



Hawkesbury City Council

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to  
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Pitt Town LEP Review  
prepared by Neil Selmon  
Consulting Service  
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# **PITT TOWN LOCAL ENVIRONMENTAL PLAN REVIEW**

**REVIEW OF PITT TOWN LEP AMENDMENT 145 AND  
JOHNSON PROPERTY GROUP  
REZONING REQUEST**

**SECTION 54 REPORT TO HAWKESBURY COUNCIL**

**PREPARED BY**

**NEIL SELMON CONSULTING SERVICES PTY LTD  
FEBRUARY 2007**

# **REVIEW OF PITT TOWN LEP AMENDMENT 145 AND JOHNSON PROPERTY GROUP REZONING REQUEST SECTION 54 REPORT**

<b>CONTENTS</b>	<b>PAGE</b>
<b>Executive Summary</b>	<b>1</b>
<b>1.0 INTRODUCTION</b>	<b>2</b>
<b>2.0 BACKGROUND TO LEP AMENDMENT 145</b>	<b>2</b>
<b>3.0 JOHNSON PROPERTY GROUP SUBMISSION</b>	<b>6</b>
3.1 Summary of Proposed Amendments	
3.2 Land Omitted from Johnson Property Group Submission	
<b>4.0 STATUTORY CONSIDERATIONS</b>	<b>11</b>
4.1 State Legislation and Policy	
4.1.1 Metropolitan Strategy	
4.1.2 Shaping Western Sydney	
4.1.3 State Environmental Planning Policies	
4.1.4 SREP 20 – Hawkesbury-Nepean River	
4.1.5 Section 117 Directions	
4.1.6 Planning Circulars	
4.2 Local Planning Controls	
<b>5.0 STATED DEPARTMENT OF PLANNING POSITION</b>	<b>17</b>
<b>6.0 KEY ISSUES</b>	<b>19</b>
6.1 Compelling Need	
6.2 Flooding and Emergency Evacuation	
6.2.1 Johnson Property Group Proposal	
6.2.2 Current SES Position and Amendment 145	
6.2.3 Recent Investigations	
6.2.4 Summary	
6.3 Heritage Considerations	
6.3.1 European Heritage	
6.3.2 Aboriginal Archaeology	
6.4 Infrastructure Provision	
<b>7.0 OPTIONS</b>	<b>31</b>
7.1 Planning Principles	
7.2 Johnson Property Group Proposal	
7.3 Alternative Proposals	
7.4 Do Nothing Option	
<b>8.0 RECOMMENDATIONS</b>	<b>35</b>
<b>Appendix A</b>	<b>36</b>

## EXECUTIVE SUMMARY

Council has received a rezoning request prepared by Don Fox Planning Pty Ltd on behalf of the Johnson Property Group for certain lands at Pitt Town. The land includes part of the land affected by Hawkesbury Local Environmental Plan (LEP) 1989 (Amendment No 145), land deferred from Amendment 145 and a small amount of land falling outside the investigation area of the 2003 Connell Wagner Local Environmental Study that preceded Amendment 145.

The purpose of the rezoning request is to include the deferred area and additional lands, following further archaeological and heritage studies over the land, and to substantially increase the residential densities permitted by LEP Amendment 145.

In October 2006 Neil Selmon Consulting Services was engaged to independently review the rezoning request and prepare a report to Council recommending whether or not it should resolve to prepare a draft LEP over the land, based on the Johnson Property Group proposal, pursuant to Section 54 of the *Environmental Planning and Assessment Act 1979*.

This report reviews the background to Amendment 145, the current statutory context for any draft LEP and describes the proposal by Johnson Property Group.

Key issues for consideration have emerged from this review and from discussions with relevant agencies. These issues are:

- demonstration of compelling need for any amendment;
- flooding and emergency evacuation;
- heritage considerations; and
- infrastructure provision.

Analysis of these issues has identified some guiding planning principles for any consideration by Council of the need for an LEP amendment. Options for Council decision are then assessed against these principles. The options considered are:

- the Johnson Property Group proposal;
- alternative proposals, including a proposal consistent with views expressed by the NSW Department of Planning on any amendment in the Pitt Town investigation area; and
- a 'do nothing' option.

Having regard to the key issues and guiding principles identified, this report recommends that Council take no action to alter or extend the planning controls introduced through Amendment 145. Any intensification of development through an LEP amendment should only be considered if Pitt Town is identified as being important in meeting housing targets identified in the Metro Strategy and North West Subregional Strategy and, if required, should be investigated and implemented through a strategic review of the housing needs and opportunities across the whole of the Hawkesbury Local Government Area.

## 1.0 INTRODUCTION

In October 2006 *Neil Selmon Consulting Services Pty Ltd* was commissioned by Hawkesbury Council to independently review a rezoning request prepared by Don Fox Planning Pty Ltd on behalf of the Johnson Property Group (JPG) for certain lands at Pitt Town.

The subject land includes parts of the land affected by the previously gazetted Hawkesbury Local Environmental Plan (LEP) 1989 (Amendment No 145), additional land to the north west which was deferred from that LEP, and areas to the north which are outside earlier investigation areas. The land affected by the existing LEP Amendment 145 and the land affected by this current rezoning request is shown on **Diagram 1**.

The purpose of the rezoning request is to include the deferred area and additional lands, following further archaeological and heritage studies over the land, and to substantially increase the residential densities permitted by LEP Amendment 145.

Amendment 145 and the background information to it, and the submitted documentation and rezoning request from Don Fox Planning Pty Ltd have been reviewed during preparation of this report. Discussions and meetings have been held with relevant government departments and agencies, specifically the Department of Planning and the NSW Heritage Office that now forms part of it, and the NSW State Emergency Service.

Based on the analysis undertaken, conclusions have been drawn from the key issues identified and recommendations made for consideration by Hawkesbury Council as a formal resolution of Council under section 54 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

## 2.0 BACKGROUND TO LEP AMENDMENT NO. 145

In 1998, Council undertook a strategic review that identified five areas within the Hawkesbury Local Government Area (LGA) as having capability for urban development. These areas were Pitt Town, North Bligh Park, North Richmond, Wilberforce and Vineyard. During the course of preparing a draft LEP for these identified areas, the Department of Planning (DoP) advised Council that Pitt Town did not justify inclusion within the Urban Development Program (UDP) and that any expansion of Pitt Town had to be considered and justified in the context of local demand for housing.

In 2001, Connell Wagner was appointed to prepare a Local Environmental Study (LES) for the study area identified at Pitt Town, being the majority of land above the 20m contour (considered to be the level of the Probable Maximum Flood (PMF) event).

The draft LES was completed in draft form in 2002 and placed on public exhibition. Council also formed an Advisory Committee to manage the process, consider the submissions received and make recommendations for adoption.

At its meeting on May 6, 2003 Council resolved to adopt the Pitt Town LES and prepare a Masterplan and Local Environmental Plan (LEP) to progress the findings of the LES. The resolution gave specific direction as to lot sizes in the proposed Housing zone and Rural Housing zone, viz:

2. A Masterplan and Local Environmental Plan be prepared based on the medium Growth Scenario Option 2 yielding a total of up to 690 (six hundred and ninety) lots within the Pitt Town Investigation Area using the following criteria that:

- (a) *there be no lots in the 400 – 600 square metres range;*
- (b) *the lot size in the Rural Village areas be 750 – 1,000 square metres;*
- (c) *the area shown as minimum 5,000 square metres be altered to 4,000 square metres;*
- (d) *the NPWS and the Heritage Office be requested to continue negotiations on the Bona Vista site (to the east shown as Vegetation Conservation) with the lot density being 5 per hectare;*
- (e) *the areas in the north and east of the investigation area shown as Rural Urban Fringe (5,000 square metres) be expressed as a lot density of 2.5 per hectare; and*
- (f) *plans for river access and recreational facilities be considered as part of the plan of management for this development."*

Council also formally recognised the importance of adequate service provision and infrastructure within the Pitt Town area by resolving that:

1. *Council recognises the difficulties facing Pitt Town and environs in terms of sewerage, flooding, water pressure and frequent interruptions to electricity supply and strongly believes that any potential rezoning for urban purposes should address these issues and wherever possible provide for no loss of amenities but result in improvements.*
2. *Council investigate the feasibility of extension of sewerage to the land bounded by Johnston, Hawkesbury, Hall and Bathurst Streets as well as other contiguous areas which are already residential in character.*

Part 4 of the resolution extended the study area to include the remainder of the land above the 20m contour at Mitchell Place, which gave rise to the need for a new section 54 resolution of Council, adopted by Council at a later meeting on September 9, 2003. A Pitt Town LES Addendum Report was prepared by Connell Wagner in November 2003 to cover the additional land.

In December 2003, Council resolved to adopt Version 3 of the Masterplan, which formed the basis of the draft LEP forwarded to the DoP requesting a certificate to enable the plan to be placed on public exhibition. This draft LEP provided for an estimated additional 635 lots within the expanded study area, with lot sizes ranging from 750 – 1000m<sup>2</sup> (within the Fernadell and Bona Vista precincts) to 5 lots/ha within fragmented lands between Wells and Hall Streets. The reduction in lots from the medium Growth Scenario 2 adopted by Council in May 2003 (690 lots) resulted from the need to accommodate the comments and requirements from various authorities and agencies consulted under section 62 of the Act, such as:

- the need for additional land for expansion of the existing school
- the need for a community centre
- relocation of parks
- consideration of the size of proposed lots along Bathurst Street
- changes in lot sizes around Bona Vista
- heritage issues
- use of the 'moderate' vegetation area
- changes to density controls at Wells Street
- changes to density controls north of Hall Street (existing ownership, lot layout and location of existing dwellings) made use of fixed lots (2000m<sup>2</sup>) unachievable
- use of land in the 'blue' area (area identified in the Growth Scenario to be retained in current rural zoning)

- an increase in the amount of land utilised for 'mid' size lots

Council also resolved at the December 2003 meeting to raise the level of the flood evacuation route to the 1 in 100 year flood level (RL 17.3m AHD) with costs to be included in the section 94 Contributions Plan. This resolution is reflected in the Hawkesbury DCP 2005 (Part E, Chapter 4 - Pitt Town). Currently the lowest point of the flood evacuation route remains at RL 16m AHD.

The Department issued an Instrument of Delegation to Council in May 2004 to enable Council to exhibit the draft plan, subject to the prior satisfaction of a number of specific requirements, including the need for an archaeological management plan to determine an appropriate development outcome over that part of the former Governor Bligh's Model Farm area situated north of Hall Street. This requirement arose from an objection under section 62 of the EP&A Act from the NSW Heritage Office to the inclusion of this area without these studies in place.

To enable the draft LEP to proceed, the proposed rezoning of this particular area was deferred and deleted from the map, although the conservation area was retained along the escarpment. This amended draft LEP was placed on public exhibition between September and November 2004, and the associated draft DCP during November and December 2004.

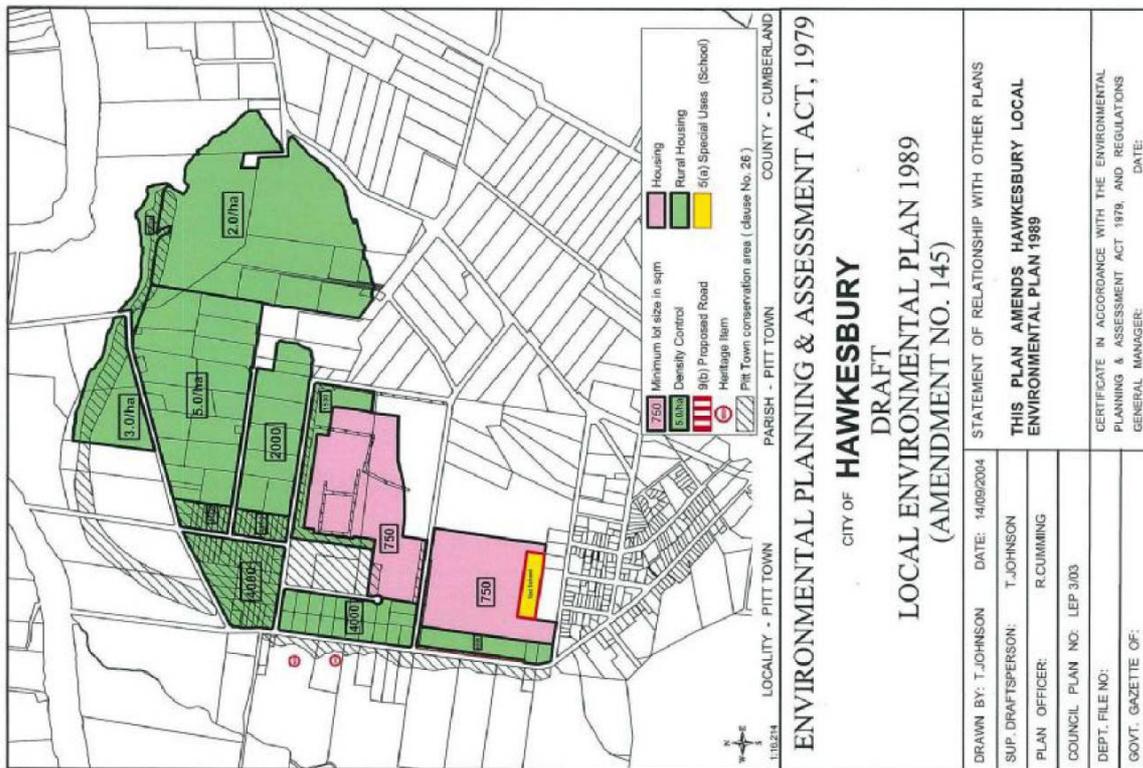
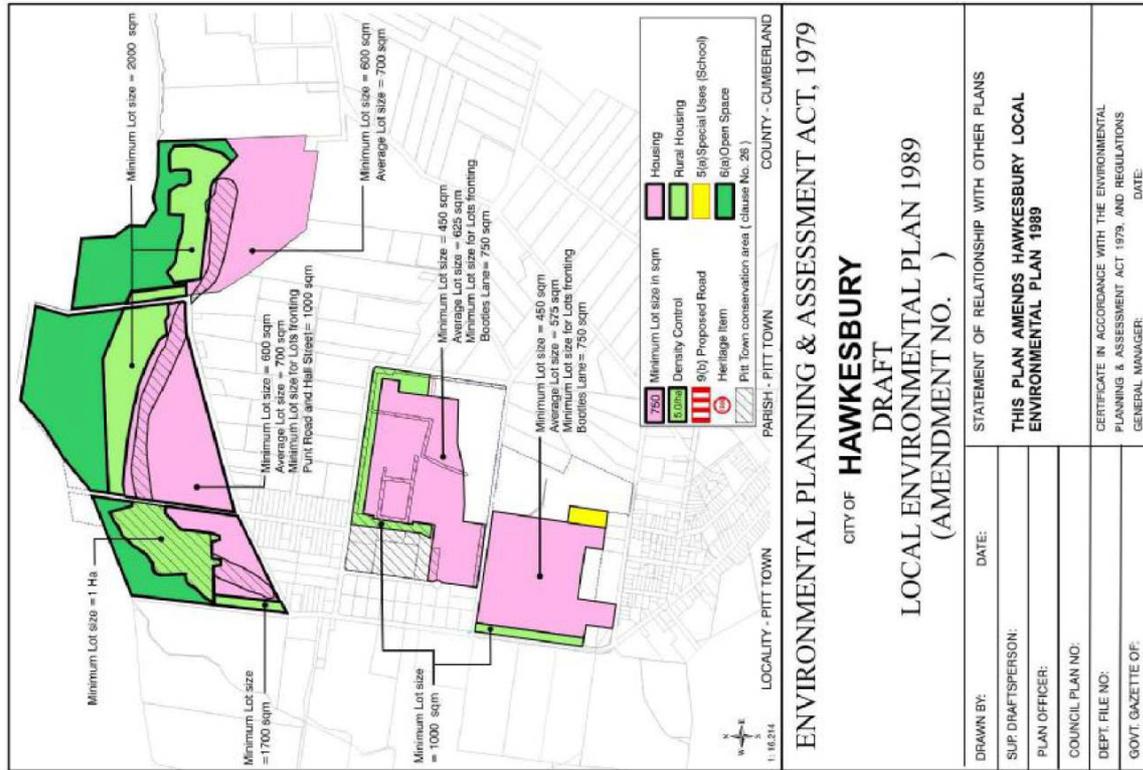
Council considered the submissions received during the public exhibition process at a special meeting on December 7, 2004. It resolved to adopt the draft LEP and forward the draft plan to the DoP under section 68 of the EP&A Act, with the following amendments:

- Alter the land use matrix by allowing exhibition homes in the Rural Housing zone, subject to consent;
- Alter the reference in the land use matrix notes to refer to '9B' and '9C';
- Amend the Rural Housing zone objective (f) to read: *"to ensure that development does not create unreasonable demands for provision or extension of public amenities or services."*

The draft DCP (after several amendments to that originally exhibited) was adopted by Council on November 15, 2005 and came into force in December 2005 as a new chapter in the Hawkesbury DCP 2005.

The Hawkesbury LEP 1989 (Amendment No 145) was gazetted on August 18, 2006.

**Diagram 1: LEP Amendment 145 and LEP Amendment proposed by JPG Submission**



**Illustration 3 - Existing and Proposed Zoning Maps**

### 3.0 SUBMISSION FROM JOHNSON PROPERTY GROUP

Don Fox Planning Pty Ltd, on behalf of JPG, has prepared a zoning amendment request (described hereafter as the JPG submission) to Hawkesbury Council in the form of an environmental investigation for the purpose of investigating the deferred lands north of Hall Street, omitted from LEP Amendment 145, and to reconsider the permitted lot densities established under this plan. The submission also considers further land to the north of the Connell Wagner LES investigation area, which is proposed for open space and community facilities, and a narrow strip between the Connell Wagner LES area and Punt Road proposed for residential development. This strip of land lies below the 20m flood contour level.

The JPG submission relies on the Connell Wagner LES as a base study, providing:

*additional information and assessment where necessary to review the potential impacts and acceptability of the proposed increase in density and larger study area . . . [and] addresses comments and questions from a number of government agencies raised during preliminary consultations.*

The intention is to accommodate an estimated additional 631 lots beyond that permitted by Amendment No 145 and identified in the Pitt Town Masterplan (as detailed in the Hawkesbury DCP 2005). A breakdown of the proposed lot yield has been included in the JPG submission and is reproduced in Table 1 below. For comparison purposes, the existing 358 lots (as estimated by Council and the SES in 2003 when considering flood evacuation) have been included in the calculations to give a total yield for the entire Pitt Town flood evacuation area.

The justification for the additional lot yield is primarily based on economic reasons. The submission states that:

*A major consideration in this environmental investigation is that a greater development yield within the study area will generate additional funds for construction of public infrastructure such as a new water main to service the site, the Pitt Town by-pass and open space and community facilities. Whilst the utility installations, water, sewerage and electricity mains would be provided under LEP Amendment No 145, additional road and community infrastructure would not otherwise be provided in the Village as a result of the development potential achievable under current planning controls (inclusive of LEP Amendment No. 145).*

The submission also states that the additional lots are necessary to augment the total development yield, given that JPG considers the lands identified in the Masterplan that are held in separate ownership are unlikely to be developed in the near future due to the existing fragmented ownership and development pattern.

The matter of infrastructure provision and relative costs is further discussed in section 6.0 Key Issues.

**Table 1 – Development Yields**

Land Holding	LEP 145 Lots		Proposed Lots	
	Lot Sizes	Yields	Lot Sizes	Yields
Fernadell	750m <sup>2</sup> and 4000m <sup>2</sup>	154	450m <sup>2</sup> to 1000m <sup>2</sup>	231
Bona Vista	750m <sup>2</sup> and 1500m <sup>2</sup>	195	450m <sup>2</sup> to 1500m <sup>2</sup>	285
Hall Street	3 lots per ha	22	450m <sup>2</sup> to 2000m <sup>2</sup>	307
Hall Street East	2 lots per ha	30	450m <sup>2</sup> to 2000m <sup>2</sup>	209
	3 lots per ha			
	5 lots per ha			
<b>Sub-total lots controlled by JPG</b>		<b>401</b>		<b>1032</b>
Area (Nth) Wells	5 lots per ha	134	5 lots per ha	134
DCP others				
Area (Nth Johnston)	2000m <sup>2</sup>	54	2000m <sup>2</sup>	54
DCP Others				
Area (East) Hall St	2 lots per ha	45	2 lots per ha	45
DCP Others				
<b>Sub-total lots controlled by others</b>		<b>233</b>		<b>233</b>
<b>Total Proposed Lots Study Area</b>		<b>634</b>		<b>1265</b>
Existing Lots (Village)		358		358
<b>Total Lots Pitt Town</b>		<b>992</b>		<b>1623</b>
<b>Increase over LEP 145</b>		<b>-</b>		<b>+ 631</b>

The submission is supported by the following specialist consultant reports:

- Appendix A: Stormwater Cycle Report – Brown Consulting, July 2006
- Appendix B: Flood Evacuation Report - Brown Consulting, August 2006
- Appendix C: Aboriginal Archaeological Test Excavation Report – Archaeological and Heritage Management Solutions Pty Ltd, February 2006
- Appendix D: Fauna Survey and Assessment – Ambrose Ecological Services Pty Ltd, March 2006
- Appendix E: Flora Assessment – Anne Clements and Associates Pty Ltd, March 2006
- Appendix F: Geotechnical Investigation - Geotechnique Pty Ltd, June 2006
- Appendix G: Preliminary Contamination Assessment – Geotechnique Pty Ltd, June 2006
- Appendix H: Blighton Conservation Management Strategy – Graham Brooks and Associates Pty Ltd, December 2005
- Appendix I: Heritage Landscape and Visual Assessment of part of the site of Governor Bligh's 'Model Farm' Blighton – Mayne Wilson and Associates, November 2005
- Appendix J: Transport Report – Masson Wilson Twiney, July 2006
- Appendix K: Pitt Town Cultural Landscape: Management of Heritage Values – Report of the Working Group, October 2003, for Hawkesbury City Council
- Appendix L: Historical Archaeological Assessment – Archaeological and Heritage Management Solutions Pty Ltd, June 2005
- Appendix M: Draft Voluntary Planning Agreements – Johnson Property Group

Appendix N: Contributions Calculations – Johnson Property Group  
Appendix O: Proposed Draft LEP Amendment

### 3.1 Summary of Proposed Amendments

The changes as described in the JPG submission within each identified precinct are summarised below:

#### a) *Fernadell Precinct*

1. *Minimum lot size within the Housing zone reduced from 750m<sup>2</sup> to 450m<sup>2</sup> with an average lot size of 575m<sup>2</sup>. The existing minimum lot size of 750m<sup>2</sup> is retained along Bootles Lane.*
2. *Size of the proposed lots fronting Bathurst Street has been reduced from 4000m<sup>2</sup> to 1000m<sup>2</sup>. Minimum lot width has been reduced from 40m under the provisions of the DCP to 34.4m. Access to Bathurst Street remains prohibited. Rear access to these lots is proposed via battle-axe handles that each service two (2) lots.*
3. *The location of the Community Centre has been altered. This facility, together with a proposed childcare facility is now located within the land to the south-east of the precinct currently zoned 7(d1) Environmental Protection (Scenic), within which zone the proposed uses are permissible with consent.*
4. *The total lot yield has been **increased from 154 lots to 231 lots** within this precinct. The outline and type of development in the current proposal is similar to LEP 145.*

The submission notes that, for the above amendments to be supported, no change is required to the written instrument, but amendments are necessary to the map to indicate amended lot density requirements and the extent of the Housing zone to incorporate the reduced lot sizes for lots within the existing Rural Housing zone (i.e. lots fronting Bathurst Street).

#### **Errors in relation to JPG submission (Fernadell Precinct)**

The submission incorrectly states that lands to the east of the precinct are zoned 7(d1) Environmental Protection (Scenic) which permits the development of both community facilities and child care centres with consent. In fact, this land is zoned Environmental Protection – Agriculture Protection (Scenic) which prohibits both proposed uses.

The proposed draft LEP map also incorrectly locates the existing 5(a) Special Uses (School) zone at its eastern boundary. The detailed plan (see page 10 in the submission) shows 3 proposed lots within this area. These are required to be deleted should the proposal proceed.

The proposed draft LEP map also proposes to rezone the land identified for the abovementioned community facility and childcare centre to 5(a) Special Uses (School) which is contrary to the statement contained in the written submission. There appears to be no justification to rezone this land and would separate the proposed facilities from the school and isolate 2 proposed residential lots in between. This would result in an unsatisfactory arrangement. Therefore, if the proposal were to proceed, these facilities should be relocated back into the existing Housing zone.

Both amendments would result in a loss of lot yield for this precinct.

**b) Bona Vista Precinct**

1. Minimum lot size within the Housing zone reduced from 750m<sup>2</sup> to 450m<sup>2</sup> with an average lot size of 625m<sup>2</sup>. The existing minimum lot size of 750m<sup>2</sup> is retained along Bootles Lane.
2. Size of the proposed lots fronting Bona Vista homestead and Johnston Street within the Rural Housing zone has been reduced from 1500m<sup>2</sup> to 1000m<sup>2</sup>. The minimum lot width remains consistent with the DCP at 25m.
3. The total lot yield has been **increased from 195 lots to 285 lots** within this precinct. The outline and type of development in the current proposal is similar to LEP 145.

The submission notes that, for the above amendments to be supported, no change is required to the written instrument, but amendments are necessary to the map to indicate amended lot density requirements and the extent of the Housing zone to incorporate the reduced lot sizes for lots within the existing Rural Housing zone (i.e. lots fronting Bona Vista and Johnston Street).

**c) Hall Street Precinct**

1. The area deferred from the Connell Wagner LES in LEP 145 to the north of Hall Street is now included.
2. A small area fronting Punt Road which was outside the Connell Wagner LES area and outside the boundary of LEP 145 is now included as residential development. The area is contiguous with other proposed residential development. Lots fronting Punt Road are proposed to be zoned Housing with a minimum lot size of 1700m<sup>2</sup>. The frontages of these lots will be below the flood contour and a secondary flood – free access is proposed at the rear.
3. It is proposed to rezone land within the flat land above the river bank escarpment north of Hall Street (including the land zoned Rural Housing under LEP 145 with a lot density of 3 lots/ha) to Housing with a minimum lot size of 600m<sup>2</sup> and an average lot size of 750m<sup>2</sup>. Lots fronting Hall Street are proposed to have a minimum lot size of 1000m<sup>2</sup>.
4. Larger lots are proposed to be extended down the river bank escarpment from the flat land, although all dwellings will be restricted in accordance with the existing LEP. This area is proposed to be zoned Rural Housing with a minimum lot size of 2000m<sup>2</sup>.
5. Land associated with the historic homestead known as Blighton is proposed to be rezoned Rural Housing, identified within a conservation zone with a minimum lot size of 1 hectare in order to limit the number of lots in this area to not more than 5, including one lot for the existing dwelling. All but one of the other lots will have provision for building envelopes outside of the conservation area.
6. The lot yield for this precinct is **increased from 22 lots to 307 lots** (including lands previously deferred from LEP 145).
7. Land below the river bank escarpment is proposed to be rezoned open space and developed as a major district style open space facility.

The submission states that no changes are required to the written instrument, but the rezoning of land and the changes to lot densities require an amendment to the map.

**d) Hall Street East Precinct**

1. It is proposed to rezone the land within the flat land above the river bank escarpment from Rural Housing with a lot density primarily 2 lots/ha (though a small portion is within the 5 lots/ha area) to Housing with a minimum lot size of 600m<sup>2</sup> and an average lot size of 700m<sup>2</sup>.

2. *Larger lots are proposed down the river bank escarpment from the flat land, although all dwellings will be restricted in accordance with the existing provisions of the LEP. This land is proposed to be zoned Rural Housing with a minimum lot size of 2000m<sup>2</sup>.*
3. *The lot yield for this precinct is **increased from 30 lots to 209 lots**.*
4. *Land below the river bank escarpment is proposed to be rezoned open space and developed as a major district style open space facility. This area will also contain stormwater control facilities.*

The submission states that no changes are required to the written instrument, but the rezoning of land and the changes to lot densities require an amendment to the map.

The specialist consultant reports (listed above) supporting the JPG submission provide detailed investigation of each issue in relation to the changes outlined.

### **3.2 Land omitted from Johnson Property Group Submission**

The JPG submission suggests no alteration to land use controls in a number of areas identified within LEP 145, because they are not lands held in the Group's ownership. These lands are identified in the Hawkesbury DCP 2005 as:

- Precinct C (lands between Johnston and Wells Streets);
- Precinct D (lands between Wells and Hall Streets); and
- Part of Precinct E (lands to the south of Lot 2 DP 76375).

All lands within these precincts are currently zoned Rural Housing with different lot densities identified for each precinct, being:

Precinct C: minimum lot size of 2000m<sup>2</sup>  
Precinct D: maximum lot yield of 5 lots/hectare (lot averaging criteria)  
Precinct E: maximum lot yield of 2 lots/hectare (lot averaging criteria)

The justification stated in the JPG submission for these omissions is that development on the land is "unlikely to proceed within the near future due to existing fragmented ownership patterns and existing development".

However this results in a 'leapfrogging' of residential development across the larger lot/lower density land in other ownership, as depicted in Diagram 1. This is an unsatisfactory planning outcome, as further discussed in Section 7.0 Options.

## **4.0 STATUTORY CONSIDERATIONS**

### **4.1 State Legislation and Policy**

#### **4.1.1 Metropolitan Strategy**

The JPG submission addresses the Metro Strategy in some detail, and it is considered unnecessary to reiterate that detail in this report. The Strategy outlines a vision for the growth of Sydney over the next 25 years. DoP is currently preparing subregional strategies to provide detailed projections and targets for employment and housing growth to be achieved in each LGA. To large extent these targets will be achieved through preparation of new 'Standard Instrument' LEPs for every LGA over the next five years, a key component of the current reforms of the NSW planning system.

For the North West Metropolitan subregion, which includes the Hawkesbury LGA, the Metro Strategy provides for:

- 60,000 new dwellings in existing areas;
- 60,000 new dwellings in the Northwest Growth Centre (including dwellings to be built after 2031 or 25 years hence);
- 20,000 new dwellings in 'other greenfield' locations; and
- 99,000 new jobs.

Achieving the targets in each LGA will therefore have significant ramifications for local strategic planning. Preliminary discussions between DoP and Council have suggested a 2031 population for Hawkesbury LGA of approximately 84,000 and a subsequent need for some 9,000 new dwellings. It is noted that the DoP investigations are by no means finalised, with housing and employment lands targets to be discussed in more detail in coming months. A key question for this review, therefore, is what role Pitt Town and surrounds might play in achieving the Metro and subregional targets.

As described in Section 2.0 of this report DoP has previously advised Council that Pitt Town does not justify inclusion within the Urban Development Program (UDP) and that any expansion of Pitt Town should be considered and justified in the context of local demand for housing and housing choice.

Discussions held with the Department of Planning during this review have confirmed that this is still the case. This raises the question of how much additional development should be encouraged in Pitt Town given other constraints, including the relatively high cost of providing necessary infrastructure.

Pitt Town does not form part of the Northwest Growth Centre. The JPG submission states that additional development at Pitt Town would contribute towards the 20,000 new dwellings to be located in 'other greenfield' locations in the North West Metropolitan subregion.

#### **4.1.2 Shaping Western Sydney**

As explained in the JPG submission the Metro and subregional strategies have effectively superseded this policy, which has aims generally consistent with the more recent strategies.

#### **4.1.3 State Environmental Planning Policies**

The Connell Wagner LES and JPG submission identify the following State Environmental Planning Policies (SEPPs) as being relevant to any rezoning of land at Pitt Town:

- SEPP 11 – Traffic Generating Development
- SEPP 19 – Bushland in Urban Areas
- SEPP 55 – Remediation of Land

The JPG submission is supported by specialist consultant reports that address the issues raised by these SEPPs.

#### **4.1.4 Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River (No 2 – 1997)**

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

As described in the Connell Wagner LES, SREP 20 identifies an area west of Bathurst Street and to the north of Hall Street as an area of local scenic significance. It also identifies Pitt Town Lagoon and Longneck Lagoon, which receive water shed from the subject land, as significant wetlands of the Hawkesbury-Nepean River Valley.

Parts 2 and 3 of the SREP contain the policies and development controls that would need to be addressed should an intensification of development occur in Pitt Town.

#### **4.1.5 Section 117 Directions**

Should Council resolve to amend Hawkesbury LEP 1989 to vary the controls contained in Amendment 145 it will be dealt with as a new draft amendment to the principal LEP, Hawkesbury LEP 1989. The new section 117 Directions, effective from September 2005, must therefore be addressed in considering any draft LEP for the JPG proposal or any variation to it. The following Directions are considered relevant to the proposed amendment.

##### *Direction No 1 – Acid Sulfate Soils*

The Connell Wagner LES addresses this issue. It identifies known occurrences of Acid Sulfate Soils in the vicinity as occurring in the lower lying areas of the Hawkesbury River Floodplain, associated with Pitt Town Lagoon and Longneck Lagoon. The LES concludes that no Potential Acid Sulfate Soils have been identified for the Pitt Town study area.

The JPG submission proposes development of some additional land below the 20 metre contour. Should Council resolve to prepare a draft LEP affecting this land, Direction No 1 will need to be addressed to ensure the proposal satisfies its requirements.

##### *Direction No 8 – Community Use of Educational Establishments*

The JPG submission proposes additional land to be provided for expansion of the existing Pitt Town Public School. Hawkesbury LEP 1989 contains a provision relating to community use of educational establishments (Clause 38). No additional action is required to satisfy this Direction.

*Direction No 9 – Conservation and Management of Environmental and Indigenous Heritage*

The Connell Wagner LES concludes that development in the Pitt Town Study area has considerable potential for impact on Aboriginal sites of significance. With regard to European heritage, as one of the five extant Macquarie towns, Pitt Town has highly significant heritage value and has been identified in studies by the NSW Heritage Office as a cultural landscape of national significance.

These issues are addressed in the JPG submission by Appendix C – Aboriginal Archaeological Test Excavation Report; Appendix H – Blighton Conservation Management Strategy; Appendix I – Heritage Landscape and Visual Assessment of part of the site of Governor Bligh’s ‘Model Farm’ Blighton; Appendix L – Historical Archaeological Assessment; and through reference to earlier reports such as Appendix K – Pitt Town Cultural Landscape: Report of the Working Group.

Direction No 9 requires that an LEP applying to land having European or Indigenous heritage significance must contain provisions to facilitate the conservation of the item of heritage significance and/or the Aboriginal object, the area of Aboriginal heritage significance or the Aboriginal place.

As discussed later in this report, comments have been sought, but not received, from the Heritage Office in this regard. Should Council resolve to prepare a draft LEP increasing densities and including the previously deferred area, the requirements of this Direction will need to be satisfied.

*Direction No 15 – Flood Prone Land*

This Direction applies to any draft LEP that creates, removes or alters a zone or a provision that affects flood prone land, and requires (among other things) that draft LEPs include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.

Flooding and flood evacuation is a key issue influencing additional development in Pitt Town. The Connell Wagner LES notes that the relatively greater depth of flood waters in the Hawkesbury-Nepean valley, the rapid rate of rise on an urbanised floodplain, the potential for isolation and eventual inundation of towns such as Pitt Town, and the evacuation of population during a flood event, continue to be a significant challenge and a major consideration for future developments.

The JPG submission addresses this issue in Appendix B – Flood Evacuation. The issue is further addressed in the Key Issues section of this report. Direction No 15 provides that a draft LEP may be inconsistent with it only if the rezoning is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or if the rezoning is, in the opinion of the Director General, of a minor significance.

The Floodplain Development Manual 2005 states that it “*supports the NSW Government’s Flood Prone Land Policy in providing for the development of sustainable strategies for managing human occupation and use of the floodplain considering the risk management principles outlined in Appendix B. These are based on a hierarchy of avoidance, minimisation (using planning controls) and mitigation works.*” Appendix B of the Manual describes the correct approach to management measures as being:

- risk reduction; or
- benefit increase to match the risk; or
- reducing the consequences of flooding.

These principles need to be kept in mind in addressing the section 117 Direction and when considering additional development in and around Pitt Town.

*Direction No 17 – Integrating Land Use and Transport*

This Direction requires draft LEPs to locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:

- (a) Improving Transport Choice – guidelines for planning and development (DUAP 2001), and
- (b) The Right Place for Business and Services – Planning Policy (DUAP 2001).

Any addition to or alteration of provisions relating to urban land in Pitt Town would need to satisfactorily address these policies.

*Direction No 19 – Planning for Bushfire Protection*

The Connell Wagner LES identifies the south-eastern part of the Pitt Town investigation area as being within a low to medium risk bushfire hazard area. Any intensification of development in this area will require consistency with the Direction and consultation with the NSW Rural Fire Service.

*Directions No 21 - Residential Zones and No 22 – Rural Zones*

The JPG submission proposes alteration to zone boundaries and provisions relating to both residential and rural zones. The Directions require that LEP provisions may only be inconsistent with their requirements if:

- (a) the land has been identified in a strategy prepared by the Council and approved by the Director-General, or
- (b) the rezoning is justified by an environmental study (as set out in section 57 of the EP&A Act), or
- (c) the rezoning is in accordance with the relevant Regional Strategy prepared by the Department of Planning, or
- (d) the rezoning is, in the opinion of the Director-General, of a minor significance.

Should Council resolve to prepare a new draft LEP it will need to satisfy itself that these requirements can be met.

#### **4.1.6 Planning Circulars**

Relevant Planning Circulars include PS 06-005 Local Environmental Plan Review Panel; PS 06-008 Standard Instrument (Local Environmental Plans) Order 2006; and PS 06-013 Local Environmental Studies.

PS 06-005 describes new procedures relating to preparation of a draft LEP, including the information requirements when forwarding a draft to the Director-General pursuant to section 54(4) of the EP&A Act and the consideration of all draft LEPs by a new LEP Review Panel. This includes assessment of the draft LEP against standard evaluation criteria prepared by the Department. An evaluation of the JPG proposal against the standard criteria appears later in this report. A more up-front, strategic and consistent approach to plan making is the key aim of the new procedures described by this Circular.

PS 06-008 describes the changes to Parts 3 and 4 of the EP&A Act, including the new Standard Instrument to be used when preparing a draft LEP. The aim of the reforms is to achieve a new comprehensive LEP for each LGA in the State, based on the Standard LEP, within five years. The Circular advises that Councils should focus on this aim rather than preparing minor amendments to LEPs. The Circular provides some examples where an amendment may be necessary in advance of a new Standard LEP, and these include implementation of an agreed strategic direction for development in an area, including land release. Any resolution to prepare an amendment to Hawkesbury LEP 1989 would need to be adequately justified in terms of this Circular and the evaluation criteria contained within it.

PS 06-013 describes the requirements for a local environmental study under section 57 of the EP&A Act, and importantly that it is the Director General of the DoP who makes the decision as to whether an LES is required, after considering the recommendations of the LEP Review Panel. Given the issues surrounding additional development yield at Pitt Town, and the existence of the comprehensive LES prepared prior to decisions being made about Amendment 145, it is likely that the Department would require at least a revised and updated LES for any new draft amendment affecting the subject land. This Circular also provides advice to Councils about the need for a strategic focus when making a decision as to whether or not a draft LEP should proceed and, given that the Director General of DoP now determines whether each draft plan will proceed or not, after considering the recommendations of the LEP Review Panel, advises Councils not to require extensive supporting documentation prior to such consideration by the LEP Review Panel.

## 4.2 Context – Local Planning Controls

### Hawkesbury LEP 1989

#### *Zoning framework*

The existing village of Pitt Town is zoned Housing under the Hawkesbury LEP 1989. The objectives of the Housing zone are to:

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

In relation to objective (a), the land use matrix reflects these objectives by limiting housing to a dwelling-house only on a single allotment. Other forms of housing type (attached dual occupancies and multi unit housing) are prohibited. This limits housing choice. On the other hand, a variety of lot sizes within this zone would provide opportunity for different housing types including the choice of a smaller lot to maintain.

Subdivision standards under clause 12(2) state that the minimum lot size is 450m<sup>2</sup>. The Scenic Quality Assessment (Tract, 2002) notes that lot sizes within the village range from 450m<sup>2</sup> – 1100m<sup>2</sup>, with an average lot size of 800m<sup>2</sup>. Opportunity for further subdivision of existing lots is, therefore, limited.

The LES study area bisected the zoning boundary between two significant zones – the Environmental Protection – Agriculture Protection (Scenic) zone to the west and north and the Rural Living zone to the east. As a result of the findings of the LES and a decision not to rezone Bona Vista homestead and curtilage, small pockets of the Environmental Protection – Agriculture Protection (Scenic) zone remain on the eastern fringe of the Fernadell and Bona Vista Precincts (incorporating the conserved vegetation) and over the homestead and curtilage area.

The principal objectives of this Environmental Protection zone are to protect agricultural resources including landscape and scenic qualities and minimise land use conflicts between incompatible uses such as residential development. The relevance of this zone over the now isolated Bona Vista homestead and curtilage must be questioned.

Subdivision standards under clause 11(2) provide for a minimum lot size of 10 hectares (as land is shown hatched on the zoning map) within this zone.

Lands to the east of the existing village and the study area are primarily zoned Rural Living. The principal objectives of this zone are to provide for a rural residential lifestyle and the continuation of agricultural land uses.

Subdivision standards under clause 11(2) provide for a minimum lot size of 2 hectares (as land is shown hatched on the zoning map) within this zone.

#### Hawkesbury DCP 2005

As discussed in Section 2.0 draft DCP for Pitt Town was adopted by Council on November 15, 2005 and came into force in December 2005 as a new chapter in the Hawkesbury DCP 2005.

The DCP provisions include a 'Desired Character' statement, General Aims and Subdivision and Development Controls. The Desired Character statement refers to maintenance of the rural village character of Pitt Town, *"with generous and landscaped building setbacks and open streetscapes within a modified grid urban structure. New developments will have building designs and materials compatible with the rural setting and traditional housing forms. The public domain is to reinforce the rural character of Pitt Town."*

The subdivision and development controls relate specifically to the various lot sizes permitted in different precincts by Amendment 145.

The DCP does not apply to the existing smaller lots bounded by Johnston, Bathurst, Hall and Hawkesbury Streets (including lots along the eastern side of Hawkesbury St), although they were rezoned to Rural Housing under LEP 145 and have a nominated minimum lot size of 4000m<sup>2</sup>. This omission is primarily due to the fact that the existing lot sizes preclude any further subdivision with this limitation in place, as evidenced by the 'Land Holdings' map contained in the Connell Wagner LES (Figure 3.7) that indicates the majority of lots are within the range of 1000 – 5000m<sup>2</sup>.

## 5.0 STATED DEPARTMENT OF PLANNING POSITION

On 14 November 2006 the Hawkesbury City Council Mayor, Deputy Mayor, General Manager and senior planning staff met with Sam Haddad, Director General DoP and Peter Goth, Regional Director Sydney North West, to discuss the Department's position on any review of Amendment No 145. The Minister for Planning had previously made statements in the media that, as Amendment 145 had only recently been gazetted, any significant increase in densities would not be considered favourably by the Department, but that some minor increase may be acceptable. The meeting sought to clarify the Department's position on any further amendment.

The outcomes of this meeting were contained in a letter to Council dated 23 November 2006, a copy of which is attached at **Appendix A**.

The letter sets out five criteria against which the Department will assess any draft LEP forwarded to it by Council for the Pitt Town study area. These are:

1. *Proposals will only be considered in relation to land in the (urban) footprint of Amendment 145.*
2. *Subject to the maximum lot yield as set out in point 3 below, increased densities within this footprint should be considered within the following parameters:*
  - *South of Johnston St (Bona Vista and Fernadell precincts) - Minimum lot sizes should not be less than 550 sq metres. It should be possible for up to around 500 lots to be created in these precincts (existing potential is believed to be around 370) resulting in around 275 lots in Bona Vista and 225 lots in Fernadell. However, consideration of lower minimum lot sizes should ensure that development controls are not detrimental to the existing general character and design of Pitt Town.*
  - *North of Johnston St (large lot / rural residential areas) – Higher densities should be examined, but the overall limit of 5 dwellings per hectare should not be exceeded. The Department estimates that up to 120 additional lots may be created if the 5 dwellings per hectare was applied, however the total number of lots (i.e. all lots both north and south of Johnston St) should not exceed 869 (see further below). Consideration should therefore be given to the most appropriate location for additional lots taking into account whether or not the land is likely to be developed and the potential for buffer areas (of lots less than 5 lots per hectare) adjoining lands that are currently engaged in agricultural production.*
  - *Infrastructure and Servicing Costs – In determining the extent of higher densities and where they should apply, consideration should be given to the impacts of providing services infrastructure. The emphasis should be upon minimising any additional costs associated with servicing the additional lots.*
3. *Total dwelling numbers – Total lots for the area should not exceed 870. The yields from any existing lodged development applications (as opposed to the yields that had been expected during the drafting of the LEP Amendment) should be referenced in determining the expected yield from any future amendment.*

4. *Any proposed amendments to allow additional dwellings within the footprint should be brought forward by way of provisions to be inserted in the Local Environmental Plan (as opposed to development controls under Council's Development Control Plan). Consideration should be given to inserting clauses in the Local Environmental Plan which clearly set maximum lot yields for particular precincts or areas.*
5. *In relation to infrastructure, it should be noted that the State Government has already made a Planning Agreement with the Johnson Property Group arising from the rezoning of land under Amendment 145. As per the Director-General's letter to Council of 6 January 2006, the Department will not seek (further) contributions for State Infrastructure arising from the types of amendments to density controls that are outlined in the dot points above. In addition, the Department does not believe that any further infrastructure requirements can be justified.*

While the above points represent the Department's current position on any intensification of development in Pitt Town, the decision as to whether any new LEP amendment should be considered and forwarded to the Department remains with Council.

The restriction on lot numbers to an additional 870 lots (i.e. 236 more than the estimated 634 lot yield under Amendment 145) appears to reflect comments made by the Minister and may also reflect the relative status of Pitt Town in terms of the Metro and subregional strategies – that is, that it is not part of the UDP and is not seen by the Department as being significant in terms achieving housing targets for the North West Metropolitan subregion.

## 6.0 KEY ISSUES

The JPG submission provides quite detailed information supporting the proposal, assessing it against all relevant environmental, social and economic heads of consideration. The DoP, through Circulars such as PS 06-013 Local Environmental Studies discussed in Section 4.1.6 above, advises Councils to make decisions pursuant to Section 54 of the EP&A Act having a strategic focus, with detailed consideration of particular issues occurring through preparation of any LES and through consultation under Section 62 of the EP&A Act.

To some extent, however, the issues surrounding intensification of development at Pitt Town have required more detailed up-front analysis, to provide Council with sufficient information and context to make a reasoned decision.

This report identifies four key issues that are considered fundamental to any decision pursuant to Section 54 of the EP&A Act to prepare a new draft LEP at Pitt Town to alter the controls already in place as a result of Amendment 145.

These are:

1. Compelling need: the need for additional residential development at Pitt Town in the context of Hawkesbury LGA as a whole and as part of the DoP North West Metropolitan subregion, and the appropriate timing of such development;
2. Flood and emergency evacuation: determination of a maximum number of additional dwellings in relation to known flood evacuation times available;
3. Heritage considerations: European Heritage - impacts on the curtilage of Bona Vista and the existing rural village of Pitt Town; impacts on the 'Blighton' estate and scenic values along the identified escarpment areas. Aboriginal Cultural Heritage - impacts of development in areas of known archaeological and cultural significance in 'Blighton' estate area.
4. Infrastructure and service provision: whether the existing and additional residents will have access to adequate infrastructure and service provision, and the affordability of that infrastructure.

### 6.1 Compelling Need

For any draft LEP to receive favourable consideration by the DoP LEP Review Panel and the Director General it must be adequately strategically supported and there must be a demonstrated need for the plan to proceed ahead of any new comprehensive LEP prepared in accordance with the Standard Instrument. In September 2005 the Director General wrote to all Councils advising them of the time-frame for preparation of new comprehensive LEPs. Hawkesbury Council must have its new plan prepared, exhibited and ready for gazettal by the end of March 2008.

On 22 December 2006 the DoP Regional Director, Sydney North West wrote to Council confirming that its focus should remain the conversion of the existing Hawkesbury LEP 1989 into the Standard Instrument without significant policy changes. The letter states in part:

*"I appreciate that Council wishes to investigate the potential for future growth in the local government area, however it would be pre-emptive to undertake this work prior to Government policy direction being established for the North West Subregion and Metropolitan Rural Lands."*

It further recommends:

*“Once the North West Subregional Strategy has been completed and a policy direction on Metropolitan Rural Lands is established it would then be appropriate for Council to proceed with further strategic planning and policy work. Following this any changes could be pursued by Council through amendment of its Principal LEP.”*

At present it is difficult to assess the strategic merit for additional residential development in Pitt Town. While the subregional planning process to determine employment and housing targets for each LGA is underway, the DoP position that Pitt Town is not crucial to achievement of these targets does not appear to have altered.

Therefore, while there may be some merit in intensification of development in terms of infrastructure costs (discussed in more detail in Section 6.4), this must be balanced against the need for additional density and how that density can be achieved while respecting important heritage values and ensuring existing and new residents can be evacuated in the event of flooding given warning times and resources available for that evacuation. Unless Pitt Town is identified by DoP and Council as being an important part of achieving residential development targets for the Hawkesbury LGA, and given the other constraints to development of the subject land, there would not appear to be a compelling need for any reconsideration of the controls effected by Amendment 145 prior to Council undertaking the kind of LGA wide strategic review referred to in the DoP 22 December letter.

The fact that DoP has made it clear in its earlier letter of 23 November 2006 that it will not favourably consider any draft LEP proposing a lot yield in excess of 870 additional lots (or 236 more than the estimated yield of Amendment 145) must also be taken into account in this regard.

## **6.2 Flooding and Emergency Evacuation**

### **6.2.1 Johnson Property Group Proposal**

The JPG submission includes a study of emergency evacuation routes prepared by Brown Consulting. This study is based on the previous reports prepared by the State Emergency Service and the peer review report by Molino Stewart (2003) in relation to LEP Amendment 145.

The Brown Consulting report relies on the conclusion in the April 2003 SES report that up to 1000 additional dwellings could be evacuated from the Pitt Town study area with no change to the current levels along the evacuation route. The Brown Consulting report further notes that, despite this finding, Council resolved to raise the level of the evacuation point from its current minimum of RL 16m AHD to the 1:100 year planning flood level of RL17.3m AHD, which is reflected in the Pitt Town chapter of the Hawkesbury DCP 2005 and the associated section 94 Contributions Plan.

The JPG submission states that this decision provides *"an additional safety margin to both the existing residents and to those living in the Pitt Town expansion area."* The Brown Consulting report also incorporates another option in the SES report - the provision of an additional outbound lane along the existing evacuation route (i.e. two outbound lanes, one inbound lane). The JPG submission considers that the combination of raising the level of the evacuation route and increasing the number of outbound lanes along the evacuation route will achieve an acceptable safety margin for flood evacuation in regard to the proposed additional residents (additional 1265 dwellings).

This is not the case, however, as clarified in the 2003 Molino Stewart report. The raising of the evacuation route simply delays the time when residents are warned to later within the flood event – no increased safety margin is created.

This occurs because of a fixed point in time referred to in the various reports as the QPF (Quantified Predicted Rainfall) limit. This limit is when the Bureau of Meteorology can be confident, based on recordings of fallen rain, that a flood would exceed a nominated height at some time in the future. This nominated height is the current low point in the evacuation route of RL16m AHD, and the QPF is fixed at 9 hours before this flood level is reached.

The QPF limit (minus 9 hours) is considered to be the **available evacuation time** for the area and, based on a predicted rise in flood levels of 0.5m/hour, this equates to a QPF limit flood level of RL11.5m AHD. Once the evacuation route is raised to RL17.3m AHD, this simply moves the QPF limit to RL12.8m AHD, but still equates to minus 9 hours from this predicted flood level.

The notion that an increased safety margin is gained by maintaining the current QPF limit of RL11.5m AHD is not supported by either the SES or the 2003 Molino Stewart report, as this extends the timeframe beyond the QPF limit of "predicted" rainfall into "forecasted" rainfall, which carries an unacceptable risk of false alarm to the community. Both the 2003 SES and 2003 Molino Stewart reports emphasise that no decision will be made to mobilise SES personnel prior to reaching the appropriate QPF limit, as a matter of established procedure.

When calculating the various population scenarios associated with the consideration of LEP Amendment No. 145, the process involved comparing the available evacuation time (9 hours) against the total evacuation time needed for the additional dwellings. These calculations relied upon a number of variables, including the number of personnel (doorknocking teams) that the SES considered it was able to mobilise as a resource in the event of a flood.

Analysis of the calculations reveals that flood evacuation is sensitive to travel time variables, not warning time (as this is fixed by the QPF limit). Any increase in travel time reduced the safety margin available to residents (calculated by subtracting the total evacuation time from the actual evacuation time). Any safety margin recorded as a time deficit was considered unacceptable to the SES. Likewise, any scenario that relied upon an increase in SES personnel numbers to achieve a safety margin as a time surplus, which the SES considered unable to be resourced, was also discounted.

Calculations associated with LEP Amendment 145 demonstrated that, for the then accepted total of 358 existing dwellings, a safety margin of 3.0 hours exists. As the additional dwelling numbers increased, there was a corresponding decrease in the safety margin, until at an additional 1000 dwellings (keeping the SES personnel variable at acceptable resourcing levels) this safety margin was reduced to almost zero.

In comparison to the current proposal of an additional 1265 dwellings, two scenarios of an additional 1235 dwellings were also calculated in the 2003 reports, one based on an agreed number of SES personnel, resulting in a time deficit for the safety margin, and the other incorporating an increased number of SES personnel, which resulted in a safety margin of zero. In other words, the calculations revealed that all residents could not be evacuated before the route was cut by the flood. Additional resources would be required, which was unacceptable to the SES.

One of the variables included in the calculation of travel time is the road capacity, described as vehicles per hour per lane. The previous calculations adopted a rate of 600 vehicles per hour per lane, based on a typical rural road design rate of 1,200 vehicles per hour per lane, divided by two to account for the likely adverse driving conditions (as distinct from any inbuilt safety factor). This rate was considered by the 2003 Molino Stewart report as "conservative but appropriate".

The current JPG submission includes the provision of an additional outbound lane (two outbound, one inbound) as a secondary design mechanism purported to increase the safety margin for flood evacuation along the current evacuation route. This rationale cannot be supported, as this relies on the mobilisation of an increased volume of traffic within the evacuation time period, which is only achievable if more SES personnel are deployed to warn residents through the established doorknocking protocol. This scenario has already been calculated and discounted in the earlier consideration of LEP Amendment 145.

### **6.2.2 Current SES Position and Amendment 145**

Neil Selmon Consulting Services Pty Ltd met with senior SES staff on 24 November 2006 to discuss the JPG submission and to reach an understanding of the current SES position on flood evacuation at Pitt Town and particularly whether there had been any change in that position since the work undertaken in developing LEP Amendment 145 as described in Section 6.2.1 above.

The SES advised that there had been no change in position with regard to emergency flood evacuation of Pitt Town residents and that the findings of the April 2003 SES report and the 2003 Molino Stewart report still held.

It was further agreed that the time advantage gained by raising the minimum level of the evacuation route to RL 17.3m AHD can only be utilised if evacuation is commenced when the existing 16 metre QPF is reached, and that the potential for false alarm that such action has the potential to create is unacceptable to the SES.

The issue of potential false alarm is not addressed in the Brown Consulting report supporting the current JPG submission.

While continuing to agree to investigate development options and the evacuation procedures required to accommodate them, the SES maintains a fundamental position regarding new development in the floodplain that has the potential to require evacuation of residents in times of flood. That position is that it does not support new development that will:

- (a) place additional population at risk when emergency evacuation is required; and
- (b) reduce safety margins for those existing residents that may require evacuation during time of flood.

### **6.2.3 Recent Investigations**

In December 2006 JPG engaged Molino Stewart to *“review the potential lot yield for Pitt Town in terms of flood evacuation, taking into consideration the fact that the evacuation route was to be raised 1.3 m AHD (ie to 17.3 AHD). This review was also to consider the implications of the SES evacuating low lying areas of Pitt Town and its surrounds earlier than the evacuation of the whole of Pitt Town. This is particularly relevant as there are many existing residential properties below 17.3m AHD.”*

The review was not requested or required by Council or the SES. It was undertaken entirely at the direction of and cost to JPG.

The 2006 Molino Stewart report raises the question of Council's motivation in resolving to raise the level of the evacuation route from RL 16m AHD to RL 17.3 m AHD. The report describes the following scenarios:

- *If it was raised to reduce the chance of having to evacuate then at least 1,028 new dwellings could be built;*
- *If it was raised to maintain the warning time surplus that currently exists (3.0 hours) then at least 927 new dwellings could be built;*
- *If it was raised to maximise development potential whilst maintaining an acceptable warning time, then at least 1,557 new dwellings could be built.*

The report goes on to conclude:

*“The fact that there are many dwellings that would have to be evacuated in floods a little less than 16m AHD could have significant implications for the timing of Level 2 evacuations, such that hundreds more dwellings than proposed may be able to be accommodated within Pitt Town under each of the above scenarios without compromising flood evacuation objectives.*

*More accurate information about the numbers of dwellings below the 16m and 17.3m contours would be needed before a more precise estimate of the implications could be developed. However, the assumptions made within this review with respect to the dwellings below RL 16.0 and 17.3 are considered sufficiently robust to give certainty that a proposal to increase the number of dwellings in Pitt Town by circa 1,250 could be safely accommodated with a flood evacuation route raised to 17.3m AHD.*

*Before confirming increasing the development yield beyond that approved, further detailed consultation with the State Emergency Service would be necessary to determine how it would manage the staged evacuation of Pitt Town with a raised evacuation route.*

*This consultation with the SES could occur as part of the statutory process for consultation with public authorities during the preparation of a draft LEP, under Section 62 of the Environmental Planning and Assessment Act.”*

These findings have been discussed with the SES. The new Molino Stewart report has prompted the SES to undertake detailed investigation of the number and distribution of existing and future (vacant lots with existing dwelling entitlement) dwellings in relation to SES sector boundaries and elevation.

The outcomes of the SES investigation are contained in a letter to Council dated 16 January 2007. The letter concludes that:

*“In earlier work for Pitt Town the SES was applying a flood evacuation model for the first time. The results suggested that increasing the height of the existing evacuation route would increase evacuation capacity and hence permit a larger residential capacity. Since writing that report in 2002 the SES has continually revised and improved its’ own flood evacuation modelling. It is now understood that raising evacuation routes does not, for all of the reasons discussed above, guarantee increased evacuation capacity. Raising a route will reduce the frequency of evacuations operations using the route.*

*As highlighted by the Molino report, the SES’s flood evacuation modelling appears not to have been undertaken anywhere else in the world in this way. It is inevitable that breaking new ground will be process of frequent discovery. The impact of this revised understanding of the effect of route raising in terms of development expectation is regretted but continuous improvement in public safety is the only motivation for this work.*

*The SES has undertaken the revision and within the constraints of the Service's theoretical flood evacuation model no more than 1,100 new lots can be added to the existing residential capacity in Pitt Town. The route should be raised to 17.3m AHD if this is possible because of the net benefit of reducing flood evacuation frequency for around 250 existing lots and all possible new lots."*

Importantly the new work raises the following important matters:

- The work has (for the first time) aligned data boundaries to allow the SES to determine the number of existing lots and dwellings relative to its flood operation boundaries. The SES utilises a Pitt Town Central sector and five sub-sectors within which it makes decisions about Level 1 operations (partial evacuation) and Level 2 operations (evacuation of entire community). The SES has now identified a total of 589 dwellings (430 in Central Pitt Town and 159 in other sectors) to be evacuated, and an additional 78 occupiable vacant lots, or 667 properties in total. The revised evacuation capacities in the SES 16 January letter appear to take account of these new figures.
- Raising the evacuation route to an RL of 17.3mAHD does not have the effect of reinstating any eroded safety margin for the existing community. The apparent safety margin only comes at the risk that, later in the flood, if the Level 2 trigger predicted using forecast rain is not reached, the evacuation call may prove to have been unnecessary. As mentioned earlier, this possibility is not acceptable to the SES. However, raising the route does have the effect of reducing the chance of the route being cut by floods. This means that a raised route has a net benefit of reducing the number of occasions on average that the entire island would need to evacuate. For this reason alone it should occur if possible.
- The SES predicts that a maximum of 1,100 additional lots (up from 1,000 predicted in 2003) could be developed in the Pitt Town Central sector. However, this would reduce the Evacuation Factor of Safety (EFOS) to zero. The current EFOS for existing lots in Pitt Town Central is 80%, based on a safety margin of approximately 4 hours within the existing 9 hour QPF limit for an evacuation route cut-off height of 16 metres. As the SES states in its letter, reducing the EFOS to zero is not a decision for the SES to make. Council and the community must decide whether this reduction is warranted and acceptable given other factors affecting development of this land.
- The SES has always been aware that the very low areas of Pitt Town must be evacuated early. Many areas are so low that they must be evacuated for heights of only 6 to 8 metres, and SES flood plans have always had this contingency included under Level 1 operations. These Level 1 evacuations account for only 74 of what is now known to be a total of 667 existing lots in the Pitt Town sector. In general the SES does not recommend relying on evacuation modelling to work at such resolutions, and therefore implementing a more complicated, staged evacuation based on different heights is not supported.

#### **6.2.4 Summary**

While new and more detailed work has been undertaken with regard to flood evacuation of Pitt Town residents, it does not suggest that a significantly increased lot yield can be supported.

It is concluded that, notwithstanding the intention to raise the flood evacuation route to the planning flood level of RL17.3m AHD, and the proposed provision of an additional outbound

lane along the extent of the route, the maximum additional dwellings that can be accommodated within the Pitt Town expansion area cannot be extended beyond the revised SES upper limit of 1,100.

## **6.3 Heritage Considerations**

### **6.3.1 European Heritage**

The inclusion of additional land in the JPG submission is the result of further investigation of heritage issues raised during preparation of LEP Amendment 145. The need for additional work to satisfy the requirements of the NSW Heritage Office resulted in deferral of certain lands in the north western part of the LES investigation area, thought to be the site of Governor Bligh's Model Farm 'Blighton'.

Any development of this land (referred to as the Hall Street precinct in the JPG submission) must be carefully considered because of its European heritage significance and because of its potential visual impact. Council must be confident that the proposed conservation zone and Conservation Management Strategy for the former 'Bligh's Model Farm' incorporating the 'Blighton' homestead are satisfactory.

The studies supporting the JPG submission make recommendations about what land should be developed, and how Historical Archaeological Relics might be protected.

The proposals in the JPG submission to increase the densities permitted under Amendment 145 may also have heritage impacts. As discussed in earlier sections of this report, determining appropriate lot sizes has been an important part of Council's considerations in developing Amendment 145, as is evidenced by the instrument itself, which specifically limits minimum lot sizes and densities, and in the DCP which adds detailed controls to ensure maintenance of the rural village character of Pitt Town. In its 23 November 2006 letter to Council DoP suggests an absolute minimum of 550 square metres in the urban zones south of Johnston Street, nearest the existing village and Bone Vista homestead. Amendment 145 permits a minimum lot size of 750 square metres in these areas. The JPG submission seeks a minimum of 450 square metres, with average lot sizes varying from 575 to 625 square metres.

The JPG submission also seeks lots with a minimum size of 600 square metres and an average of 700 square metres in the northern part of the site, in the Hall Street and Hall Street East precincts, well away from existing 'urban' development near the Pitt Town Village. Development of residential lots within these precincts may have significant visual and heritage impact from a landscape and scenic quality perspective. The river escarpment has previously been acknowledged as significant and is protected as part of the Pitt Town Conservation Area.

While the existing village exhibits a range of lot sizes, including smaller lots of around 450 square metres, any proposal to reduce the lot sizes permitted by Amendment 145 requires careful consideration of the potential impact on the village's rural character, and on Bona Vista and its curtilage. Logically any smaller lots should occur closest to the village, increasing in size as they approach the more open, rural environment.

While DoP has made it clear in its letter to Council that it will not consider an amendment outside the existing footprint of Amendment 145 (thereby preventing the deferred area near Blighton from being included) it was considered important to obtain the opinion of the NSW Heritage Office on all of the heritage issues addressed by specialist consultant studies submitted with the JPG submission.

The JPG submission was forwarded to the Heritage Office in late October 2006. The matter has been discussed in only very general terms with Heritage Office staff, and despite offers to meet with relevant officers, and assurances from DoP that comments from the Heritage Office would be forthcoming, no response has been received at the time of writing of this report.

This makes any comprehensive assessment of the potential impact of smaller minimum lot sizes near the existing village, and the potential impact of 'urban' densities in the Hall Street and Hall Street East precincts very difficult. While the JPG submission concludes that the proposed development can occur without significant heritage impact, the investigation area has significant heritage values, and comment from the NSW Heritage Office would certainly be required before the LEP Review Panel would consider any new amendment for the area.

### **6.3.2 Aboriginal Archaeology**

The JPG submission describes evidence of Aboriginal occupation within the alluvial terrace of the subject land (Lots 11, 12, 13 and 14, Hall Street Precinct) as having Regional (State) significance for its heritage values to both the Aboriginal and Scientific community.

It is proposed that known or potential Aboriginal Archaeological relics, particularly those within the proposed Conservation Zone, "shall generally be left undisturbed". Any activity likely to disturb or destroy relics, whether inside or outside the Conservation Zone, is to proceed only with necessary consents under relevant legislation.

Should Council resolve to prepare a draft LEP over lands with known archaeological and cultural significance (Hall Street Precinct), consultation will be required with the Department of Environment and Conservation and Heritage Office to determine whether the proposed Conservation Zone and management strategy (including the proposed subdivision of some of the land within into 5 x 1ha lots) is satisfactory.

This consultation could occur during preparation of an LES and/or through consultation pursuant to Section 62 of the EP&A Act.

### **6.4 Infrastructure Provision**

The JPG submission states that a major consideration in its investigation relates to the level and cost of infrastructure to be provided under LEP Amendment 145 in comparison with an increased development yield under the proposed amendments.

The submission states that an increased development yield will provide for additional road and community infrastructure (beyond that identified in the current section 94 Contributions Plan and in the Planning Agreement) as a direct result of increased funds, and a corresponding reduction in the contribution/lot for purchasers.

The JPG submission outlines the infrastructure requirements for Amendment 145 in comparison to the JPG proposal, as reproduced below.

*"The development of Pitt Town extension, whether under LEP Amendment No 145 or under the current proposal will require provision of substantial infrastructure, including:*

#### **State Government**

- RTA roads;
- Land and buildings for Pitt Town Primary School;
- Contributions to the Department of Environment and Conservation; and

- *Other State Government contributions.*

### **Trunk Services**

- *Extension to trunk water mains; and*
- *Extension of Integral Energy high voltage mains.*

### **Hawkesbury City Council**

- *Section 94 contributions; and*
- *Section 64 contributions.*

*Some of the contributions are fixed (i.e. are not affected by the number of lots), some are calculated on a per lot basis and some are indirectly related to the number of lots (i.e. will not increase on a pro rata basis).*

**Table 21** presents a summary of the lot yields, while **Table 22** sets out the contributions for each of the service providers identified above for two development scenarios:

- *As per LEP Amendment No 145 with a total of 634 additional lots;*
- *In accordance with the current proposal with a total of 1265 additional lots.”*

**Table 22** shows that:

- *The total contributions per lot fall from \$136,197 per lot under LEP Amendment No 145 to \$100,649 per lot under the current proposal, assuming contributions are paid on a strict per lot basis.*

*The most dramatic reduction is for trunk services, where the cost only increases marginally (from \$25 million to \$27 million) to service their increased yield, however Council contributions and State Government levies also reduce significantly;*

- *JPG will be required to pay \$160,191 per lot under LEP Amendment No 145, until contributions are recouped as land controlled by others is developed some time into the future. Under the current proposal, JPG’s initial contributions will only be \$105,988, notwithstanding the total cost of infrastructure to be provided under this proposal increases in excess of 170%:*

*The main reason for the sharp increase in initial funding under LEP Amendment No 145 is the cost of the trunk services:*

- *Most importantly, the current proposal will provide a greatly increased capital expenditure, despite the lower contributions per lot. This increased capital will allow construction of:*
  - *Pitt Town Bypass at a cost of \$12.1 million;*
  - *Upgrade of the intersection of Cattai and Mitchell Roads at a cost of \$1.7 million;*
  - *A contribution of \$3.354 million to the State Government;*
  - *Provision and embellishment of the proposed Blighton Riverside Park at a cost of \$10 million.*

*None of these facilities can be funded under LEP Amendment No 145.”*

Table 21: Summary of lot yields for development scenarios

	Amendment 145						Proposed rezoning							
	Fennadell		Bona Vista		Other owners		Fennadell		Bona Vista		Other owners		Total	
	North	East	North	East	North	East	North	East	North	East	North	East	North	East
No of Lots	154	195	22	30	233	634	231	285	307	209	233	1265		
Total Zone Area (Ha)	19.0	26.3	8.9	17.9	63.9	136.1	19.0	26.3	43.7	26.1	63.9	179.0		
Density	8.1	7.4	2.5	1.7	3.6	4.7	12.1	10.8	7.0	8.0	3.6	7.1		
Total Lot Area Developable (Ha)	14.5	16.8	7.3	12.9	58.3	109.8	14.1	20.0	37.9	21.3	58.3	151.6		
Min Area	750	750	3333	2000	2000	750	450	450	600	600	2000	450		
Maximum Area	4000	1500	3333	5000	5000	5000	1150	1577	23145	18298	5000	23145		
Average Area	940	862	3333	4311	2603	1757	608	702	1234	1019	2603	1207		
Median Area	750	750	3333	5000	2000	1500	568	650	700	702	2000	700		

Table 22: Summary of contributions for development scenarios

	LEP 145						JPG Proposal							
	Total		JPG Share		393		Total		1219		1020		Total	
	Contrib'n per lot	Total Contrib'n's	JPG Share	JPG Proposal/VPA Requirement't	Contrib'n per lot	Total contrib'n's	Contrib'n per lot	Total contrib'n's	JPG Share	JPG Proposal/VPA Requirement't	Contrib'n per lot	Total contrib'n's	JPG Share	Total contrib'n's
Number of lots	631													
Infrastructure Provided														
State Gov't Levies	\$ 42,000	\$ 26,502,000	\$ 16,506,000	\$ 16,506,000	\$ 42,000	\$ 33,000	\$ 40,227,000	\$ 33,660,000	\$ 33,660,000	\$ 33,000	\$ 33,660,000	\$ 33,660,000	\$ 33,000	\$ 33,000
Council Contributions	\$ 54,578	\$ 34,438,488	\$ 21,449,011	\$ 21,449,011	\$ 54,578	\$ 45,500	\$ 55,464,302	\$ 46,409,835	\$ 47,447,317	\$ 45,500	\$ 46,409,835	\$ 47,447,317	\$ 45,500	\$ 46,517
Services	\$ 39,620	\$ 25,000,000	\$ 15,570,523	\$ 25,000,000	\$ 63,613	\$ 22,149	\$ 27,000,000	\$ 22,592,289	\$ 27,000,000	\$ 22,149	\$ 22,592,289	\$ 27,000,000	\$ 22,149	\$ 26,471
Total Cost of provided infrastructure & contributions	\$ 136,197	\$ 85,940,488	\$ 53,525,534	\$ 62,955,011	\$ 160,191	\$ 100,649	\$ 122,691,303	\$ 102,662,123	\$ 108,107,317	\$ 100,649	\$ 102,662,123	\$ 108,107,317	\$ 100,649	\$ 105,988

The JPG submission goes on to describe additional benefits related to:

- a reduction in road length per lot due to higher density, and a reduced per lot road maintenance cost for Council;
- an increase in the viability of public transport provision due to increased densities; and
- an increase in the rates collected by Hawkesbury City Council.

#### Reduction in contribution rates for service infrastructure

It is acknowledged that any increased lot yield within a developing area will reduce the cost of service infrastructure provision on a per lot basis, particularly when the initial costs are fixed or less variable, such as the augmentation or extension of the trunk water and electricity services quoted above.

In this instance, Table 22 demonstrates that the increased development yield from the existing +634 lots to +1219 lots only increases the cost of trunk services from \$25 million to \$27 million. On a per lot basis, this significantly reduces the contribution from \$39,620 to \$22,149. (NB: It is noted that while the text of the JPG submission proposes an additional 1265 lots, the infrastructure calculations are based on an additional 1219 lots).

However, this situation is not unique to Pitt Town and should not be supported in terms of economic justification for the increased development yield in isolation from other considerations.

#### Increased road infrastructure

The submission states that the proposed additional development yield will increase capital expenditure and bring forward the construction of the following roadworks:

- Pitt Town Bypass at a cost of \$12.1 million; and
- Upgrading of the intersection of Cattai Road and Mitchell Roads at a cost of \$1.7 million.

It is intended that these works be incorporated into an amended Planning Agreement with the Minister for Planning.

However, the DoP has made it clear in its 23 November letter to Council that, in relation to infrastructure:

*"...it should be noted that the State Government has already made a Planning Agreement with the Johnston Property Group arising from the rezoning of land under Amendment 145. As per the Director-General's letter to Council of 6 January 2006, the Department will not seek (further) contributions for State Infrastructure arising from the types of amendments to density controls that are outlined in the dot points above. In addition, the Department does not believe that any further infrastructure requirements can be justified."*

Based on this correspondence, it is unlikely that any amendment to the current Planning Agreement will occur.

#### Increased community infrastructure

The submission also justifies the proposed increased development yield through the provision of additional community infrastructure, specifically the establishment of "Blighton

Riverside Park" alongside the northern edge of the Pitt Town study area. Costings related to the dedication of this land to Council and establishment and maintenance of the park have been included in the revised calculations of contribution costs per lot, totalling \$10 million.

It is emphasised, however, that this park is not identified in the current section 94 Contributions Plan for Pitt Town or the related Development Control Plan. Any proposed increase in development yield would need to be assessed against the range of community facilities required in Pitt Town to meet the projected needs of the community. This exercise has not been undertaken by Council, and it should not be presumed that the creation of "Blighton Riverside Park" is an appropriate use of any increased funding in this regard.

### Conclusions

It is accepted that a significantly increased lot yield will assist in reducing the cost of infrastructure provision through the economies of scale that can be achieved, and that these savings could result in reduced per lot contributions, funding of additional infrastructure, or both.

However, despite the level of infrastructure costs any additional development at Pitt Town must be balanced against other key issues – that is, whether there is a real need for more development at Pitt Town or whether infrastructure funding could be more efficiently utilised in other locations in the Hawkesbury LGA and Northwest Metropolitan subregion; whether additional densities can be accommodated while protecting heritage values and the rural character of the village; and whether the additional risk to new residents and potential loss of safety margin for existing residents during evacuation in time of flood is warranted.

Importantly DoP has also advised Council that it is unlikely to favourably consider any draft LEP proposing more than a maximum of 870 additional lots in the Pitt Town investigation area, and that the urban footprint of any LEP should not exceed that of Amendment 145. This increase of 236 lots above the estimated yield from Amendment 145 of 634 lots would not result in a significant reduction in per lot contribution rates, nor provide sufficient funds for the additional infrastructure outlined in the JPG submission.

## 7.0 OPTIONS

### 7.1 Planning Principles

In considering whether to prepare a new draft LEP to alter planning controls at Pitt Town Council should have regard to some guiding planning principles arising from the discussion of Key Issues in Section 6.0 of this report.

These are:

- The amount of any additional development at Pitt Town should be considered having regard to State and local priorities for housing and employment across the whole of the LGA and the subregion. Hawkesbury, like other LGAs in the subregion, will be required to meet housing and employment targets through a strategic review following completion of the North West Subregional Strategy, implemented through amendment of its new comprehensive LEP, and any development required to achieve these targets should occur where social, environmental and economic costs are minimised and benefits maximised.

Decisions about which release areas can be most efficiently and effectively developed to meet targets, and which areas should accept only relatively minor infill development to provide local housing diversity and choice, need to be made on an LGA wide basis and in consultation with DoP. This might best be achieved through the strategic investigations mentioned above and recommended in the DoP letter of 22 December 2006.

- New residential development should be located where there is least risk to residents from natural hazards. The principles outlined in the NSW Floodplain Development Manual of managing development so that it:
  - reduces risk;
  - provides an increase in benefits to match the risk; or
  - results in a reduction in the consequences of floodingshould be kept in mind when considering an increase in the number of new dwellings permitted at Pitt Town; the risk that those new residents might face if flood evacuation is required; and the reduction in any safety margin that existing residents might currently enjoy.
- Development of the existing Amendment 145 and related DCP provisions was lengthy because of the special character and heritage significance of Pitt Town, and because of the comprehensive consultation process Council undertook during that process, including formation of an Advisory Committee to consider findings and make recommendations to Council.

Additional heritage investigations have been undertaken. The special values of Pitt Town remain, and new proposals must respect the significant European and Aboriginal heritage values present. Adequate consultation with the community and guidance from relevant agencies such as the NSW Heritage Office is essential.

- Provision of infrastructure has obvious ramifications for the viability and affordability of new residential developments. New development should be located where infrastructure funding can be most effectively and efficiently utilised to maximise community benefits.

The options for Council with regard to Pitt Town are discussed below having regard to these principles.

## **7.2 Johnson Property Group Proposal**

Council could resolve to prepare a draft LEP to implement the JPG proposal as submitted. This is not the preferred option.

The development as submitted will significantly increase population in a location which is not part of a DoP UDP. Such an increase has not at this point been identified as being required to meet housing targets for the North West Metropolitan subregion for the Hawkesbury LGA. While it is understood that discussions about housing and employment targets and how they might be achieved for individual LGAs will continue with DoP in the coming months, the most logical approach to determine whether any increase in density at Pitt Town is justified would be through a strategic review of housing needs and opportunities across the whole LGA once the North West Subregional Strategy is complete. This reflects written advice from DoP. There does not appear to be any compelling need for a new LEP at Pitt Town prior to this occurring.

Significantly, the proposal only increases densities on land controlled by JPG. This results in more dense urban development 'leapfrogging' land controlled by others that has lower, more rural density controls applying to it. This is not sound planning practice. Any review of densities should address the whole of the precinct to ensure a logical and orderly progression of development, with more dense development closest to the existing village and the services it provides.

The development as submitted proposes more new dwellings than can safely be evacuated in the event of flood, given current knowledge of flood behaviour, timing of warnings from the Bureau of Meteorology, accepted SES practice and available SES resources. The recently revised SES maximum of 1,100 new dwellings completely removes the estimated 4 hour safety margin for existing residents in Pitt Town. Raising the flood evacuation route to a minimum level of RL 17.3m AHD only provides additional safety margin if evacuation is commenced when the 16 metre QPF is reached. This results in potential false alarm, a scenario unacceptable to the SES.

The heritage impacts of increasing existing densities and including additional land (previously deferred and/or outside the Connell Wagner LES area) are unclear as no comment has been received from the NSW Heritage Office. It is unlikely that higher 'urban' density development would be supported in the northern part of the investigation area, near the river escarpment and 'Blighton'. DoP has stated that any new LEP should be contained within the existing urban footprint of Amendment 145.

The proposal for 1265 additional dwellings has the benefit of reducing per lot development contributions substantially while providing a greater total contribution, which can assist in funding other infrastructure for the locality. On balance, however, this does not outweigh the concerns regarding safe evacuation of more than 1,100 additional dwellings. Additionally, infrastructure funding may be more efficiently utilised in areas where new release areas are required to meet Metro and subregional housing targets.

Should Council resolve to support the JPG proposal the applicant should be requested to address the above issues in a revised study, having regard to all of the land in the precinct, whether controlled by JPG or others.

Consideration of the proposal as presented is provided below in terms of the standard evaluation criteria prepared by DoP for a 'precinct' LEP.

## LEP Pro-forma Evaluation Criteria

### Category 3: Precinct LEP

1.	Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800m of a transit node)? <i>Explain:</i>	Y/N No. The subject land does not form part of a State or Regional strategy for urban release. It does however form part of Council's overall land release program.
2.	Will the LEP be consistent with agreed centres and sub-regional planning policy for development in the area? <i>Explain:</i>	Y/N No. The land has not been identified as part of the UDP or as being required to meet housing targets for the Northwest subregion.
3.	Is the LEP located in a regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy? <i>Explain:</i>	Y/N No. DoP has advised Council that the land should be considered as providing for local housing needs only.
4.	Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands? <i>Explain:</i>	Y/N No. Employment generating activity or loss of employment land not involved.
5.	Will the LEP facilitate the provision of public transport? <i>Explain:</i>	Y/N Yes. The proposal to add 1265 dwellings to the Pitt Town area could increase the viability of public transport services in the locality.
6.	Will the LEP implement studies and strategic work consistent with State and regional policies? <i>Explain:</i>	Y/N No.

### 7.3 Alternative Proposals

Council could resolve to prepare a draft LEP to alter the planning controls in the Pitt Town investigation area but in a different form to that proposed by JPG. For example, Council might resolve to prepare a draft LEP to allow a maximum of 1,100 new dwellings (or some other figure agreed with the SES as a result of its recent investigations), and that all of the land in the investigation area should be considered in determining the distribution and size of those lots. Alternatively, Council might resolve to prepare a draft LEP in accordance with the guidelines contained in the 23 November 2006 letter to Council. Neither of these options is the preferred option.

As with the JPG proposal, there does not appear to be any compelling need to increase densities in the Pitt Town investigation area prior to completion of the DoP North West Subregional Strategy. Council and the community will be faced with a lengthy process of investigation and analysis for little community benefit. Lesser numbers of additional dwellings will not provide the level of infrastructure cost reduction envisaged by the JPG submission. While firm figures have not been calculated, the additional 236 lots recommended by DoP would have very little impact on overall infrastructure costs.

The SES position that, unless absolutely necessary, there should be no additional dwellings that will place more people at risk and reduce existing safety margins remains. The unresolved heritage issues remain.

Should Council resolve to prepare a draft LEP for an alternative proposal to the JPG proposal, preparation of a revised study, by JPG or the Council, would be required to determine an appropriate upper limit for additional dwellings, and to provide guidance as to the distribution and size of new lots having regard to all of the land in the precinct, regardless of ownership.

#### **7.4 Do Nothing Option**

Council could resolve not to alter the controls introduced through Amendment 145. This is the preferred option.

LEP Amendment 145 involved a lengthy process of developing density controls and related DCP provisions that resulted in a total lot yield of an estimated additional 634 lots. This level of development was supported by DoP and is consistent with Pitt Town's identified role as a rural village that can accept limited growth to provide for local housing needs, diversity and choice.

The NSW Heritage Office has previously supported Amendment 145. DoP has advised that it does not favour extension of any LEP beyond the existing footprint of that amendment.

The estimated yield of 634 lots is within the maximum of 1,000 new dwellings previously recommended in the 2003 SES and 2003 Molino Stewart reports. Recent correspondence from the SES indicates that this maximum figure may be able to be increased to an additional 1,100 new dwellings.

Development applications for subdivision already received by Council for parts of the precinct have identified that higher than estimated yields are likely to comply with the existing LEP and DCP provisions. Therefore, additional lot yields beyond that identified in the DCP (i.e. more than the estimated additional 634 lots) may be achievable without modification to the existing LEP 145 provisions, provided the actual lot numbers approved fall within the upper limit of the total number of dwellings, having regard to SES calculations. Modifications to the DCP and the section 94 Contributions Plan would be required to correspond with the actual approved subdivision layouts.

In the interim, unless and until DoP identifies the Pitt Town investigation area as significant in achieving the housing targets required for Hawkesbury Council, as part of the larger North West subregion, additional density targets above the established controls in LEP Amendment 145 do not appear warranted.

Similarly, infrastructure costs have been raised as a significant issue, and a key justification for the increased lot yield proposed in the JPG submission. However, given all of the above, additional density does not appear justified in this location purely to reduce infrastructure costs. The land may be uneconomic to develop at this time, particularly if State and local priorities for housing supply are located in other parts of the LGA and North West Metropolitan subregion. However, if the subregional strategy suggests more dense development at Pitt Town might be required to achieve housing targets for the LGA, a review of the entire precinct and detailed assessment of infrastructure requirements, costs and benefits for various lot yields will be required.

## 8.0 RECOMMENDATIONS

It is recommended that:

1. Council not resolve to prepare a draft LEP pursuant to Section 54 of the *Environmental Planning and Assessment Act 1979* to alter the planning controls affecting the Pitt Town investigation area as described in the “Environmental Investigation – Pitt Town Village” prepared by Don Fox Planning Pty Ltd on behalf of the Johnson Property Group.
2. Any alteration to the controls introduced through Hawkesbury LEP 1989 (Amendment No 145) or any extension of the area affected by them should only be considered as part of a LGA wide strategic review that might occur as a result of completion of the North West Subregional Strategy and consideration of any housing targets that the strategy might require for the Hawkesbury LGA.
3. Council advise the applicant, Department of Planning and NSW State Emergency Service of its decision.

**APPENDIX A**

**23 NOVEMBER 2006 LETTER FROM DEPARTMENT OF PLANNING  
TO COUNCIL**



NSW GOVERNMENT  
**Department of Planning**

**Sydney North West Branch**

Mr Graeme Faulkner  
General Manager  
Hawkesbury City Council  
PO Box 146  
WINDSOR NSW 2756

Our Ref:

Dear Mr Faulkner

**Pitt Town - Proposed Further Development**

Thank you for meeting with myself and the Director-General to discuss the proposal currently before Council for an expansion to the dwelling capacity at Pitt Town.

As you would be aware, the Minister has previously indicated that, as he has only recently amended the Hawkesbury LEP to expand the dwelling capacity of Pitt Town, he will not be prepared to take forward a proposal of the scope currently before Council. The Minister has, however, indicated that he would be prepared to consider some increases to the existing densities in Pitt Town.

The Department understands that Council has engaged a consultant to assess the current proposal and report back to Council on a recommended way forward.

In this light I wish to outline the basis on which the Department will be prepared to consider any further amendments to development controls in Pitt Town. These are as follows:

1. Proposals will only be considered in relation to land included in the (urban) footprint of Amendment 145.
2. Subject to the maximum lot yield as set out in point 3 below, increased densities within this footprint should be considered within the following parameters:
  - South of Johnston St (Bona Vista and Fernadell precincts) – Minimum lot sizes should not be less than 550 sq meters. It should be possible for up to around 500 lots to be created in these precincts (existing potential is believed to be around 370) resulting in around 275 lots in Bona Vista and 225 lots in Fernadell. However, consideration of lower minimum lot sizes should ensure that development controls are not detrimental to the existing general character and design of Pitt Town.
  - North of Johnston St (large lot / rural residential areas) – Higher densities should be examined, but the overall limit of 5 dwellings per hectare should not be exceeded. The Department estimates that up to 120 additional lots may be

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created if the 5 dwellings per hectare was applied, however the total number of lots (i.e. all lots both north and south of Johnston St) should not exceed 869 (see further below). Consideration should therefore be given to the most appropriate location for additional lots taking into account whether or not the land is likely to be developed and the potential for buffer areas (of less than 5 lots per hectare) adjoining lands that are currently engaged in agricultural production.

- Infrastructure and Servicing Costs - In determining the extent of higher densities and where they should apply, consideration should be given to impacts on the cost of providing services infrastructure. The emphasis should be upon minimising any additional costs associated with servicing the additional lots.
3. Total dwelling numbers – Total lots for the area should not exceed 870. The yields from any existing lodged development applications (as opposed to the yields that had been expected during the drafting of the LEP Amendment) should be referenced in determining the expected yield from any future amendment.
  4. Any proposed amendments to allow additional dwellings within the footprint should be brought forward by way of provisions to be inserted in the Local Environment Plan (as opposed to development controls under Council's Development Control Plan). Consideration should be given to inserting clauses in the Local Environment Plan which clearly set maximum lot yields for particular precincts or areas.
  5. In relation to infrastructure, it should be noted that the State Government has already made a Planning Agreement with the Johnston Property Group arising from the rezoning of land under Amendment 145. As per the Director-General's letter to Council of 6 January 2006, the Department will not seek (further) contributions for State Infrastructure arising from the types of amendments to density controls that are outlined in the dot points above. In addition, the Department does not believe that any further infrastructure requirements can be justified.

As discussed at the meeting, Council should continue to exercise its own judgements in relation to any proposed amendments to development controls that it may or may not choose to bring forward. Should Council choose to bring forward proposed amendments under section 54 of the EP&A Act, Council should be cognisant that the Department will assess these proposals, in the first instance, against the criteria outlined above.

If you have any queries in relation to this matter, please do not hesitate to contact me on 8374 5906 or via email at [peter.goth@planning.nsw.gov.au](mailto:peter.goth@planning.nsw.gov.au).

I trust this information is of assistance.

Yours sincerely



**Peter Goth**  
**Regional Director**  
**Sydney North West**  
23-11-06