



Hawkesbury City Council

attachment 1
to
item 126

Summary of Submissions Received

date of meeting: 14 July 2020
location: by audio-visual link
time: 6:30pm

ATTACHMENT 1 – GENERAL AMENDMENTS (HOUSEKEEPING) LEP AMENDMENT – SUMMARY OF SUBMISSIONS

Proposed Amendment - Permit function centres with consent in RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, RU5 Village and E4 Environmental Living zones:

Summary of Issues Raised	Council Officer Response
<p>Function Centres</p> <p>Submissions were received that were both for and against the inclusion of Function Centres as permissible development in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, RU5 Village and E4 Environmental Living zones. The following provides an outline of the various comments received in respect of this aspect.</p> <p>1. Submission 4 - Any contemporary land use guidance would not support the introduction of any land use subject to high risks into a land use zone or zones. The proposed amendments allowing 'function centres' in Richmond Lowlands that is predominantly zoned RU2 Landscape and subject to high flood risk would result in poor risk and land use management outcomes.</p>	<p>The report to Council highlights issues for consideration around flood risk and the need for place based planning stemming from the Sydney Region Plan, and Western City District Plan.</p> <p>Council's land use plans and policies are developed in accordance with any relevant statutory requirements, plans, policies or guidelines, and in close consultation with relevant government agencies and the community. The recent public exhibition of this Housekeeping Amendments planning proposal is part of that Council's plan/policy making process.</p> <p>Council does not have delegation to finalise the plan, and should the planning proposal be inconsistent with relevant the State Planning Framework expressed through the Sydney Region Plan, and Western City District Plan and Ministerial Directions, then final approval by the Minister may be problematic.</p> <p>The permissibility of function centres within the RU2 Rural Landscape zone does not necessarily mean that any land within that zone is suitable or capable for development as a function centre. The proposed amendment permits function centres with consent in RU2 zones within the Hawkesbury Local Government Area and is not limited to the Richmond Lowlands. Given the extent of potential flooding in the Richmond Lowlands area, RU2 zoned land within this area may not be suitable for development as function centres, but RU2 zoned lands in other suburbs such as Bilpin, Berambing and Kurrajong Heights may be suitable.</p>

<p>2. Submission 1 - An appropriate land use conflicts assessment needs to be undertaken for a proposed development of land as function centre in order to ensure that adjoining or nearby agricultural activities will not be restrained from undertaking standard farm activities that create noise, odour and dust.</p>	<p>It can be considered that the development assessment and approval process ultimately determines the suitability and the capability of any land proposed for development as a function centre. Development Assessment takes into consideration all the prescribed matters in Section 4.15 of the <i>Environmental Planning & Assessment Act, 1979</i>, all other relevant plans, policies and matters, responses received from relevant government agencies such as State Emergency Service and Transport for NSW and community submissions to ensure effective determination of suitability of land for intended development.</p> <p>However, allowing a blanket provision for Function Centre uses in the RU1, RU2, RU4, RU5 and E4 zones throughout the LGA is not considered to be an appropriate option given significant parts of the LGA have such high flood hazards and constraints.</p> <p>Additionally, due to the Metropolitan Rural Area status of the Hawkesbury LGA, it is considered that the Department of Planning, Industry and Environment and Greater Sydney Commission will have issues with such a blanket provision compared to a place based approach required by the Region and District Plans.</p> <p>Council should consider a place based planning approach and identify key sites where Function Centre uses could be considered within the LGA, having undertaken constraint analysis.</p> <p>The presence of agricultural and non-rural land use in one location is likely to create conflict mainly due to their potential incompatible uses causing different negative impacts such as noise, odour, possible contamination, access barriers, light, visual amenity, dogs, and stock weed infestation.</p> <p>Any land use conflicts likely to arise due to a proposed development on land adjoining existing land uses will be taken into due consideration as part of the development assessment process to minimise any potential conflicts. If the proposed development is to be approved, Council will be able to impose appropriate conditions as conditions of consent to minimise any land use conflicts or negative impacts on adjoining owners</p>
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<p>3. Submission 10 - Supports the proposed amendment.</p> <p>4. Submission 10 - It is illogical to assume that tourism boosts local economic activities with no inclusion of function centres in the Hawkesbury Local Environment Plan 2012 as a permissible land use.</p> <p>5. Submission 8 – The proposed land use 'function centre' is not considered to be a suitable land use in rural zones, in particularly, in Richmond Lowlands which is seriously flood prone.</p> <p>The access roads are limited and it is difficult to believe that Council would be able to satisfactorily control noise or crowd behaviour in the area which is currently quiet and peaceful.</p>	<p>Comments noted.</p> <p>The Draft Hawkesbury Rural Lands Strategy which is currently being finalised, outlines that tourism is becoming a significant contributor to the economy, with agriculture-based tourism being a key component of this. This can be increased with the introduction of more agriculture-based tourism.</p> <p>The report to Council highlights issues for consideration around flood risk and the need for place based planning stemming from the Sydney Region Plan, and Western City District Plan.</p> <p>Council does not have delegation to finalise the plan, and should the planning proposal be inconsistent with relevant the State Planning Framework expressed through the Sydney Region Plan, and Western City District Plan and Ministerial Directions, then final approval by the Minister may be problematic.</p> <p>As previously commented on Issue 1 above, the permissibility of a function centre on rural land does not necessarily mean that land is suitable for a function centre. The suitability of that land for such use is subject to Council's development assessment process which takes all the relevant matters including flooding and flood evacuation in to due consideration in determining the suitability of a particular site for development for the intended purpose.</p> <p>As also detailed above it is considered that Council should consider a place based planning approach and identify key sites where Function Centre uses could be considered within the LGA, having undertaken constraint analysis.</p>
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<p>6. Submission 8 – Submitter is not against further development in the area but any development needs to be consistent with the existing rural character of the area, be capable of operation in a flood prone environment and be of minimal impact on surrounding properties and their operations.</p> <p>7. Submission 6 - the introduction of an additional land use in R2 Rural Landscape zone is not considered to be a minor amendment. The proposed amendment will change the land use, landscape, environment, perception and history of all times of the R2 Rural Landscape zone. The proposal is clearly to implement Council's previous failed attempts to permit functions centres in RU2 Landscape zones.</p> <p>8. Submission 6 - The permissibility of functions centres in RU2 Landscape zones will be massively benefitted by a few individuals who were operating such developments without prior Council approvals. It is clear that this is an attempt ignoring everyone's views, and Council would be totally complicit in that. This attempt would not be complied with the State Government's directives and guidelines requiring protection of rural lands and its values.</p> <p>9. Submission 6 -The need to preserve the existing character and values of areas like Richmond Lowlands is greatly supported by many locals who greatly appreciate the area at the present time.</p>	<p>As highlighted above, all the relevant matters including all the prescribed matters in Section 4.15 of the <i>Environmental Planning & Assessment Act, 1979</i> addresses the matters raised in this submission.</p> <p>An amendment to include an additional land use or uses to a land use zone or remove an existing land use from a land use zone through a general amendments planning proposal is not inconsistent with the relevant legislation and the current plan making process. The Gateway Determination received from the then Department of Planning and Environment raised no issues in relation to this amendment. A similar approach has been taken a number of councils including Willoughby City Council and Lake Macquarie City Council.</p> <p>The permissibility of function centres in appropriate locations in the RU2 Landscape zones is considered to be one of the contributory factors in promoting and complimenting rural tourism, particularly in areas such as Bilpin and Berambing and thereby helping to boost those struggling rural economies. The whole rural community will be benefitted by such approaches. This approach is also considered to be consistent with the Department of Planning and Environment's LEP Practice Note PN 09-006 – Providing Tourism in Standard Instrument local environmental plans.</p> <p>The report to Council highlights the need for place based planning stemming from the Sydney Region Plan, and Western City District Plan.</p> <p>Council should consider a place based planning approach and identify key sites where Function Centre uses could be considered within the LGA, having undertaken constraint analysis.</p> <p>Matters such as this highlight the need for Council to consider a place based planning approach and identify key sites where Function Centre uses could be considered within the LGA, having undertaken constraint analysis.</p>
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<p>10. Recent approvals for equine related developments have impacted the road capacity and increased traffic, noise and night lighting and needs to be clearly understood that functions centres are non-specific and are very likely to be used in different ways. Functions centres can easily be accommodated in other areas already zoned for that purpose.</p>	<p>The report to Council highlights the need for place based planning stemming from the Sydney Region Plan, and Western City District Plan.</p> <p>Council's development assessment process considers relevant matters following community and any relevant government agency consultation to ensure that any proposed development within any rural areas including Richmond Lowlands will not have any adverse impacts on the rural amenity.</p> <p>The Minister through the Department of Planning, Industry and Environment as the final decision making authority with respect to this planning proposal will determine the suitability of the proposed amendment.</p>
<p>11. Submission 17 – Bilpin is one of the major Tourist destinations of Sydney and Hawkesbury. Along Bells Line of Road, Kurrajong Heights to Berambing, there are a few popular venues that hold weddings and functions each weekend as well. The amount of revenue and attractions that could bring into Hawkesbury Tourism is substantial. There is lack of support from Council to achieve this. With recent bushfires, floods and Covid 19 pandemic, it is even more critical to promote tourism related developments in the Bilpin/ Berambing area to generate economic activities, job opportunities and make Bilpin a destination for Australian & the rest of the world to visit.</p>	<p>As previously commented on Item 8 above, the introduction of function centres in particularly Bilpin and Berambing would be able to strengthen tourism activities and thereby boost the struggling rural economies of these areas.</p> <p>The proposed additional uses such as function centres and eco-tourism facilities would help to promote and grow tourism activities and boost the current rural economies of Bilpin, Kurrajong Heights and Berambing.</p> <p>These matters highlight the need for Council to consider a place based planning approach and identify key sites where Function Centre uses could be considered within the LGA, having undertaken constraint analysis.</p>

<p>12. Submission 17 - Currently the State Government is promoting overnight stay accommodation within Bilpin/Berambing district. Please note there is a development application seeking Council approval for 150 guests every weekend. However, the provisions contained in the current Hawkesbury Local Environmental Plan 2012 for such tourist accommodation and other related activities are extremely limited and therefore, the proposed amendment to include '<i>function centre</i>' as a permitted land use in rural zones is supported.</p>	<p>It should also be noted that the Hawkesbury Tourism Strategy 2015 is one of the key strategic initiatives already undertaken by Council to promote tourism within the Hawkesbury Local Government Area. The draft Hawkesbury Local Strategic Planning Statement which sets out a 20 year vision for land use in the Hawkesbury Local Government Area also acknowledges the importance of promoting tourism within the Hawkesbury.</p>
<p>13. Submission 17- An error caused by removal of visitor and tourist accommodation land use from the Bilpin/Berambing district during the transformation of the repealed Hawkesbury Local Environmental Plan 1989 into the current Hawkesbury Local Environmental Plan 2012 could have been rectified immediately, but it remains unchanged. Due to this error, the Bilpin district has suffered major income losses in tourism business industry over the last eight years. Bilpin is one of the major tourist destinations of Sydney and therefore it is needed to provide more such facilities within the district to meet the growing demand.</p>	<p>The conversion of the Hawkesbury Local Environmental Plan 1989 to the Hawkesbury Local Environmental Plan 2012 was to the new NSW State Government "Standard Instrument" available to Council at that time.</p> <p>Properties in Bilpin and Berambing areas were zoned 7(a) Environmental Protection - Agriculture Protection (Scenic) under the repealed Hawkesbury Local Environmental Plan 1989, and tourist facilities were not permitted in that zone.</p>
<p>14. Submission 3 – A concern is raised to the proposed amendment to allow '<i>function centre</i>' as a permissible use with consent in the RU2 Rural Landscape zone. Many of the land areas zoned RU2 Rural Landscape is subject to severe flood hazards, in particular, the Richmond Lowlands.</p>	<p>Refer to paragraph 4 of the comments on Issue 1 above.</p>
<p>15. Submission 11- The geography of the Richmond Lowlands is such that it is a bowl which is quickly surrounded by floodwaters which cut off evacuation routes. The flood risk across the Richmond Lowlands is significant even in lesser flood events. Ridges Lane which provides access to Richmond Lowlands from Kurralong Road would be cut off by floodwaters in a 1 in 5 AEP event with depths of up to 2 metres across some sections of the road. In a 1 in 20 AEP event, the flood risk within Richmond Lowlands is classified according to guidelines outlined in the Handbook 7 of the Australian Disaster Resilience Handbook Collection (2017) as a mixture of H5 and H6. The potential to 'manage' this hazard and thereby reduce the risk is negligible due to the likely frequency of inundation of the land, the short flood warning times afforded to this area and the limited carrying capacity of the existing road</p>	<p>The report to Council highlights issues for consideration around flood risk and the need for place based planning stemming from the Sydney Region Plan, and Western City District Plan.</p> <p>Council does not have delegation to finalise the plan, and should the planning proposal be inconsistent with relevant the State Planning Framework expressed through the Sydney Region Plan, and Western City District Plan and Ministerial Directions, then final approval by the Minister may be problematic.</p>

network for evacuation during the onset of flooding.

The planning proposal enabling function centres development on RU2 Rural Landscape zoned land within the Richmond Lowlands would introduce potentially hundreds of additional persons into the floodplain, and they would potentially need to self-evacuate or require evacuation during flooding of the Hawkesbury-Nepean River. However, currently, there is not enough road capacity to safely evacuate the whole population on time, with multiple communities relying on common, constrained and congested road links as their means of evacuation. This is compounded by many key evacuation routes becoming flooded at low points long before population centres are inundated, creating flood islands. Due to the relatively short warning time (less than 5 hours) any substantial increase in the population requiring evacuation via the constrained road network that would function as the evacuation route from Richmond Lowlands, would be contrary to current State Government's flood management policy.

The report to Council highlights issues for consideration around flood risk and the need for place based planning stemming from the Sydney Region Plan, and Western City District Plan.

Consideration of an additional local provision for rural and nature-based tourism development including function centres in the Hawkesbury Local Environmental Plan 2012 was undertaken, which was a similar approach undertaken at Byron Shire Council.

6.14 Tourism related development in Rural and E4 Environmental Living Zones

(1) The objectives of this clause are as follows:

- (a) *to ensure that development in rural and natural areas does not adversely impact on the agricultural production, scenic or environmental values of the land.*
- (b) *to ensure that development of land does not unreasonably impact residents and other lawful land uses,*
- (c) *to facilitate the appropriate use of land for rural and nature-based tourism development on rural and E4 Environmental Living zoned land,*
- (d) *to ensure that development is compatible with the primary production potential, rural character and environmental capabilities of the land,*
- (e) *to ensure that consent is only granted to development for the use of land for development if issues such as the existing road capacity to safely evacuate all occupants of the site on time, noise, traffic and parking impacts are satisfactorily addressed.*

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| | <p>(1) Development consent must not be granted to development for the purpose of use of the land for rural and nature-based tourism development on any rural or E4 Environmental Living zoned land unless the consent authority is satisfied that:</p> <ul style="list-style-type: none">(a) The existing road network has the capacity to safely evacuate all occupants of the site on time,(b) the development will not generate noise, traffic, parking and light spill that will significantly impact on surrounding residential areas,(c) the development will not impair the use of the surrounding land for agriculture or rural industries,(d) the land is suitable and appropriately located for the use of the land as a function centre,(e) the land has suitable vehicle access for the purpose of a function centre and adequate provision of car parking,(f) the land is capable of accommodating the on-site disposal and management of sewage for the development,(g) the development will be on the same lot as an existing lawfully erected dwelling,(h) the development will not have an adverse impact on the scenic amenity or character of the rural environment,(i) A sufficient justification demonstrating the need of the development on the land(j) the development is consistent with the objectives of this clause. |
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<p>16. Submission 11 - Any planning proposal that resulted in the permissibility of function centres that increased the number of people situated on high hazard areas of Richmond Lowlands that might require evacuation during the onset of major flooding, could not be considered to be consistent with the objectives of the NSW Government's Flood Prone Land Policy and the NSW Flood Development Manual 2005.</p> <p>17. Submission 11 - It is noted that the Hawkesbury Local Environmental Plan 2012 does not any make provision for freeboard when defining the Flood Planning Level. Accordingly, the proposed amendments would permit function centres in the floodplain with habitable floor levels at the 1 in 100 AEP flood level without freeboard. This approach would be contrary to policy in all other Local Government Areas within the Hawkesbury-Nepean Valley.</p> <p>18. Submission 11 - The NSW Government's Draft LEP Flood Clauses relate to the Flood Planning Area which is defined as the level of the 100 year Average Recurrence Interval (ARI) in the Hawkesbury Local Environmental Plan 2012. Objectives of these draft clauses include minimising the risk to life, enabling safe and appropriate land uses, and enabling safe evacuation from the land. It states that development consent should not be granted unless it is demonstrated that the development will not adversely affect the safe and efficient evacuation or impact on the capacity of existing evacuation routes for the surrounding area.</p>	<p>However, allowing a blanket provision for Function Centre uses in the RU1, RU2, RU4, RU5 and E4 zones throughout the LGA is not considered to be an appropriate option given significant parts of the LGA have such high flood hazards and constraints.</p> <p>Additionally, due to the Metropolitan Rural Area status of the Hawkesbury LGA, it is considered that the Department of Planning, Industry and Environment and Greater Sydney Commission will have issues with such a blanket provision compared to a place based approach required by the Region and District Plans.</p> <p>Council should consider a place based planning approach and identify key sites where Function Centre uses could be considered within the LGA, having undertaken constraint analysis.</p> <p>The report to Council highlights issues for consideration around flood risk and the need for place based planning stemming from the Sydney Region Plan, and Western City District Plan.</p> <p>Council does not have delegation to finalise the plan, and should the planning proposal be inconsistent with relevant the State Planning Framework expressed through the Sydney Region Plan, and Western City District Plan and Ministerial Directions, then final approval by the Minister may be problematic.</p> <p>Council should take into consideration the relevant flood risk management framework available at the time of preparation of any planning proposals and any comments received from relevant government agencies in order to ensure consistency with the NSW Government's Flood Prone Land Policy and the NSW Flood Development Manual 2005.</p> <p>All relevant flood planning provisions are taken into consideration when determining a Development Application for any development in the Hawkesbury City Council Local Government Area on land that is subject to flooding.</p>
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19. Submission 9 – Opposes the planning proposal seeking to permit function centres within rural zones including the RU2 zone. The objection to this proposed amendment is based on the following grounds.

- The proposed amendment will have substantial consequences on the existing environment. It is highly misleading to identify this amendment as a housekeeping amendment and imply it is technical/administrative change. This is effectively a rezoning of land to allow a non-rural land use on any rural and E4 Environmental Living zoned land.
- Much of the Lowlands is under water even in a 1 in 5-year AEP flood event. In a 1 in 10-year AEP event, the water depth in much of the Lowlands is in the range 2-4m with no appropriate evacuation routes. In a 1 in 20-year AEP event virtually all premises will be inundated with water depths mostly above 4 m. Shelter in place is not an option in the Richmond Lowlands when a flood event exceeds a 1 in 10year AEP event. The Regional Flood Study hazard maps provide even more compelling information.
- During 1 in 5-year and 1 in 20-year AEP flood events, a substantial part of the Lowlands would be subject to H5 flood hazard level. During a 1 in 20-year AEP flood event the hazard level for most of the Lowlands rises to H6 which is the highest hazard category. The submission author’s recent experience underscores this problem, and the submission author wrote to Council on 12 February 2020 after a rainfall event that happened very quickly requiring evacuation of 40 horses on four trucks from the land. The State Emergency Service experienced significant difficulty in that evening. This highlights how hard the State Emergency Service’s ability to cope with any further intensification of land uses in the Lowlands.
- The problem for the Richmond Lowlands is that many premises would become isolated and no evacuation route would be available during even a modest flood event. To create an ascending evacuation route would be virtually impossible and very costly.

The inclusion of an additional land use or uses in the Land Use Table through a general/housekeeping amendments planning proposal is considered to be not inconsistent with the Department of Planning and Environment’s ‘A guide to preparing planning proposals’, ‘A guide to preparing local environmental plans’ or other relevant statutory provisions with respect to plan making. The Gateway Determination received from the Department of Planning and Environment for the planning proposal did not object to the proposed amendment.

The proposed amendment is not to rezone any land and is to include ‘function centre’ as a permissible land use with consent in RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, RU5 Village and E4 Environmental Living zones in the Land Use Table.

The report to Council highlights issues for consideration around flood risk and the need for place based planning stemming from the Sydney Region Plan, and Western City District Plan.

As previously commented, the proposed amendment is to include ‘*function centre*’ as an additional land use in the Land Use Table as a permissible land use with consent in all RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, RU5 Village and E4 Environmental Living zones within the Hawkesbury Local Government Area and is not limited only to R2 Rural Landscape zoned land in the Richmond Lowlands. The suitability of any land for such developments is subject to a detailed assessment by Council.

<ul style="list-style-type: none"> Function centres attract substantial numbers of patrons. Often many hundreds of people usually have free alcohol and most of whom drive to and from the function centres given the very limited public transport available in the rural zones. The resultant persistent noise disturbance in the quiet rural community of Richmond Lowlands would be intolerable as Council is already aware. Any conditions to minimise such impacts imposed by Council for such approved developments may not be effective given that attendees at function centres, particularly alcohol-affected attendees may not stick to such conditions and beyond the control of function centre operators. <p>20. Submission 9 - Council would be aware that in recent years several unauthorised uses occurred over a significant period of time within the Lowlands one of which involved the operation of a number of function centres for weddings and the like on parcels of land owned by one owner. This was challenged successfully in the Land and Environment Court. As a result, there is a court ordered prohibition remains in place.</p> <p>21. The current additional permitted uses provision in the Hawkesbury Local Environmental Plan 2012 is considered to be a good alternative approach to the proposed blanket permissibility of function centres across a zone or an area. If Council wishes to use this provision, it is considered to be necessary to specify locations of those lands and justify why they and their locations are appropriate to accommodate such uses.</p>	<p>Council does not have delegation to finalise the plan, and should the planning proposal be inconsistent with relevant the State Planning Framework expressed through the Sydney Region Plan, and Western City District Plan and Ministerial Directions, then final approval by the Minister may be problematic.</p> <p>However, allowing a blanket provision for Function Centre uses in the RU1, RU2, RU4, RU5 and E4 zones throughout the LGA is not considered to be an appropriate option given significant parts of the LGA have such high flood hazards and constraints.</p> <p>Additionally, due to the Metropolitan Rural Area status of the Hawkesbury LGA, it is considered that the Department of Planning, Industry and Environment and Greater Sydney Commission will have issues with such a blanket provision compared to a place based approach required by the Region and District Plans.</p> <p>Council should consider a place based planning approach and identify key sites where Function Centre uses could be considered within the LGA, having undertaken constraint analysis.</p> <p>This issue has no direct relevance to the determination of the planning proposal.</p> <p>The Department of Planning, Industry and Environment advises that Schedule 1 Additional permitted uses of a Principle Local Environmental Plan should only be used in exceptional circumstances, and land use permissibility should preferably be controlled by the zones and the Land Use Table. Also, many listings of additional uses in Schedule 1 is generally not supported by the Department.</p> <p>Therefore, an additional permitted use on a land creating a zoning anomaly on that land is not considered to be a better alternative</p>
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<p>22. Submission 12 – Object to permit function centres with consent in zones RU1 Primary Production and RU2 Rural Landscape zones due to the following reasons.</p> <ul style="list-style-type: none"> • The permissibility of function centres in rural areas has the potential to have adverse impacts on agricultural land and resources and increase land use conflict with agricultural land uses; • Large areas of the RU2 zone in Hawkesbury LGA are mapped as Biophysical Strategic Agricultural Land and should therefore be prioritised for agricultural purposes; • The proposal to permit function centres in these rural zones is inconsistent with the Western City District Plan which seeks to contain urban land uses to mapped urban areas; and • The land use ‘tourist and visitor accommodation’ is already permissible with consent in RU1 Primary Production zone. 	<p>approach to the proposed amendment inserting an additional land use in the Land Use Table to enable that land used with development consent.</p> <p>Given the agriculture is one of the dominant land uses and key economic drivers in the Hawkesbury Local Government Area, Council always encourages agricultural activities and ensures preservation of existing agricultural land uses and land potential for agricultural purposes. The factors such as agricultural land values, fragmentation of agricultural lands, likely land use conflicts and impacts of any future development on existing agricultural uses and land are taken into due consideration when assessing and determining Development Applications.</p> <p>According to Agricultural Land Classification, certain parcels of land within the Hawkesbury Local Government Area may not be suitable for agricultural purposes. In such circumstances, Council may be able to consider Development Applications seeking approvals for development of such lands for other compatible developments that are considered to be generally consistent with objectives of RU2 Rural Landscape zone and subject to a merit assessment.</p> <p>There are no clear definitions or land use classifications under ‘urban development’ and ‘rural development’, and given the definition of ‘<i>function centre</i>’, it may be suited to both urban and rural contexts. Making an assumption that a ‘function centre’ as an urban development’ would result in prohibition of such uses within the Hawkesbury Local Government Area given it is identified as a Metropolitan Rural Area in which ‘urban development’ is not supported. This is problematic, in particular, to the Hawkesbury Rural Community in terms of social and economic opportunities.</p> <p>The terms ‘<i>tourist and visitor accommodation</i>’ and ‘<i>function centre</i>’ are totally distinct land uses and are separately defined in the Standard Instrument. Function centre is a building or place used for the holding of events, functions, conferences whereas tourist and visitor accommodation’ is a building or place that provides temporary or</p>
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<p>23. Submission 12 - Should Council wish to proceed with a proposal to permit wedding venues and similar land uses in rural zones, the Department of Planning, Industry and Environment (Agriculture) strongly recommends adopting the approach taken by Byron Shire Council to introduce provisions for 'rural event sites'. Any such provisions should include specific provisions to ensure:</p> <ul style="list-style-type: none"> • The rural event sites are not established on Biophysical Strategic Agricultural Land or other high quality agricultural land; • A proposal for a function centre or eco-tourist facility does not have an adverse impact on agricultural land or resources; • A land use conflict risk assessment is conducted at development application stage and the proposed development is located at an appropriate distance from the property boundary; and • Where there is potential for land use conflict an acceptable vegetated buffer is established on the proponent's land. 	<p>short-term accommodation on a commercial basis. Tourist and visitor accommodation is permitted with consent all rural zones other than RU2 Landscape zone. .</p> <p>An appropriate clause was considered in response to Issue No. 15 above which is in similar to the approaches taken by both Byron Shire and Clarence Valley Councils.</p> <p>An appropriate clause was considered in response to Issue No. 15 above which is in similar to the approaches taken by both Byron Shire and Clarence Valley Councils.</p>
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Proposed Amendment - Permit eco-tourist facilities with consent in RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, RU5 Village, R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R5 Large Lot Residential, E3 Environmental Management and E4 Environmental Living zones:

Summary of Issues Raised	Council Officer Response
<p>24. Submission 12 – Object to permit eco-tourist facilities with consent in zones RU1 Primary Production and RU2 Rural Landscape zones due to the following reasons.</p> <ul style="list-style-type: none"> • The permissibility of eco-tourist facilities in rural areas has the potential to have adverse impacts on agricultural land and resources and increase land use conflict with agricultural land uses; • Large areas of the RU2 zone in Hawkesbury LGA are mapped as Biophysical Strategic Agricultural Land and should therefore be prioritised for agricultural purposes; • Land in these zones is unlikely to have special ecological or cultural features necessary to satisfy the definition of an eco-tourist facility; and • The land use ‘tourist and visitor accommodation’ is already permissible with consent in RU1 Primary Production zone. <p>25. Submission 12 – It is strongly suggested that Council await the completion of the work between the Department of Planning, Industry and Environment and the NSW Small Business Commissioner relating to agritourism land uses in rural areas before Council considers permitting additional land uses in the RU1 and RU2 zones.</p>	<p>Refer to paragraphs 1 and 2 of comments on Issue 23 above.</p> <p>Refer to paragraph 2 of comments on Issue 23 above.</p> <p>This is a matter for consideration at the development assessment stage.</p> <p>The terms ‘<i>tourist and visitor accommodation</i>’ and ‘<i>eco-tourist facility</i>’ are distinct land uses and are separately defined in the Standard Instrument.</p> <p>This is a matter for consideration by the Minister through the Department of Planning, Industry and Environment which is the final decision making authority for this planning proposal.</p>

<p>26. Submission 15 - Supports the proposed amendment.</p> <p>27. Submission 15 - Certain parcels of land or areas zoned RU2 Landscape are not suitable for intensive agriculture purposes but they are appropriate for eco and agri-tourism. The zoning and permissible land uses for these parcels or areas should reflect their real potential.</p> <p>28. Submission 15 - There is a significant increase of people from Greater Sydney seeking 'experimental' or eco-tourist accommodation as well as other tourist and hospitality facilities within the District. Bilpin is no longer a thriving orchard area with now only six out of 70 orchard areas are surviving. The financial viability of these remaining orchards are now heavily rely upon day visitors mainly from Greater Sydney aiming to visit working orchards and pick their own fruits. These orchards are now more aligned with agro-tourism rather than their use for intensive agriculture purposes.</p> <p>If the objective of the Metropolitan Rural Area is to maintain the 'rural nature' of the Hawkesbury, the Hawkesbury Local Environment Plan 2012 needs to include 'eco-tourist accommodation' facility as a permissible land use in the area. An additional revenue generated through ecotourism accommodation facilities provides land holders an opportunity to continue their agricultural activities and well manage their farmlands. Also, hospitality and accommodation facilities provide local employment opportunities.</p> <p>29. Submission 15 - Council reports state that the traditional agricultural practices and employment is on the decline, and permissibility of ecotourism accommodation facilities will help mitigate such a decline.</p> <p>30. Submission 15 - In the past six months, the local community has experienced severe drought, bushfire and flood damages and now COVID-19 pandemic. For the survival and prosperity of the community, additional revenue options such as eco-tourist accommodation facilities should be permitted on farmland.</p>	<p>Comments noted.</p> <p>Council always recognises the importance of preserving land for agricultural purposes within the Hawkesbury Local Government Area and ensures that any land suitable or has potential for agricultural purposes is retained for such purposes.</p> <p>Council acknowledges that Bilpin is one of the potential tourist destinations within the Hawkesbury Local Government Area. However, the suitability of a land for eco-tourist accommodation purpose is always subject to a detailed assessment by Council.</p> <p>The Greater Sydney Region Plan and the Western District City Plan identify the entire Hawkesbury Local Government Area as a Metropolitan Rural Area, and therefore Council is required to maintain or enhance the environmental, social and economic values of the Metropolitan Rural Area using place based planning. Therefore, Council's land use planning framework, practices and any land use planning decision need to be aligned with relevant objectives and actions of these Plans (Objective 29 and Strategies 29.1 and 29.2 of the Greater Sydney Region Plan and Objective 29 and Actions 78 and 79 of the Western City District Plan).</p> <p>As previously commented on Issue 28 above, Council's land use planning decisions to be consistent with the relevant objectives, actions and strategies of the above outlined State Plans.</p> <p>Refer to comments on Issue 28 above.</p>
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<p>31. Submission 1 - Appropriate land use conflicts assessment need to be undertaken for proposed development of land as eco-tourist facilities in order to ensure that adjoining or nearby agricultural activities will not be restrained from undertaking standard farm activities that create noise, odour and dust.</p>	<p>All the relevant matters and impacts of any proposed development on land including potential land use conflicts, existing developments/operations on adjoining lands, any community submissions and relevant government agency responses will be taken into due consideration when Council assessing and determining a Development Application, and appropriate conditions will be imposed to minimise any adverse impacts on adjoining land uses/operations and the amenity of the locality.</p>
<p>32. Submission 10 - The inclusion of eco-tourism in the Hawkesbury Local Environmental Plan 2012 will greatly enhance economic activities in the areas affected by bushfire, flood and COVID-19 within the Hawkesbury Local Government Area. If eco-tourism facilities have been included as a permissible land use in local environmental plans of the surrounding councils, why it cannot be included as a permissible land use in the Hawkesbury Local Environmental Plan 2012. This land use should have been included as a permissible land use in the original Hawkesbury Local Environmental Plan 2012.</p>	<p>Refer to comments on Item 28 above.</p>
<p>33. Submission 31 - The Biodiversity offset scheme has also identified eco-tourism as a land use within the offset scheme, and significant areas of private land in the Hawkesbury form part of the offset scheme.</p>	<p>Comments noted. As previously commented on Issue 28 above,</p>
<p>34. It is not against eco-tourism development on rural land but Council needs to take any submissions received from the community or the impacted neighbours/residents on development of land for such purposes into due consideration when determining such developments. However, the submission 6 objects to any proposed amendments that will allow Council to determine such development with no community consultation,</p>	<p>Refer to Comments on Issue 31 above.</p>
<p>35. Submission 9 – The proposed amendment to permit eco-tourist facilities across four rural zones, four residential zones and two environmental zones is not a minor housekeeping amendment.</p>	<p>The inclusion of an additional land use or uses in the Land Use Table through a general/housekeeping amendments planning proposal is considered to be not inconsistent with the Department of Planning and Environment's 'A guide to preparing planning proposals', 'A guide to preparing local environmental plans' or other relevant statutory provisions with respect to plan making. The Gateway Determination received from the Department of Planning and Environment for the</p>

<p>36. Submission 1 - Any newly introduced land uses within a rural zone such as eco-tourist facilities should not take precedence over any existing farming/agricultural activity use on a rural land. For this purpose, it is suggested that rural land uses should be classified as primary uses. Incremental change in rural land use away from agriculture with the use of rural land for non-agricultural activities would result in non-return of traditional agricultural uses on rural land</p>	<p>planning proposal did not object to the proposed amendment.</p> <p>As previously commented on Issue 31 above, any land use conflicts, potential impacts on existing operations/land uses on adjoining lands will be taken into due consideration when determining Development Applications for eco-tourist facilities or any other development on rural land. The existing zones and the Land Use Table of the Hawkesbury Local Environmental Plan 2012 will determine permissibility of development on a land and therefore an additional classification to classify rural land uses as a 'prime use' is not considered to be necessary. Council always ensures preservation of suitable or potential land for agricultural purposes.</p>
<p>Proposed Amendment - <i>Permit veterinary hospitals with consent in RU2 Rural Landscape zone</i></p>	
<p>Summary of Issues Raised</p>	<p>Council Officer Response</p>
<p>37. Submission 8 - Is not against any Veterinary Hospital development on rural land but Council needs to take any submissions received from the community or the impacted neighbours/residents on such development into due consideration when determining such developments. However, the submission 6 objects to any proposed amendments that will allow Council to determine such development with no community consultation,</p> <p>38. Submission 9 – The proposed amendment to allow veterinary hospitals within the RU2 Landscape zone is a substantial rezoning change and not considered to be a house-keeping amendment.</p>	<p>Council takes any community submissions into due consideration when determining Development Applications.</p> <p>Refer to Comments on Issue 35 above.</p>

Proposed Amendment - Amend Clause 2.8 subclause (2) to extend the maximum period of temporary uses of land from 28 to 52 days in any 12 month period

Summary of Issues Raised	Council Officer Response
<p>39. The proposed length of time for temporary uses. Even the current provision is too long and it should only be for emergency purposes, and something anyone could not think of beforehand, some activities rare or unusual. Any activity that can be planned before should be subject to a normal development approval process.</p> <p>40. Submission 3 - A concern is raised to a proposed amendment to allow temporary uses for 52 days, as there may be potential to increase in the number of temporary events within an area.</p> <p>41. Submission 3 - The planning proposal includes an amendment to increase the number of days in a Calendar year that temporary events can be held from 28 days to 52 days on a particular land parcel.</p> <p>This raises a particular concern over the intensification whereby a temporary use could occur every weekend in a year with the proposed amendment. This outcome could not be considered to be temporary and raises the likelihood of proponents seeking to provide permanent infrastructure for these “temporary” uses. The almost doubling of the regularity of occurrences also increases the potential incompatibility with the provisions of clause 2.8(3) of the LEP which states:</p> <p>Development consent must not be granted unless the consent authority is satisfied that—</p> <ul style="list-style-type: none"> (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and (b) the temporary use will not adversely impact on any adjoining land or 	<p>The report to Council highlights issues for consideration around flood risk and the need for place based planning stemming from the Sydney Region Plan, and Western City District Plan.</p> <p>Council does not have delegation to finalise the plan, and should the planning proposal be inconsistent with relevant the State Planning Framework expressed through the Sydney Region Plan, and Western City District Plan and Ministerial Directions, then final approval by the Minister may be problematic.</p> <p>Council takes the nature of the proposed development, any cumulative impacts, proliferation of uses and the existing uses in an area or locality when determining Development Applications for a temporary use or any other land use into due consideration when assessing and determining a Development Application.</p> <p>As previously commented, all the relevant matters will be taken into due consideration when Council determines Development Applications for any development on land, and appropriate conditions will be improved on an approved development in order to ensure no adverse impacts on the environment, adjoining neighbours and the local amenity.</p>

<p>the amenity of the neighbourhood, and</p> <p>(c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and</p> <p>(d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.</p> <p>The clause as drafted is a prohibition unless all four points, (a) to (d), are able to be satisfied. In the case of a temporary use in a rural land, any permanent infrastructure to support “Temporary” uses must be inconsistent with the carrying out of development for which the land is zoned and would have to be refused as being prohibited. In the case of the Richmond Lowlands any permanent infrastructure would also fail against considerations (b) and (c) as amenity would be diminished and the risk of natural hazards in the form of flooding would be increased.</p> <p>42. Submission 9 – Oppose the proposed amendment to increase the number of days that temporary events can be held from 28 days to 52 days on a land parcel. This would result in the proliferation of incompatible uses such as function centres in the Lowlands, Where a landowner owns more than one parcel of land in the surrounding area, there would be multiple “temporary” uses or there is a tendency that a same temporary use may continue longer on different parcel of lands. There was a court case against the Council at the NSW Land & Environment Court in relation to an approval of a temporary use.</p> <p>43. The proposed amendment needs to be justified in the exhibited planning proposal as it would allow weekend markets. However, such uses should be limited to public land, or other delineated areas. Allowing such extended uses across all rural zones would result in significant impacts on the local amenity and the environment and generate litigation against Council if applications to enjoy such extended uses were denied. If the intention was genuinely to cater</p>	<p>It is considered that the test for temporary use proposals is sufficient to appropriately assess land use conflicts as part of the development assessment process.</p> <p>Therefore, it is recommended that Council proceed with the extension of the temporary use of land period from 28 to 52 days.</p> <p>Notwithstanding of the above comments, the Department of Planning, Industry and Environment that is the final decision making authority for this planning proposal will determine the suitability of this proposed amendment.</p> <p>Refer to Comments on Issue 41 above.</p> <p>The report to Council highlights issues for consideration around flood risk and the need for place based planning stemming from the Sydney Region Plan, and Western City District Plan.</p> <p>It is considered that the test for temporary use proposals is sufficient to appropriately assess land use conflicts as part of the development</p>
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<p>for weekend markets, the proposed amendment to be amended accordingly.</p> <p>44. Submission 9 - Expanding the definition for temporary uses from uses that can occur for up to 28 days per year to uses that can occur up to 52 days per year, is NOT a 'house keeping' change. For example, pop up function centres could then occur for up to 52 days at a time. Because in rural areas many land owners own multiple parcels this change greatly enhances the risk that uses can be continued for substantial periods in by swapping them between venues in adjacent land parcels.</p>	<p>assessment process.</p> <p>Therefore, it is recommended that Council proceed with the extension of the temporary use of land period from 28 to 52 days.</p>
<p>Proposed Amendment - <i>Insert a new clause in Hawkesbury LEP 2012 to permit boundary adjustments between undersize allotments</i></p>	
<p>Summary of Issues Raised</p>	<p>Council Officer Response</p>
<p>45. Submission 1 - Boundary realignments will need to consider whether water resources become separated from agriculture or are impacted where water is shared between lots.</p>	<p>The proposed amendment is to allow boundary adjustments between existing underutilised lots, and the submission issue is a matter for consideration with Development Applications.</p>
<p>Proposed Amendment - <i>Amend the Hawkesbury LEP 2012 standard instrument by removing the 'Bed and Breakfast' provisions from Permitted Without Consent section to Permitted with Consent section for all zones that allow this use.</i></p>	
<p>Summary of Issues Raised</p>	<p>Council Officer Response</p>
<p>46. Submission 10 - Does not object to the change from bed and breakfast accommodation permitted without consent to permitted with consent.</p> <p>Raises concerns that many bed and breakfast accommodation operators who are currently operating under 'existing use rights' may not have good understanding that they will lose their 'existing use rights' if their operations remained close for more than 12 months. Further, they may not aware that closure of their operations because of fire, flood or COVID-19 does not affect their 'existing use rights'.</p>	<p>Comments noted.</p> <p>Existing use rights apply to land, not to individuals, and the onus is on the owner of that land to prove that existing use rights apply to the land. To find out whether the land enjoys existing use rights, the owner is required to look into historical consents, records, photographs and/or relevant planning instruments. If an existing use on land ceases for more than 12 months, it is generally considered that the use has been</p>

<p>It is suggested that Council notify in writing all such operators of the proposed housekeeping amendments affecting bed and breakfast accommodation through Council Community Newsletter, the Mayoral Column in the Gazette/Courier and other public communication forums.</p>	<p>abandoned, and the existing use rights would no longer apply to the land concerned.</p> <p>Council may be able to provide general advice to property owners regarding a special provision in the <i>Environmental Planning and Assessment Act, 1979</i> that allows property owners relying on existing use rights who are forced to stop their operations/uses during the pandemic will now have 3 years to resume, instead of 1 year during the period commencing on 25 March 2020 and ending on 25 March 2022 in Council's Community Newsletter.</p>
<p>Proposed Amendment - Amend the Hawkesbury LEP 2012 to identify relevant acquisition authority of land to be acquired or change the zone of certain lands - Insert a new clause where land to be acquired is not zoned RE1 Public Recreation, SP2 Infrastructure or E1 National Parks and Nature Reserves or change the zoning of these lands. This clause only relates to land that is shown on the Land Reservation Acquisition Map and that is also zoned RE1, SP2 or E1.</p> <p><i>Some lands that are shown on the Land Reservation Acquisition Map are not zoned RE1, SP2 or E1. These lands, and their respective zones, include:</i></p> <p><i>Lot 1, DP 879449, 315 St Albans Road, Lower Macdonald - E4 Environmental Living</i> <i>Lot 2, DP 879449, 377 St Albans Road, Lower Macdonald - E4 Environmental Living</i> <i>Lot 3, DP 879449, 316 St Albans Road, Lower Macdonald - E4 Environmental Living</i> <i>Part Lot 10, DP 540848, 440 St Albans Road, Lower Macdonald - E4 Environmental Living</i> <i>Lot 1, DP 228068, 241 St Albans Road, Lower Macdonald - E4 Environmental Living</i> <i>Lot 1, DP 1121876, 203A Blacktown Road, Freemans Reach - RU2 Rural Landscape</i></p> <p><i>It is proposed that these lands be either rezoned as appropriate to RE1, SP2 or E1 or that an additional clause be added similar to clause 5.1 that will cater for such lands.</i></p>	
<p>47. Submission 5 - The planning proposal states that identification of relevant land acquisition authorities is dealt with by Clause 5.1 (Relevant acquisition authority) in the Hawkesbury Local Environmental Plan 2012 and this clause only relates to land which is shown on the Land Reservation Acquisition Map and is zoned RE1, SP2 or E1 Some lands shown on the Land Reservation Map are also zoned E4 – Environmental Living and RU2 – Rural Landscape and include:</p> <ul style="list-style-type: none"> • Lot 1, DP 879449, 315 St Albans Road, Lower Macdonald - E4 	<p>The Department of Planning, Industry and Environment will be able to have further consultation with the National Parks and Wildlife Service regarding this matter and make appropriate changes to the proposed amendment based on the outcome of consultation when finalising the planning proposal.</p>

Environmental Living

- Lot 2, DP 879449, 377 St Albans Road, Lower Macdonald - E4 Environmental Living
- Lot 3, DP 879449, 316 St Albans Road, Lower Macdonald - E4 Environmental Living
- Part Lot 10, DP 540848, 440 St Albans Road, Lower Macdonald - E4 Environmental Living
- Lot 1, DP 228068, 241 St Albans Road, Lower Macdonald - E4 Environmental Living
- Lot 1, DP 1121876, 203A Blacktown Road, Freemans Reach - RU2 Rural Landscape

The planning proposal states these lands are proposed to be either rezoned as appropriate to RE1, SP2 or E1 or an additional clause will be added like clause 5.1 to cater for such lands.

The Environment, Energy and Science Section of the Department of Planning, Industry and Environment has liaised with the National Parks and Wildlife Service in relation to these lands potentially being acquired and rezoned as E1. The National Parks and Wildlife Service has advised it does not have any interest in the St Albans Road/Lower McDonald lands. The St Albans land is not connected to the National Parks and Wildlife Service estate and as it consists mainly of cleared land it is unlikely to be a priority if it became available to the National Parks and Wildlife Service. The adjacent vegetated lands have not been identified by NPWS for acquisition either.

The land on Blacktown Road is not of interest to NPWS either.

Proposed Amendment - Amend Clause 5.1A Development on land intended to be acquired for public purposes of the Hawkesbury LEP 2012 as follows:

5.1A Development on land to be acquired for public purposes

- (1) *The objective of this clause is to protect land that is intended to be acquired for a public purpose*
- (2) *Development consent must not be granted to any development on land identified on the Land Reservation Acquisition Map unless the consent authority is satisfied that:*
 - (a) *the development is of a kind, or is compatible with development of a kind, that may be carried out on land in an adjoining zone, and*
 - (b) *the development will not prejudice the future public purpose use of the land by the relevant public authority concerned,*
 - (c) *the development and its use will cease no later than 5 years after development consent is granted.*
- (3) *In determining whether to grant development consent under subclause (2), the consent authority must consider the following:*
 - (a) *any impact the development will have on traffic movement and parking,*
 - (b) *any impact the development will have on existing pedestrian movement,*
 - (c) *any visual impact the development will have (including the installation of any advertisements),*
 - (d) *the need to carry out development on the land for the purpose for which it is to be acquired,*
 - (e) *the timing of the acquisition by the relevant public authority,*
 - (f) *any likely additional cost to the public authority resulting from the carrying out of the development.*

48. Submission 5 - It is notes that in comparing the Land Reservation Acquisition Maps with the Terrestrial Biodiversity Maps in the Hawkesbury LEP 2012 that 'significant vegetation' and 'Connectivity between significant vegetation' is located where the Land Reservation Acquisition Maps identify RE1 Local Open Space and SP2 Infrastructure (Classified Roads).

As 'Significant Vegetation' and 'Connectivity between Significant Vegetation' are mapped as occurring in areas identified on the Reservation Acquisition Maps, it is recommended that Clause 5.1A and any merit assessment should also consider the impact of development on biodiversity values, remnant native vegetation, waterways and riparian corridors etc and that Clause 5.1A includes the following amendments as shown in bold italics:

Agreed, and the exhibited planning will be amended to reflect the suggested change to the proposed amendment.

5.1A Development on land to be acquired for public purposes

(1) *The objectives of this clause are to:*

- (a) *protect land that is intended to be acquired for a public purpose*
- (b) **protect the biodiversity values of the land including remnant native vegetation, connectivity between significant vegetation, waterways and riparian corridors.**

(2) *Development consent must not be granted to any development on land identified on the Land Reservation Acquisition Map unless the consent authority is satisfied that:*

- (a) *the development is of a kind, or is compatible with development of a kind, that may be carried out on land in an adjoining zone, and*
- (b) *the development will not prejudice the future public purpose use of the land by the relevant public authority concerned,*
- (c) *the development and its use will cease no later than 5 years after development consent is granted.*
- (d) **the development avoids and minimises impact on biodiversity values of the land including remnant native vegetation, connectivity between significant vegetation, waterways and riparian corridors.**

(3) *In determining whether to grant development consent under subclause (2), the consent authority must consider the following:*

- (a) *any impact the development will have on traffic movement and parking,*
- (b) *any impact the development will have on existing pedestrian movement,*

<p>(c) any visual impact the development will have (including the installation of any advertisements),</p> <p>(d) the need to carry out development on the land for the purpose for which it is to be acquired,</p> <p>(e) the timing of the acquisition by the relevant public authority,</p> <p>(f) any likely additional cost to the public authority resulting from the carrying out of the development</p> <p>(g) any likely impact the development will have on biodiversity values including remnant native vegetation, connectivity between significant vegetation, waterways and riparian corridors.</p>	
<p>Proposed Amendment - Insert State Heritage Register listed item i01817 "Scheyville National Park."</p>	
<p>49. Submission 5 - In order to ensure consistency between the State Heritage Register and the Hawkesbury Local Environmental Plan 2012, it is proposed include this item in Schedule 5 (page 51). The Environment, Energy and Science Section of the Department of Planning, Industry and Environment has liaised with the National Parks and Wildlife Service in relation to this item and the National Parks and Wildlife Service supports the amendment to include Scheyville National Park State Heritage listing in the Hawkesbury Local Environmental Plan 2012 and its maps.</p>	<p>Agreed to the proposed amendment, and the planning will be amended to reflect the suggested change to the proposed amendment. National Parks, and noted the Wildlife Service's support for the proposed amendment.</p>
<p>Proposed Amendment - Insert State Heritage Register listed Scheyville National Park on Maps HER_0013, HER_008DB and HER_00.</p>	

<p>50. Submission 5 - In order to ensure consistency between the State Heritage Register and the Hawkesbury Local Environmental Plan 2012, it is proposed include this item in the maps and insert State Heritage Register listed Scheyville National Park on Maps HER_0013, HER_008DB and HER_008C (page 77). The Environment, Energy and Science Section of the Department of Planning, Industry and Environment has liaised with the National Parks and Wildlife Service in relation to this item and NPWS supports the amendment to include Scheyville National Park State Heritage listing in the Hawkesbury Local Environmental Plan 2012 and its Maps.</p>	<p>Refer to comments on Item 49 above.</p>
<p>Proposed Amendment - Amend LEP maps relating to Lot 16, DP 1205408, 916 Settlers Road, Central Macdonald.</p>	
<p>51. Submission 5 - The Environment, Energy and Science Section of the Department of Planning, Industry and Environment has liaised with the National Parks and Wildlife Service in relation to the proposed amendment and the National Parks and Wildlife Service supports the amendment to the zoning map at Central McDonald to be consistent with the cadastral boundaries as the National Parks and Wildlife Service reservation boundaries follow the cadastral boundary.</p>	<p>Noted the National Parks and Wildlife Service's support for the proposed amendment.</p>
<p>Proposed Amendment - Amend Schedule 4 Classification and reclassification of public land. Insert Lots 2 and 3 in DP 582878, 1913 & 1905 Bells Line of Road, Kurrajong Heights in Schedule 4 Classification and reclassification of public land as "operational land".</p>	
<p>52. Submission 9 – The proposed amendment to reclassify public land known as Lots 2 and 3 DP 582878, 1913 & 1905 Bells Line of Road, Kurrajong Heights is not considered to be a housekeeping amendment.</p>	<p>This aspect of the proposal is to reclassify the subject site from 'Community' to 'Operational'.</p> <p>The Gateway Determination received from the Department of Planning and Industry raised no concern, nor objection to this proposed amendment. Inclusion of land use or uses to a land use zone or removal of a land use from a zone can be made through a housekeeping amendment. This approach has been used by a number of councils including Shoalhaven City Council, and Bathurst Regional Council and additionally, Willoughby City Council, Lake Macquarie City Council have taken a similar approach to reclassify a parcel of public land in its housekeeping Local Environmental Plan amendments.</p>
<p>Other Issues Raised</p>	

<p>amendments to Hawkesbury Local Environmental Plan 2012. This submission is based on that decision.</p> <p>55. Submission 7 - The Hawkesbury Independent Planning Panel at its meeting of 18 October 2018 unanimously rejected a development application for a truck depot on RU4 Environmental Living zoned land. The Panel recommended the removal of the land use of <i>'truck depot'</i> from E4 zoning at the next housekeeping amendments to the Hawkesbury Local Environmental Plan 2012. Council is requested to consider the Hawkesbury Independent Planning Panel's recommendation when finalising this planning proposal.</p> <p>This is the first opportunity for Council to implement the Panel's recommendation. It was noted that surrounding councils have already excluded <i>'truck depots'</i> from E4 Environmental Living zone in their local environmental plans.</p> <p>Generally an E4 Environmental Living zone should be an area having trees and local flora and fauna. It is hard to imagine the clearing of native bushland to have a truck depot associated with an industrial use.</p> <p>56. Submission 16 – Truck depots should not be permitted within E4 Environmental Living zones. The Hawkesbury Local Planning Panel at its Meeting of 18 October 2018 voted unanimously to refuse a Development Application for a truck depot and recommended that truck depots should no longer be permitted within E4 Environmental Living zones.</p>	<p>Refer to Comments on Issue 53 above.</p>
<p>Visitor and tourist accommodation</p>	

<p>57. Submission 10 - An error has been occurred with the removal of the '<i>visitor and tourist accommodation</i>' land use from the Bilpin District when transforming the repealed Hawkesbury Local Environmental Plan 1989 into the current Hawkesbury Local Environmental Plan 2012. This error should have been rectified immediately however it is remained unfixed as a result of a lack of Council's attention towards this matter. It is hard believe that no action has been taken action against Council for the economic loss and failure to fix this error.</p> <p>It should be noted that Hawkesbury Business Paper dated 7 June 2011 (page 11) has advertised the visitor and tourist accommodation in the wrong column and has been deleted later. It should have been moved to the correct column.</p> <p>58. Submission 17 – Supports the '<i>visitor and tourist accommodation</i>' in rural zones.</p> <p>59. Submission 17 - During transformation of the repealed Hawkesbury Local Environmental Plan 1989 into the current Hawkesbury Local Environmental Plan 201, an error has been occurred with the removal of '<i>visitor and tourist accommodation</i>' land use from the Bilpin/Berambing District. This error could have been fixed immediately, but to date it remains unfixed.</p> <p>60. Submission 17 - Page 101 of the Hawkesbury Business Paper dated 7th June 2011 has advertised <i>visitor and tourist accommodation</i> in the wrong column and was deleted instead of moving to the correct column. Due to this error, the Bilpin district has suffered major losses in tourism related business opportunity over last 8 years.</p>	<p>The conversion of the Hawkesbury Local Environmental Plan 1989 to the Hawkesbury Local Environmental Plan 2012 was to the new NSW State Government "Standard Instrument" available to Council at that time.</p> <p>'Visitor and tourist accommodation' is already permitted with consent in all rural zones (other than RU2 Rural Landscape zone).</p> <p>Refer to comments on Item 57 above.</p> <p>Refer to comments on Item 57 above.</p>
<p>Review of the Existing Zonings within the Bilpin Rural Township</p>	

<p>61. Submission 14 – the Department’s LEP Practice Note PN 11-002 states that the RU2 Zone is to be used for commercial primary production purposes compatible with ecological or scenic landscape qualities that have been conserved.</p> <p>The locality is generally having some ecological and scenic qualities and values. However, the entire Bilpin rural township corridor along the Bells Line of Road is zoned RU2 Rural Landscape and is not generally used for primary production purposes. The Bilpin rural town corridor comprises a cluster of residential development, a number of businesses serving locals and tourists and other services such as the Bilpin Primary School.</p> <p>The tourism related activities/industries that are continue to grow and expand within this corridor. Therefore, it is considered to be necessary to review the current zonings and rezone land within the Bilpin rural township corridor in line with the changing land use within the Bilpin rural township area. Based on the existing and the changing land uses and the character of the locality, it is proposed to rezone the Bilpin Township corridor to RU5 Village to address any zoning anomaly and ‘existing use rights’ and enable Bilpin as an improved rural township.</p>	<p>Council is undertaking a review of the Hawkesbury Local Environmental Plan 2012 that will be informed by various background studies, and particularly relevant to this submission is the Draft Hawkesbury Rural Lands Strategy.</p>
<p>No Changes to current Land use Table</p> <p>62. Submission 3 – Council is requested to adopt the staff recommendation in the Council report dated 18 February 2020 that was not to proceed with the land use changes until further consultation with the relevant agencies. The Council staff recommendation was appropriate and prudent, given the changed circumstances since Council’s original resolution to prepare a planning proposal on 31 March 2015. This is particularly important to note as the Regional Flood Study was completed in July 2019, well after the Council resolution to prepare a planning proposal for housekeeping amendments in March 2015.</p> <p>The Council staff recommendation was in clear recognition that the justification for the planning proposal in March 2015 was outdated and many of the technical justifications, particularly relating to flood hazard, were no longer current. In particular, the planning proposal does not appropriately address the followings:</p>	<p>The previous report to Council highlighted issues for consideration around flood risk and the need for place based planning stemming from the Sydney Region Plan, and Western City District Plan.</p> <p>Council does not have delegation to finalise the plan, and should the planning proposal be inconsistent with relevant the State Planning Framework expressed through the Sydney Region Plan, and Western City District Plan and Ministerial Directions, then final approval by the Minister may be problematic.</p>

<ul style="list-style-type: none"> • Resilient Valley, Resilient Communities Hawkesbury-Nepean Valley Flood Risk Management strategy (January 2017) • Greater Sydney Region Plan – A Metropolis of Three Cities (March 2018) • Western City District Plan (March 2018) • Hawkesbury-Nepean Valley Flood Risk Management Strategy Taskforce Options Assessment Report (January 2019); and • Hawkesbury-Nepean Valley Regional Flood Study (July 2019) – Infrastructure NSW. <p>The lack of regard for the best available information and the State policy framework relating to flood risk management is considered to be a major shortcoming in the planning proposal. The Council staff recommendation not to proceed with the proposed land use changes acknowledged that the relevant government agency responses that had been received had not reflected the current technical and policy provisions reflected in the above documents. This submission supports the Council staff recommendation and urges Council to proceed with the planning proposal with the exclusion of the proposed land use changes in Rural zones. This is to enable Council a subsequent detailed consideration of the above flood planning/policy documents when determining any additional land uses within Rural zones.</p>	
<p>Inadequate Agency Responses</p> <p>63. Submission 3 – The planning proposal has proceeded to exhibition without any clear understanding of the position of the State Emergency Service (SES). This is of concern for two reasons:</p> <ol style="list-style-type: none"> 1. The Gateway determination of February 2016 specifically sought the views of the State Emergency Service; 2. The State Emergency Service is heavily invested in Flood Risk Management and emergency evacuation. <p>The State Emergency Service is responsible for preparing flood evacuation plans/strategies, undertaking evacuations and determining evacuation capacity of any area or suburb.</p>	<p>Consideration of the planning proposal has continued based on the responses that have been received to date.</p> <p>This is matter for the Department of Planning, Industry and Environment which the final decision making authority for this planning proposal.</p>

<p>64. Submission 9 – The documentation accompanying the planning proposal is inappropriate as it provides outdated responses from the relevant government agencies that were submitted to Council in 2016. They are no longer valid given the regional flood studies that have been undertaken since that time, and the latest regional flooding management information.</p> <p>There is also a concern about the non-availability of a response from the State Emergency Service regarding the planning proposal which seeks to intensify land uses on the flood plain as part of the exhibited planning proposal documentation</p> <p>The inadequate government agency consultation was implicitly acknowledged by Council’s Planning Officers in Council report dated 18 February 2020 wherein they recommended that the proposed amendment to permit function centres in certain zones be deferred to enable proper agency consultation.</p> <p>The suitability of some unlit and unsealed roads in rural zones providing access to function centres in flood prone areas needs to be determined in consultation with relevant government agencies. These matters will, if not taken into serious consideration likely to create serious risk to human life and to property. Allowing such land uses in rural zones with no appropriate consideration, Council would be exposed to substantial risk and subject to damage claims.</p>	<p>Refer to comments on Item 63 above.</p>
<p>Planning Proposal</p> <p>65. Submission 3 – The planning proposal has no appropriate regard to flood risk management or how that risk can be avoided in the first instance.</p> <p>Prudent land use management for areas subject to severe flood hazard would avoid expansion of land uses that increase the potential risk to life and property or that potentially place any increased burden on emergency services.</p> <p>The prudent land use and flood management strategy is to avoid any potential risks In an area such as Richmond Lowlands subject to high hazard rather than having to rely upon emergency management measures.</p>	<p>The report to Council highlights issues for consideration around flood risk and the need for place based planning stemming from the Sydney Region Plan, and Western City District Plan.</p> <p>Council does not have delegation to finalise the plan, and should the planning proposal be inconsistent with relevant the State Planning Framework expressed through the Sydney Region Plan, and Western City District Plan and Ministerial Directions, then final approval by the Minister may be problematic.</p>

The current planning proposal does not reflect the detailed flood and hazard risk analysis which has been completed since 2015. The studies recently completed is available to be utilised, and the planning proposal should be consistent with the Sydney Region Plan – A Metropolis of Three Cities (March 2018) and the Western City District Plan (March 2018).

The proposal is also inconsistent with the draft Guideline – Considering Flooding in Land Use Planning and the Draft Section 9.1(2) Direction for flooding which are currently on exhibition. The Draft Section 9.1(2) Direction requires that a planning proposal should not permit development that will exceed the capacity of established regional evacuation routes.

The planning proposal has not provided an appropriate justification for the inclusion of a 'function centre' in rural zones due to the following reasons:

- Function centres are generally able to accommodate events of up to 500 persons. The prospect of having such large gatherings in an area of high flood risk would place an unsatisfactory burden on emergency services.
- The argument could be made that a function centre is just a large restaurant. This however ignores the underlying difference in the purpose of the events held. Restaurant bookings can be easily delayed or rescheduled in a short time period should poor weather be predicted. Events at function centres are usually one-off special events which cannot be readily postponed or rescheduled. A wedding for example will not be readily rescheduled.
- In addition to the unknown position of the State Emergency on resources to facilitate evacuation from the Lowlands, the capacity of the road network needs to be considered.
- Large events would need to rely upon the poor roads for emergency evacuation purposes

66. Submission 9 – Councillors have admitted in public meetings since 2019 that Council's policies, preparedness and responses to those recent flooding

Allowing a blanket provision for uses such as Function Centres in the RU1, RU2, RU4, RU5 and E4 zones throughout the LGA is not considered to be an appropriate option given significant parts of the

<p>events were seriously inadequate. Therefore, it is considered to be necessary any planning proposal needs to be consistent with the latest flood management framework.</p> <p>The limited access to public transport in rural zones, the likely increase of traffic due to the function centres in rural areas have not been appropriately addressed in the planning proposal.</p> <p>Also, the Council's previous report dated 18 February 2020 is significantly deficient as it has not adequately reflected the critical issues identified in the regional flood study and associated reports.</p> <p>67. Submission 11 - The Draft Section 9.1(2) Direction requires that a planning proposal is to be consistent with the NSW Flood Prone Land Policy, the Floodplain Development Manual (2005) and the NSW Government's Draft LEP Flood Clauses. The Draft Direction also requires that planning proposals should not permit development in the Regional Evacuation Consideration Area that will exceed the capacity of established regional evacuation routes.</p> <p>68. A Planning Proposal must not contain provisions that apply to the Flood Planning Area which permit development of potentially vulnerable facilities in areas where the development cannot effectively self-evacuate. The inherent purpose of a function centre and the associated consumption of alcohol by patrons will mean that self-evacuation is not possible, which could increase the number of persons in the floodplain if taxi cabs or buses are required to facilitate flood evacuation.</p> <p>69. Submission 13 – Raises no comments on the planning proposal</p>	<p>LGA have such high flood hazards and constraints.</p> <p>Additionally, due to the Metropolitan Rural Area status of the Hawkesbury LGA, it is considered that the Department of Planning, Industry and Environment and Greater Sydney Commission will have issues with such a blanket provision compared to a place based approach required by the Region and District Plans.</p> <p>Therefore, it is recommended that Council consider a place based planning approach and opt to identify key sites where Function Centre uses could be considered within the LGA, having undertaken constraint analysis</p> <p>The adequacy of the information is a matter for the Department of Planning, Industry and Environment which the final decision making authority for this planning proposal.</p> <p>Council has to ensure that any planning proposal is consistent with Section 9.1(2) Direction and is a mandatory requirement in the planning process. Council does not have delegation to finalise the plan, and should the planning proposal be inconsistent with these Directions final approval by the Minister will be problematic.</p> <p>The planning proposal does not propose any provisions for flood planning area, other than a proposed amendment to include additional uses with consent in Land Use Table.</p> <p>The previous report to Council highlighted issues for consideration around flood risk and the need for place based planning stemming from the Sydney Region Plan, and Western City District Plan.</p> <p>Comments noted.</p>
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<p>70. Submission 16 – Goat farms should not be permitted within E4 Environmental Living zones. A property adjacent to us that was operating as a goat farm is still showing a minimal recovery of its adversely affected vegetation even after 12 months seizure of the farm operation. The farm operation has significantly affected the existing vegetation on that land. If Council intends to remove such land uses currently permitted within E4 Environmental Living zones, a request is made to Council to visit our property and the adjacent property in question to witness the difference between the native vegetation on our land and what left on the adjacent land prior to making a such a decision.</p>	<p>The General Amendments (Housekeeping) LEP Amendment is not proposing any additional uses relevant to this submission.</p> <p>Council is undertaking a review of the Hawkesbury Local Environmental Plan 2012 that will be informed by various background studies, and particularly relevant to this submission is the Draft Hawkesbury Rural Lands Strategy.</p>
<p>Amendments to Schedule 5 Environmental Heritage</p> <p>71. Submission 9 – The proposed amendment to Schedule 5 Environmental Heritage of the Hawkesbury Local Environmental Plan 2012 to remove numerous heritage items from the Schedule 5 is also a substantial change and is not considered to be house-keeping amendment.</p>	<p>The proposal was supported by the Department of Planning and Environment at the Gateway Determination.</p>