over a 145m length. This is inconsistent with the advice by DPI which advises to avoid slopes greater than 10% due to the increased risk of soil erosion.</p>
<p>4. Zoning. Concerns are raised that the land is zoned for primary production and that turf farming is not traditional primary food production.</p>	<p>The RU1 Primary production zoning includes intensive plant agriculture which specifically lists turf farming as permissible with consent. RU1 Primary Production zoning is not exclusively for food production.</p>
<p>5. Impacts to local utility services and infrastructure. Concerns are raised that the turf farm operation will impact upon:</p> <ul style="list-style-type: none"> • the availability of electricity to the area; • Derrig Road infrastructure causing damage to the sealed section; • Increase traffic along Derrig Road with additional trucks and vehicles accessing the site; and • increasing dust within the locality. 	<p>Turf farms usually have a maximum of 1 harvest per 6 months however the FMP lodged with application has stated that the harvesting of the turf will occur once per year over a 2/3 month period. During this time truck movements of approximately 4 to 6 movements per day will occur therefore the level of traffic and/or truck movements on and off the site would be concentrated to this period of time and would have minimal impact to the road infrastructure. In terms of dust caused by these movements, given that the movements would be between 4 and 6 per day over a 2/3 month period this would not constitute a large number of vehicle movements to warrant the requirement of upgrading the dirt road to a sealed road.</p>

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Concern	Comment
6. Impacts on value of property. Concerns are raised that the residential development will impact upon the value of the neighbouring premises	The applicant has a right under the Environmental & Planning Assessment Act, 1979 to the orderly and economic use and development of the land and possible variation in surrounding property values does not constitute reasonable grounds for refusal of a development application.
7. Designated development. Concerns are raised that the development has not been lodged in accordance with statutory requirements and that the proposal should be classified as designated development.	The application is considered to be designated development for reasons discussed previously in this report.

e) The Public Interest:

Having regard to the assessment contained in this report, it is considered that approval of the development is not in the public interest.

OTHER MATTERS FOR CONSIDERATION

Council raised initial concerns that the development would have potential conflicts with the neighbouring properties in terms of amenity, stormwater runoff and buffer zones. Concerns were also raised that the slope of the land was inappropriate and that an Agriculture Soil Suitability Report had not been provided to demonstrate that the soil on the site was adequate for the purposes of turf growing.

The applicant's consultant Greg Monaghan of Altura Spatial Pty Ltd has provided responses to these concerns, which is attached as Attachment 2 to this report, and these responses have been considered as follows:

1. Item 1 – Sediment Ponds

The additional information provided in both the response and additional reports and documentation have been assessed by Council's Development Engineering Services Coordinator whose comments are provided elsewhere in this report.

2. Item 2 – Buffer Zones

The response to Council's requirement for 10m buffer zone was rejected on the basis that other turf farms have been given 5m buffer zones, which is an implied standard, and any variation to this would not be equitable. It has also been implied that this buffer zone has been required only on the basis of the neighbouring objection.

In response to this it should be noted that Council does not have any specific controls regarding buffer zones and a merit based assessment is carried out for every turf farm application. Council can adopt the *Planning for Turf farms* guideline recommendation of 100m, however were this to be implemented on every application, this would sterilise the majority of sites within the Hawkesbury locality to operate as turf farms. Accordingly buffer zones are given a merit based assessment for each individual site and whilst 5m buffer zones have been consistently provided, this does not make it standard practice as there will be some circumstances where 5m is inadequate. This is such a circumstance where there are three dwellings in close proximity to the turf farm which require additional buffer zones to reduce the impact of the turf farm and its operation. In particular, spray drifting of irrigation, fertilisers and pesticides onto the neighbouring properties.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

It is noted, however, that the applicant has amended the proposed buffer zone between 54 and 74 Derrig Road to be 25m along the boundary for a length of 70m, effectively providing a 50m wide separation between the dwelling at 74 Derrig Road and the proposed turf farm. This should also be adopted for the neighbouring property at 44 Derrig Road as the dwelling is approximately 15m away from the proposed turf area.

3. Item 3 - Reduction in removal of Ecological Community

It was recommended that the vegetation between the existing turf farm at the rear of the property and the existing dam be retained to reduce the impact the proposal would have on the trees and vegetation.

An amended Flora and Fauna Assessment report and landscape plans have been provided, however the retention of vegetation, as recommended, was rejected and only a minimal reduction in vegetation removal proposed in the amended Flora and Fauna Report has been proposed. The amended Flora and Fauna Assessment report has been assessed and found to have insufficient information to allow adequate assessment.

4. Item 4 - Burial of asbestos pipe

The applicant has advised that the pipe shall be removed as opposed to buried to provide a better environmental outcome.

5. Additional detail on site and layout plan

The applicant has provided amended Farm Site plans with additional notations, however the plans do not provide adequate details as follows:

- No details of the upgrade to the internal driveway has been provided;
- No details of the existing trees and vegetation are provided in accurate detail;
- No accurate surveyed details are provided as to what is existing onsite and what the contours are onsite.

The submitted amended plans and documentation have been assessed and found to provide insufficient detail to carry out an adequate assessment.

Development Contributions

Section 7.12 Fixed development consent levies (Hawkesbury Section 94A Contributions Plan 2015)

The proposal has an estimated cost of works being \$115,000.00 therefore the contribution of 0.5% applies to this development, being - \$575.00. Accordingly, were the application to be supported, a condition of consent would be required to be imposed in this regard.

Conclusion

The matters in relation to Section 4.15 of the Environmental Planning and Assessment Act 1979 have been considered.

The application has not adequately demonstrated that the proposal will not have any detrimental environmental impacts both onsite and to the neighbouring properties.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

RECOMMENDATION:

That development application DA0147/19 at Lot 3 DP 548570 Vol 11597 Fol 80, 54 Derrig Road TENNYSON NSW 2754 for Intensive Plant Agriculture - Demolition of Some Existing Structures, Clearing of Native Vegetation, Decommissioning of Existing Water Storage Facility, Construction of Sediment Control Dams and Regrading of the Site for Use as Turf Farm be refused for the following reasons:

Designated Development

1. The development application should be refused because it has failed to adequately demonstrated that the proposal is not designated development in accordance with Schedule 3 of the Environmental Planning and Assessment Regulation 2000.

Particulars:

- (a) Under Schedule 3 Clause 31 of the Environmental Planning and Assessment Regulation 2000 Turf farms are identified as designated development if they meet the following criteria:

Turf farms-

- (a) *that are located—*
 - (i) **within 100 metres of a natural waterbody or wetland, or**
 - (ii) *in an area of high watertable or acid sulphate, sodic or saline soils, or*
 - (iii) *within a drinking water catchment, or*
 - (iv) **within 250 metres of another turf farm, and**
- (b) *that, because of their location, are likely to significantly affect the environment.*
- (b) The proposed development is within 100 metres of a natural waterbody and is within 250 metres of another turf farm.
- (c) The proposal, due to its location, will potentially have a detrimental impact on the environment due to significant removal of vegetation and stormwater discharge into a natural watercourse and onto adjoining properties. The application has not adequately demonstrated that the vegetation removal and stormwater discharge will not have a significant effect on the environment due to the location of the turf farm proposed on the site.

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

1. The development application should be refused because it has not been demonstrated that the proposal complies with the “general planning considerations” in clause 5 and the “specific planning policies and recommended strategies” in clause 6 of SREP Hawkesbury Nepean River.

Particulars:

- (a) The Statement of Environmental Effects has failed to address all the relevant requirements under Clause 6 of SREP Hawkesbury Nepean River.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Insufficient Information

2. The proposed development should be refused as the application has not provided adequate information to allow for a proper assessment of the application.

Particulars:

- (a) The Flora and Fauna Assessment report dated 4 March 2020 by Fraser Ecology concludes that the current proposal 'will not have a significant impact upon ... communities listed under the *NSW Threatened Species Conservation Act 1995* (or the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999* is inconsistent and contradicts the information presented in, and the conclusions drawn from, the submitted documentation. Therefore insufficient information has been provided to verify the requirements under Clause 6.4 Terrestrial Biodiversity. Therefore in accordance with the provisions of Clause 6.4(4) of the LEP 2012, the consent authority must not grant development consent as it cannot be satisfied that:
- *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
 - *the development has been designed, sited and will be managed to minimise that impact, or*
 - *the development will be managed to mitigate that impact.*
- (b) The Flora and Fauna Assessment report has failed to provide a Vegetation Management Plan (VMP). A VMP is required and must indicate appropriate species that are representative of the EECs identified on the site. The VMP must describe each task necessary for the implementation of the plan, the duration and priority, maps, diagrams and plant species lists. The VMP must describe the existing vegetation and natural features to be retained, vegetation management objectives, proposed vegetation and regeneration methodologies, weed removal methodologies, sediment and erosion control and stabilisation works.
- (c) The application has not adequately demonstrated that the proposal, due to its location, will not significantly affect the environment in terms of vegetation removal.
- (d) The nutrient sediment dams have not been designed to withhold a 1 in 100 year flood event.

Unsuitability of the site

3. The application should be refused as the topography and location of the turf farm are inappropriate.

Particulars:

- (a) The proposed turf farm is within close proximity to three neighbouring dwellings. The proximity has the potential of creating amenity conflicts between the residents of these dwellings and the turf farm.
- (b) The site for the turf farm has a gradient of 11.7% over a distance of 17m for a length of 145m. This is greater than the recommended 10% the Department of Primary Industries Guideline: Planning for Turf Farms recommends due to soil erosion issues.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Inadequate Farm Management Plan

4. The application should be refused as the proposal has not provide an adequate Farm Management Plan (FMP) which fully details how the turf farm will operate or what strategies have been put into place to manage the operation of the turf farm or mitigate impacts to the surrounding locality.

Particulars:

- (a) The FMP has stated that the turf farm will be managed in accordance with best practice farming however no details of what this best practice is.
- (b) The FMP has not provided the details of the strategies it will adopt for chemical and fertilizer management.
- (c) The FMP has not provided a schedule or methodologies for soil sample testing to be carried out.
- (d) The FMP has not provided the details as to how or when the nutrient dams will be tested for contamination and what remediation works will be required should contamination be present.

ATTACHMENTS:

AT - 1 Aerial Image of Site

AT - 2 Response from Applicant dated 22 January 2020

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

AT - 1 Aerial Image of Site



HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

AT - 2 Response from Applicant dated 22 January 2020

To commence this discussion, the following points from your email dated 30 September 2019 will be addressed :-

1. Sediment dam overflow directed away from boundary (engineering solution required)
2. Buffer plantings increased to 10m alongside and front boundaries
3. Reduction of ecological community removal
4. Asbestos pipe burial
5. Site plan & Landscape plan – further details to be provided
6. Council's Main concerns
 - a) Buffer zones
 - b) Sediment dam adjoining neighbouring property
 - c) Impacts of overflow and buffer screening on adjoining property
 - d) Major flood event impact on neighbouring property
 - e) Buffer zone to be fully established prior to any turf farming to be carried out within 30m of the side boundary.
 - f) Slope of land will lead to significant soil erosion, increase in dust which is not considered to be sustainable development.

Item 1 – Sediment dams

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

From experience, the specific use of sediment dams on turf farms is not considered an appropriate solution as the nutrient load generated by possible fertiliser runoff is at a higher priority than sediment load. Sediment ponds are generally used when earthworks are exposed to rainfall events in developments such as subdivisions rather than for a turf farm where for all except a few weeks after cutting. At other times, there is close to or full grass cover on the site. That said, the proposal as lodged with Council is intended to replace the designed sediment ponds with nutrient load control ponds with the operation of these addresses within the farm management plan.

The nutrient load control ponds will be designed by J Wyndham Prince Engineers from Penrith in conjunction with our in-house designer. These ponds will essentially be wet ponds with the full storage capacity under licence from Water NSW.

The storage capacity & farming use will be based upon the following criteria

- 75% volume to be the 1 in 5 year ARI storm event to be retained for each minor catchment
- 25% volume to be retained as wet storage to ensure integrity of clay lining
- Farm operations will permit full pond storage with exception to period of fertilising and for two weeks afterwards where the water level must be lowered to the 25% capacity to ensure the upper 75% is set aside for un-expected 1 in 5 year ARI storm event.
- All other storm events will be allowed to flow through the ponds as any increase in nutrient load for these such events should be considered insignificant due to the dilution.
- Farm operations will ensure that the ponds are maintained with this 75/25 process.
- Where pond overflow spillways generate a concentrated discharge flow, a level spreader is to be designed and submitted as part of the construction approval to Water NSW (Water Supply Works Approval)
- The volume created by the full or Top Water Level of these ponds will fall under the volume permitted within the applicants Water NSW Water Access Licence (WAL).

The design of the nutrient loan control ponds is currently underway with the design plans hopefully submitted by the end of the first week in February.

Item 2 – Buffer Zones

Council's requirement to increase the buffer zones from five (5) metres to ten (10) metres is not considered equitable as this is a significant departure from the buffer zones imposed on other contemporary consents as issued by Hawkesbury City Council.

Whilst there is an agreement that buffer zones should be adopted in accordance with the *NSW Department of Primary Industries – Planning for Turf farms*, the requirement for a ten (10) metre buffer adjoining No. 74 Derrig Road purely on what appears to be the direct response of the objections received by Council.

In response, a number of random buffer zone tests have been carried out existing turf farms in the district and it noted that the average distance from the turfed area to the closest non-related dwelling is approximately fifty (50) metres. This includes a selection of both approved farms and those where an approval wasn't found on Council's DA tracker. A PDF file showing the results of these findings is attached. Accepting this as an "implied" standard, the applicant to DA0147/19 has proposed that the farm set back immediately adjoining the dwelling on No. 74 Derrig Road be increased to fifty (50) metres by applying a twenty five (25) metre vegetated buffer between the turf farming operation and the subject property eastern boundary. This will only be for the immediate dwelling area with dimensions of this increased buffer as shown on the attached PDF sketch.

Council's request to refrain from turf farming at a distance of 30m from the subject eastern boundary until such time the vegetated area has been fully established is considered completely un-reasonable given that the applicant has agreed to increase the buffer zone adjacent to the dwelling on No. 74 Derrig Road. That said, we reject the suggestion that this should occur.

Item 3 – Reduction in removal of Ecological Community

This suggestion is rejected as the increased buffer zone offered above will create a positive increase in the re-established ecological plantings proposed by Fraser Ecological.

Item 4 – Burial of the Asbestos pipe

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

The applicant agrees that the best solution for this is to have it exhumed and removed from site in accordance with and to the requirements of the Work Health and Safety Regulations 2011. The applicant presently has consulted with a licenced demolisher, Riverstone Demolition, who are apparently licenced to carry out such work. That said, it would be a better environmental outcome if this removal rather than burial was carried out.

Item 5 – Additional Detail on Site and Layout Plan

Accepted as the layout plan does not include vehicle access tracks and does not provide fine detail for the vegetation re-establishment.

Alex Fraser from Fraser Ecological is currently overseas and he will be consulted in this regard upon his return.

Item 6 – Council's Main Concerns

Sub Items a) & b) have been addressed within Items above.

Sub item c) - Overflow from nutrient load control ponds will address for all storm events during periods of fertiliser application although despite the Council's concern about flows onto No. 74 Derrig Road, the existing normal natural overland flows travel from No. 54 into No. 74 and the applicant does not have ANY legal right to prevent any stormwater flowing from his site. That said, any water which the applicant legally has harvesting rights to under the terms of their Water Access Licence (WAL) will be stored in both the existing large farm dam and the proposed nutrient ponds and any stormwater over and above this will be allowed to flow downstream as all other property owners allow.

Of course, the engineering modifications of the existing dam and construction of the proposed nutrient ponds will ensure that suitable level spreaders will be constructed to remove the possibility of concentrating overflows. This will emulate the existing overland flows where possible. Should Council have concerns about pre & post development flow situations, the surface differences between turf being farmed and the existing un-kept paddocks will not significantly reduced the time of concentration of a stormwater event and therefore not increase the perceived flows at the boundary by a measurable amount.

Sub Item d) – Major Flood Event – as proposed above and as discussed, any major flood event which may occur will not produce any greater flows than the existing as the difference between pre and post development flow times of concentration is insignificant.

Sub Item e) – This has been addressed in Item 2 above.

Sub Item f) – Slope of the land increasing erosion - the grades of the approved turf farm at the rear of the same property (No. 54 Derrig Road – DA0273/17) have been scaled from existing plans at 11m height in 123 metres run which equals 8.94%. The grades on the turf farm proposed by DA0147/19 are 17 metres height in 145 metres run which equals 11.7%. Whilst this is around the upper limit of the recommendations suggested by *NSW Department of Primary Industries – Planning for Turf farms*, Council's thoughts regarding the refusal on the basis of erosion increased by such a grade are unfounded. Typically, when a turf farm is being initially established, there is a period of around two (2) months before the planted turf takes hold and sufficient growth has occurred to overcome any erosion. This period is significantly less than many of the Council approved subdivisions due to the fact that the growth is watered on a regular basis and mowed to induce horizontal spreading of the planted grass. On subdivisions, planted or seeded grass on exposed footpaths berms and batters is applied, watered a few times by the developer and then left to propagate by itself. A very different scenario yet Council constantly permits the approval of subdivisions provided soil & sediment control is retained and maintained for the period until grass establishment. With that applied, the applicant has proposed that at the division of turf farm and the proposed downstream riparian corridor which is to be re-vegetated under the Fraser Vegetation Management Plan (VMP), a full length COIR Log soil control device will be installed and maintained. Below that and where the riparian corridor meets the eastern boundary of the property, standard sediment control fencing shall be installed and maintained as a backup. The COIR log will also be placed at other strategic locations as the applicant sees fit during the course of turf establishment.

HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 1 – Reports for Determination

Meeting Date: 30 April 2020

Further, once the turf has been established and during the harvesting, the nutrient load control ponds will be acting as sediment ponds and will be cleaned and maintained as necessary. We can be comfortable in knowing that this will occur as turf farmers have a fine reputation for keeping their farms clean and tidy and well-groomed as during the selling / harvesting season, the tidiness of a farm is most certainly a marketing point and a poorly maintained farm would suggest that the quality of the turf is below standard. The fall-back position is that the farmer must comply with the terms within both the consent and the farm management plan to ensure that the operation remains perpetual. During the harvesting procedure, the turf is cut in 600mm wide x 50mm deep strips and between each cut strip, a "ribbon" of turf 50mm side is retained to ensure that the crop re-grows. This ribbon strip is the extra soil control required to ensure any erosion is contained and with a short re-growth period, the harvested area would be almost fully grassed in a matter of weeks. This cycle is repeated. Any concern that may exist about deep erosion between cuts is removed by the fact that each 600x50mm cut turf row does not cut deep enough to remove the roots of the grass thus preventing anything but superficial soil damage during normal rain events.

With regards to an increase in dust by the slope of the turf farm, this is rejected as the turf farmer is constantly watering the crop to promote grass growth and dust generation would only occur if the farmer wasn't caring for the farm. It is suggested that during this hot & dry period where vegetation cover within paddocks is at a minimum, private owners land that is not maintained as a farm, has the possibility of generating substantially more dust than the farm within the proposal.

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