



# Hawkesbury Local Planning Panel

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Date of meeting: 17 August 2023  
Location: By audio-visual link  
Time: 10:00 AM

**BUSINESS PAPER**



**HAWKESBURY LOCAL PLANNING PANEL**

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## HAWKESBURY LOCAL PLANNING PANEL

### PROCEDURAL MATTERS

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#### 1. PROCEDURAL MATTERS

##### **Welcome**

The Chairperson will acknowledge the Indigenous Heritage and address the Hawkesbury Local Planning Panel meeting, mentioning:

- Recording of the Hawkesbury Local Planning Panel Meeting
- Statement regarding people addressing the Meeting

##### **Attendance**

Attending Panel members and Council staff members will be noted for the purposes of the Minutes.

##### **Declaration of Interest**

The Chairperson will ask for any Declaration of Interests from the attending Panel Members. These will then be addressed at the relevant item.

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**PROCEDURAL MATTERS**

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## HAWKESBURY LOCAL PLANNING PANEL

### 2. REPORTS FOR DETERMINATION

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### 2. REPORTS FOR DETERMINATION

**2.1. 1** CP - DA0289/22 - No. 79 Bells Lane Kurmond NSW 2757 - (95498, 96329, 102260, 13804)

**Previous Items:** 203, Ordinary (26 October 2021)

**Directorate:** City Planning

#### DEVELOPMENT INFORMATION

<b>Application Number:</b>	DA0289/22
<b>Date Received:</b>	24 August 2022
<b>Proposal Details:</b>	Subdivision - Torrens Title Subdivision 1 Lot into 3 Lots Over Two Stages
<b>Estimated Cost:</b>	\$10,000.00
<b>Legal Description:</b>	Lot 38 DP 7565
<b>Property Address:</b>	No.79 Bells Lane KURMOND NSW 2757
<b>Area:</b>	2.7570 Hectares
<b>Zoning:</b>	RU1 Primary Production under Hawkesbury Local Environmental Plan 2012.
<b>Applicant:</b>	Montgomery Planning Solutions
<b>Owner:</b>	Mrs JA Hopkins & Mr IR Hopkins
<b>Exhibition Dates:</b>	19/09/2022 to 05/10/2022
<b>Submissions:</b>	One
<b>Key Issues:</b>	<ul style="list-style-type: none"><li>• Voluntary Planning Agreement; and</li><li>• Asset Protection Zones (APZ's)</li></ul>
<b>Recommendation:</b>	<ul style="list-style-type: none"><li>• Approval, subject to conditions</li></ul>

#### EXECUTIVE SUMMARY

##### Reason for Consideration by Local Planning Panel

The application is reported to the Hawkesbury Local Planning Panel as the applicant has entered into a Voluntary Planning Agreement with Council.

##### Proposal

Pursuant to Section 4.12(1) of the Environmental Planning and Assessment (EP & A) Act 1979 the subject Development Application seeks consent for the subdivision of Lot 38 in Deposited Plan 7565 also identified as No.79 Bells Lane, Kurmond into three (3) Torrens title allotments over two (2) stages. The proposed subdivision would be carried out in the following manner:

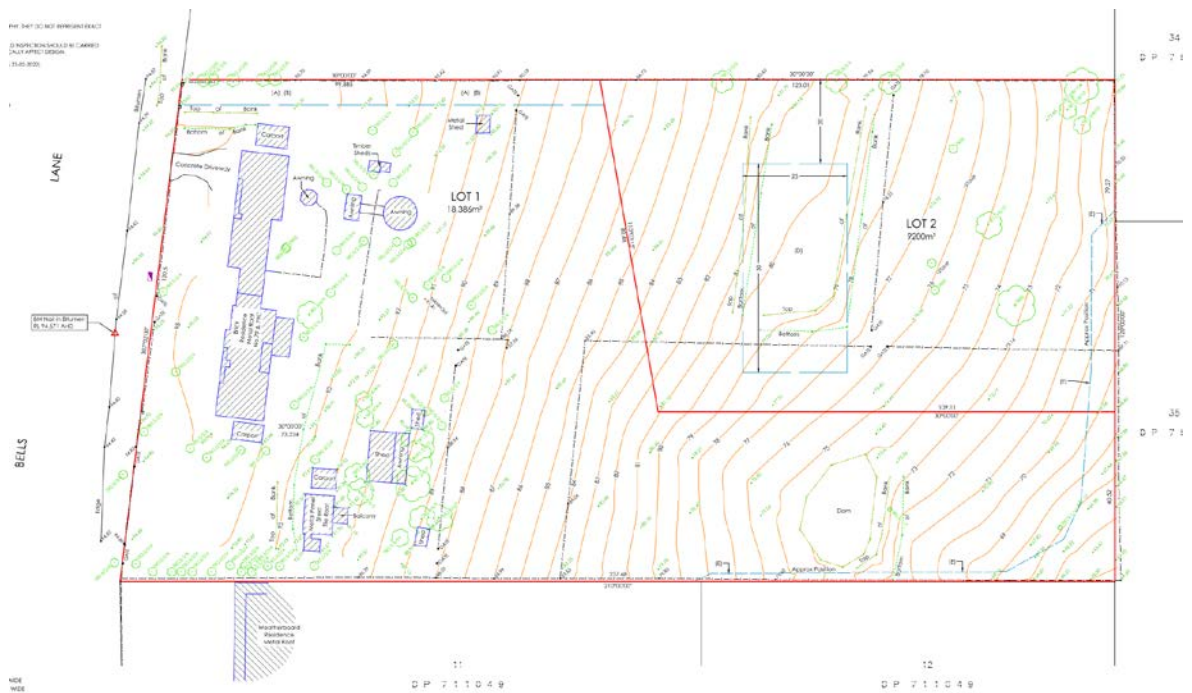
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	<b>Stage 1</b>	<b>Stage 2</b>
<b>Proposed Lot Size</b>	Lot 1 - 18,386m <sup>2</sup>	Lot 10 – 9,186m <sup>2</sup> Lot 11 – 9,200m <sup>2</sup>
	Lot 2 - 9,200m <sup>2</sup>	Lot 2 – 9,200m <sup>2</sup> .

The applicant has entered into a Voluntary Planning Agreement (VPA) for the provision and improvement of relevant public infrastructure. The Voluntary Planning Agreement was endorsed by Council at its meeting on 17 July 2023.



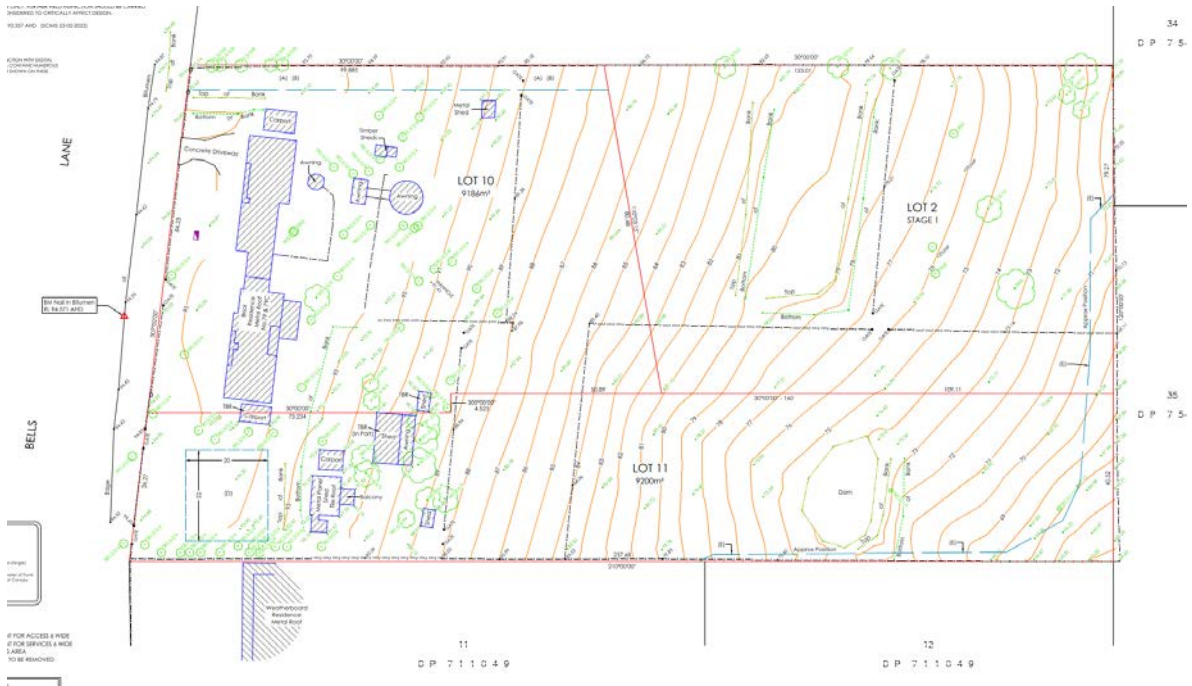
**Figure 1: Proposed Stage 1 subdivision and creation of lot 2**



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**Figure 2:** Proposed Stage 2 subdivision and creation of lot 11

### Permissibility

The subject development site is zoned RU1 Primary Production under Hawkesbury Local Environmental Plan 2012 (HLEP). The subdivision of land is permitted by virtue of Clause 2.6 of the HLEP 2012.

### Consultation

The subject application was notified from 19 September 2022 to 5 October 2022 in accordance with the Hawkesbury Community Participation Plan. One (1) submission was received in response to the proposal. It should be noted that the issues raised in the submission have been considered and do not warrant amendment or refusal of the subject application.

### Key Issues

The key issues of the development application are:

- A Voluntary Planning Agreement has been adopted for the provision and improvement of relevant public infrastructure; and
- The proposed Asset Protection Zones includes areas identified on the Biodiversity Values Map.

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#### RECOMMENDATION

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act, 1979:

1. That the Hawkesbury Local Planning Panel, exercising the function of the consent authority, approve development consent to DA0289/22 for Torrens Title Subdivision 1 Lot into 3 Lots Over Two Stages on land at 79 Bells Lane, Kurmond for the following reasons:
  - a) The development is permissible in the RU1 zone pursuant to the Hawkesbury Local Environmental 2012 and satisfies the requirements of all applicable planning controls.
  - b) The development will retain and enhance the existing landscape values including a distinctive agricultural component.
  - c) The development would not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services.
  - d) For the reasons given above, approval of the application is in the public interest.
2. That Council advise those who made a submission of the determination.

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#### BACKGROUND

##### Detailed Description of Proposal

Pursuant to Section 4.12(1) of the Environmental Planning and Assessment Act 1979 this application seeks consent for the subdivision of Lot 38 in Deposited Plan 7565 also identified as No.79 Bells Lane, Kurmond into three (3) Torrens title allotments over two (2) stages as follows:

	Stage 1	Stage 2
Proposed Lot Size	Lot 1 - 18,386m <sup>2</sup>	Lot 10 – 9,186m <sup>2</sup> Lot 11 – 9,200m <sup>2</sup>
	Lot 2 - 9,200m <sup>2</sup>	Lot 2 – 9,200m <sup>2</sup> .

The applicant has entered into a Voluntary Planning Agreement (VPA) for the provision and improvement of relevant public infrastructure. The Voluntary Planning Agreement was endorsed by Council at its meeting on 17 July 2023.

##### Site and Locality Description

The subject site is legally described as Lot 38 DP 7565 and formally known as No.79 Bells Lane, Kurmond. The site has a total area of 2.757ha, has frontage to Bells Lane and is currently accommodates an existing attached dual occupancy and associated ancillary structures.

The site is zoned RU1 Primary Production under the Hawkesbury Local Environmental Plan 2012 and is situated within a rural residential context characterised primarily of rural-residential allotments similar in size to the proposed subdivision.

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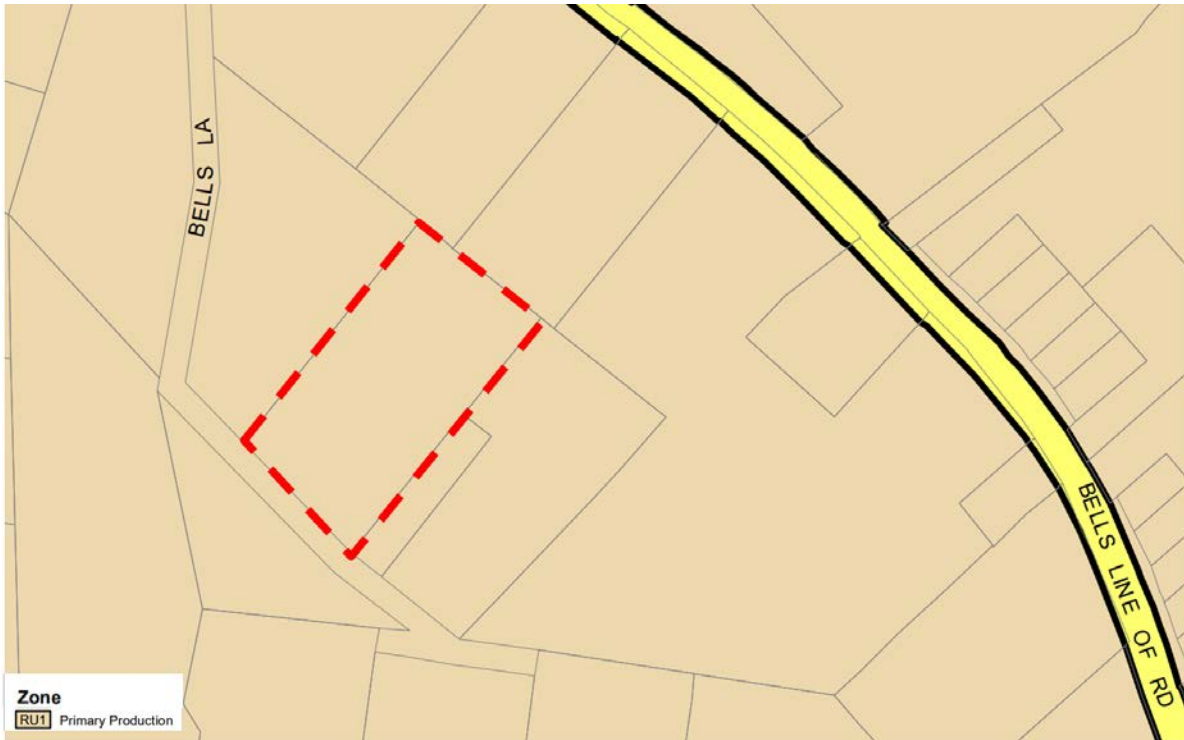


Figure 3: HLEP 2012 zoning map with subject site indicated with red dashed line

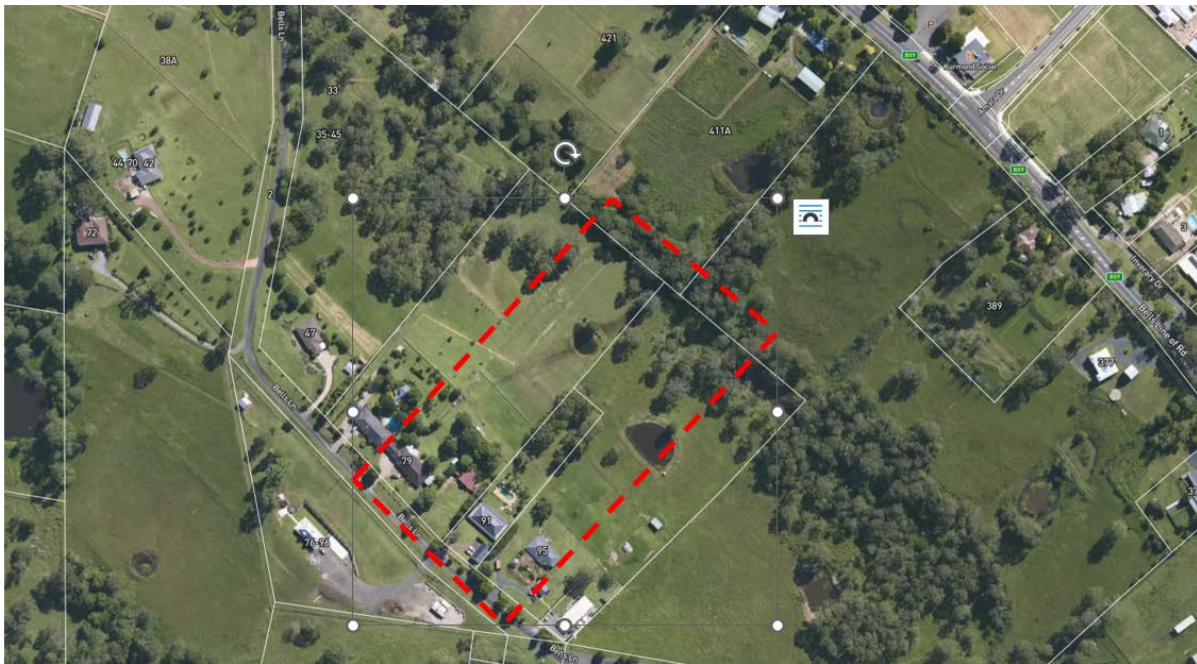


Figure 4: Subject site indicated with red dashed line

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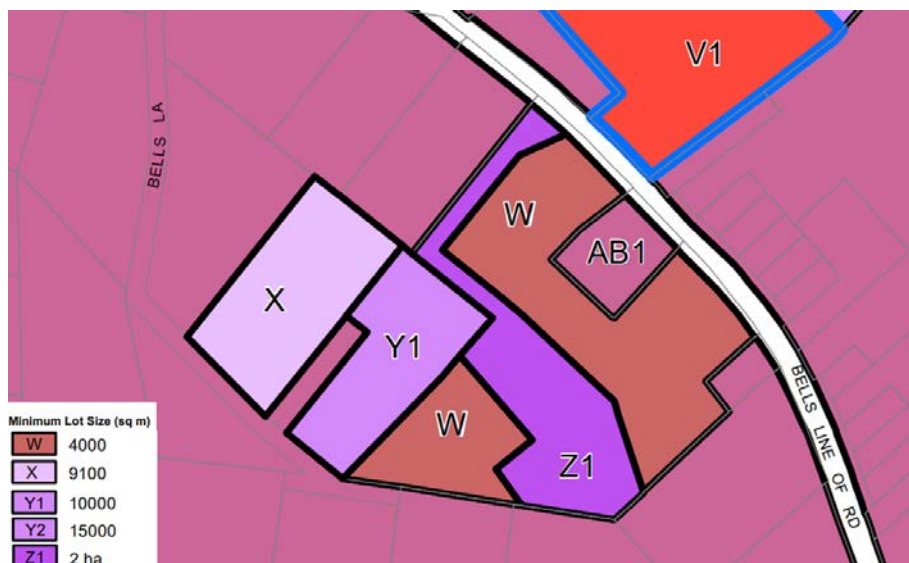
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**Application History:**

The following history has been noted to have occurred at the subject development site:

Application Number	Description of Development	Date of Determination																									
DA0505/08	Construction of an attached dual occupancy.	17 September 2008																									
CDCPC1001/08	Complying Development Certificate for the construction of a rural shed.	27 October 2008																									
LEP002/15	<p>On 12 April 2018, a Planning Proposal was submitted to the Department of Planning and Environment to amend to HLEP 2012 Lot Size Map to facilitate the subdivision of the development land.</p> <p>The planning proposal sought amendments to the Minimum Lot Size (MLS) Map of HLEP 2021 as follows:</p> <table border="1"> <thead> <tr> <th>Address</th> <th>Lot size (current)</th> <th>Proposed MLS</th> <th>Proposed Lot yield</th> <th>Additional Lots</th> </tr> </thead> <tbody> <tr> <td>457 Bells Line of Road</td> <td>2.378 ha</td> <td>4,000m<sup>2</sup></td> <td>4</td> <td>3</td> </tr> <tr> <td>79 Bells Lane</td> <td>2.757 ha</td> <td>9,100m<sup>2</sup></td> <td>3</td> <td>2</td> </tr> <tr> <td>95 Bells Lane</td> <td>2.448 ha</td> <td>1.0ha</td> <td>2</td> <td>1</td> </tr> <tr> <td><b>Total</b></td> <td></td> <td></td> <td><b>9</b></td> <td><b>6</b></td> </tr> </tbody> </table> <p>Gazettal of the minimum lot size occurred on 26 November 2021.</p>	Address	Lot size (current)	Proposed MLS	Proposed Lot yield	Additional Lots	457 Bells Line of Road	2.378 ha	4,000m <sup>2</sup>	4	3	79 Bells Lane	2.757 ha	9,100m <sup>2</sup>	3	2	95 Bells Lane	2.448 ha	1.0ha	2	1	<b>Total</b>			<b>9</b>	<b>6</b>	26 November 2021
Address	Lot size (current)	Proposed MLS	Proposed Lot yield	Additional Lots																							
457 Bells Line of Road	2.378 ha	4,000m <sup>2</sup>	4	3																							
79 Bells Lane	2.757 ha	9,100m <sup>2</sup>	3	2																							
95 Bells Lane	2.448 ha	1.0ha	2	1																							
<b>Total</b>			<b>9</b>	<b>6</b>																							



**Figure 5:** Except from the HLEP 2012 Minimum Lot Size Map with the subject site indicated as 'X' with a minimum lot size of 9,100m<sup>2</sup>

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### 2. REPORTS FOR DETERMINATION

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#### Key Issues

The following key issues have been identified in relation to the proposed development:

Key Issue	Comment
<b>1. The applicant has offered to enter into a VPA for the provision and improvement of relevant public infrastructure.</b>	<p>The applicant sought to enter into a Voluntary Planning Agreement (VPA) with Hawkesbury City Council as a part of the Planning Proposal for the site. The VPA would operate in lieu of Developer Contributions as a part of the subdivision of the subject land for the provision of relevant public infrastructure.</p> <p>The VPA was endorsed by Council at its meeting on 17 July 2023.</p>
<b>2. The proposed Asset Protection Zones includes areas identified on the Biodiversity Values Map</b>	<p>The Bush Fire Assessment Report prepared by Control Line Consulting (dated: 07/07/2022, reference: 22.07.247) had identified that the entirety of each proposed lot is to be managed to the standard of an Inner Protection Area (IPA) in perpetuity. Subsequently, the NSW RFS endorsed the recommendations for each new lot to be managed entirely to the standard of an IPA in perpetuity.</p> <p>Proposed Lot 2 and Lot 11 contain areas identified on the Biodiversity Values Map. As such, further assessment was required to determine the species present within the identified APZ's and whether the implementation of such APZ's would diminish or detriment any Endangered or Critically Endangered Ecological Communities.</p> <p>Envirotech prepared a Flora and Fauna Assessment (dated: 17 September 2019, ref: 19 – 8216 – A) to supplement the Development Application. The Flora and Fauna Assessment provided the recommendations:</p> <p><b>“Vegetation Removal:</b></p> <ul style="list-style-type: none"><li>• <i>Selective retention of larger canopy trees in order to maintain connectivity within the landscape and among habitat patches; and selective retention of hollow bearing trees at the expense of younger trees lacking hollows.</i></li><li>• <i>Clearing for the proposal should be undertaken such that areas of native vegetation to be retained are not impacted upon during construction works.</i></li><li>• <i>Native plants from the species list in Appendix 2 of this report should be considered in any landscaping for the proposal.</i></li><li>• <i>Known weed or invasive species should not be planted for landscaping purposes.</i></li><li>• <i>Any invasive weeds and escaped garden plants should be removed from the site.</i></li></ul> <p><b>Offsetting the Impacts:</b></p> <ul style="list-style-type: none"><li>• <i>If any fauna is injured during construction works WIRES should be called immediately.</i></li><li>• <i>Appropriate sediment control measures should be established before the commencement of work on the proposal and retained in place until all bare areas have been revegetated, and to avoid polluting the watercourse, which traverses the site.</i></li><li>• <i>Vehicles and earthmoving machinery should only be parked in restricted areas in order to protect the riparian vegetation on site.</i></li></ul>

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Key Issue	Comment
	<ul style="list-style-type: none"> <li>• <i>It is recommended to install Bat nest boxes within the riparian complex – a total of 16 boxes.</i></li> <li>• <i>In regard to the waterway habitat, all littoral vegetation should remain undisturbed and uncleared by means of a buffer zone. This protection area should extend from the creek line out to approximately 20m and would retain the remnant the Shale Sandstone Transition Forest vegetation.</i></li> <li>• <i>A Vegetation Management Plan (VMP) be prepared and implemented to remove and manage weeds and ensure that the area for retention of Shale Sandstone Transition Forest is managed with planting and maintenance over a minimum five-year period.”</i></li> </ul> <p><b>Planner’s Comment:</b></p> <p>The Flora and Fauna report provided by Envirotech had been reviewed by Council’s Parks Officer, who did not raise any objections. The recommendations included within the report would be imposed as conditions of consent. As part of this condition, it is noted that tree removal is not to occur within the proposed Lot 2 and 11.</p> <p>Moreover, to ensure future development does not occur in the areas mapped on the Biodiversity Values Map, a condition of consent will be imposed requiring that a building envelope be provided on proposed Lot 2 and Lot 11.</p>

#### Consultation

Internal Consultation	
Department	Comments
<b>SMF Officer</b>	Condition of consent have been imposed requiring that an application be submitted for an upgraded system.
<b>Environment and Waste (Regulatory Services)</b>	Council’s Environmental Health officers have reviewed the proposal and note that the submitted contamination investigation reports are suitable for the purposes of this development.
<b>Engineer</b>	Condition of consent would be imposed requiring that access to proposed Lot 2 via a driveway would be constructed as a ‘Right of Way.’ Provision of services to proposed Lot 2 would also be required. The driveways would be constructed to each new lot to comply with Part D, Section 3.1 General Principles of the Hawkesbury Development Control Plan 2002.
<b>Parks Officer</b>	Council’s Parks Officer has reviewed the proposal and notes that since no native vegetation is sought to be removed to facilitate buildings and associated asset protections zones, no objections were raised.
<b>Building Surveyor</b>	Consent has been sought for the demolition of minor structures, it is noted that a larger shed is proposed to be demolished in part, in order to provide certainty, correspondence with the applicant has confirmed that conditions can be imposed requiring the demolition of the 72m <sup>2</sup> shed prior to registration of stage 2 of the subdivision.

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External Consultation	
Agency	Comments
NSW RFS	<ol style="list-style-type: none"><li>1. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire site must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.</li><li>2. Landscaping within the required asset protection zone must comply with Appendix 4 of Planning for Bush Fire Protection 2019.</li><li>3. Future development applications lodged on lots created within this subdivision may be subject to further assessment under the Environmental Planning &amp; Assessment Act 1979.</li></ol> <p><b>Planner's Comment:</b> Noted, conditions have been imposed to ensure the above requirements are addressed.</p>

#### Legislation, Council Policies, Procedures and Codes to which the Matter Relates

- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- Hawkesbury Local Environmental Plan 2012 (LEP 2012); and,
- Hawkesbury Development Control Plan 2002 (HDCP 2002).

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

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

**a) The provisions of:**

- (i) Any Environmental Planning Instrument:

- **State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 4 of State Environmental Planning and Assessment Act 1979 (SEPP RH) is applicable for the subject site and objective of this chapter is to provide a state-wide planning approach to the remediation of contaminated land and to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Under Clause 4.6(1) of SEPP RH, a consent authority must not grant consent for the carrying out of any development unless:

- “(a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

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The subject site contained a historic shed that has since been demolished, where equipment and 'drums' were stored and did not appear to be banded. Considering the potential for contamination within the site, a detailed site assessment was prepared by Broadcrest Consulting (dated: 19/07/2022, reference: 1989-ESA-01-A) which concluded;

*"All samples collected from the investigation area indicate compliance with the adopted site assessment criteria and suitability with the proposed rural-residential development. No further investigation of this locality is considered necessary."*

In light of the conclusion from the submitted Contamination Assessment, the site is considered suitable for the proposed development and no further investigation is warranted in this instance.

- **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

Chapter 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (SEPP (BC)) applies to the subject site and the objective of this chapter is to protect the environment of Water Catchments by ensuring that the impacts of future land uses are considered at the development application stage. The chapter includes strategies for the assessment of development in relation to environmental sensitive areas, water quality and quantity, riverine scenic quality, agriculture, rural residential development, aquaculture, recreation and tourism.

The proposed development is unlikely to detriment nearby water catchments and is generally consistent with the provisions of Chapter 6 of SEPP BC.

#### Hawkesbury Local Environmental Plan 2012

Under Hawkesbury Local Environmental Plan 2012 (HLEP), the property is zoned RU1 – Primary Production. The following is a summary of the applicable clauses under HLEP applicable to the development:

Hawkesbury Local Environmental Plan 2021		
Requirement	Proposed	Complies
<b>Clause 2.2 – Zoning of land to which this plan applies</b>		
For the purposes of this Plan, land is within the zones shown on the Land Zoning Map.	The subject site is zoned RU1 – Primary Production and a Torrens Title	Yes.
<b>Clause 2.3 – Zone objectives and Land Use Table</b>		
(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.	The objectives of the RU1 – Primary Production zone are as follows: <ul style="list-style-type: none"><li>• <i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i></li><li>• <i>To encourage diversity in primary industry enterprises and systems appropriate for the area.</i></li></ul>	The proposed development is considered to be consistent with the zone objectives.



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	<ul style="list-style-type: none"> <li>• <i>To minimise the fragmentation and alienation of resource lands.</i></li> <li>• <i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i></li> <li>• <i>To encourage agricultural activities that do not rely on highly fertile land.</i></li> <li>• <i>To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.</i></li> <li>• <i>To promote the conservation and enhancement of local native vegetation including the habitat of threatened species, populations and ecological communities by encouraging development to occur in areas already cleared of vegetation.</i></li> <li>• <i>To ensure that development retains or enhances existing landscape values including a distinctive agricultural component.</i></li> <li>• <i>To ensure that development does not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services.</i></li> </ul>	
<p><b>Clause 2.6 Subdivision—consent requirements</b></p>	<p>(1) Land to which this Plan applies may be subdivided, but only with development consent.</p>	<p>Subdivision is permissible with consent.</p>
<p><b>Clause 4.1 Minimum Subdivision Lot Size</b></p>		
<p>(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.</p>	<p>As a result of the approved Planning Proposal for the subject site, the minimum lot size for 79 Bells Lane is 9,100m<sup>2</sup>.</p>	<p>Complies. Each new allotment is in excess of 9,100m<sup>2</sup>.</p>

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<b>5.10 Heritage Conservation</b>
The application is not within a heritage conservation area or within the vicinity of a heritage item identified under Schedule 5 of HLEP2012.
<b>5.21 Flood Planning</b>
The land is not subject to flood related controls.
<b>6.1 Acid Sulfate soil controls</b>
The subject site is identified as Class 5 on the Acid Sulfate Soils map. No adjacent lands are identified as Class 1, 2, 3 or 4 land below AHD 5m. The proposed works (construction of the driveway to proposed Lot 2 in the Right-of-Carriageway) are not anticipated to have the effect of lowering the water table to below 1m AHD. As such, no further investigations are required in this instance.
<b>6.2 Earthworks</b>
The application does not propose any significant earthworks.
<b>6.4 Terrestrial biodiversity</b>
The land contains areas mapped as Terrestrial Biodiversity. A Flora and Fauna Assessment has been prepared by Envirotech (dated: 17 September 2019, reference: 19 – 8216 - A). The report concludes that the planning proposal can proceed as proposed with no significant impacts to occur. A Species Impact Statement is not required for the planning proposal.
<b>6.5 Wetlands</b>
The land is not mapped as containing wetlands.
<b>6.6 Development in areas subject to aircraft noise</b>
The land is not subject to aircraft noise.
<b>6.7 Essential services</b>
The land has existing essential services.

**(ii) The provision of (a)(ii) any proposed instrument that is or has been placed on exhibition and details of which have been notified to Council:**

No draft Environmental Planning Instrument applies to this development proposal.

**(iii) The provision of (a)(iii) any Development Control Plan applying to the land:**

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

<b>DCP 2002</b>		
<b>DCP Control</b>	<b>Proposed</b>	<b>Complies</b>
<b>Part D: Specific Development</b>		
<b>Chapter 3 – Subdivision</b>		
<b>3.2 Flora and Fauna Protection</b>		
(a) Any subdivision proposal which is likely to result in any clearing of native vegetation or impact on any environmentally sensitive area is to be accompanied by a flora and fauna assessment report prepared by a suitably qualified person. This	A Flora and Fauna Assessment Report has been prepared by Envirotech (dated: 17 September 2019, ref: 19 – 8216 – A) and accompanies this application. The report determined that the proposed subdivision is not anticipated to have	Complies.

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<b>DCP 2002</b>		
<b>DCP Control</b>	<b>Proposed</b>	<b>Complies</b>
report is to primarily address the Eight Part Test pursuant to the Act (Section 5A) and State Environmental Planning Policy 44 - Koala Habitat Protection.	a detriment impact on local native flora and fauna.  As such, the proposed subdivision is considered appropriate subject to conditions.	
(b) Vegetation cover should be retained where ever practicable as it acts to stabilise soils, minimise runoff, acts as a pollutant trap along watercourses and is important as a habitat for native fauna.	No tree removal is proposed as part of this application. Appropriate conditions will be included within the conditions of consent to ensure the existing trees are protected.	Complies.
(c) Degraded areas are to be rehabilitated as part of the subdivision.	Not Applicable.	Not Applicable.
(d) Vegetation should be retained where it forms a link between other bush land areas.	No tree removal is proposed as part of this application. Appropriate conditions will be included within the conditions of consent to ensure the existing trees are protected and retained.	Complies.
(e) Vegetation which is scenically and environmentally significant should be retained.	No tree removal is proposed as part of this application. Appropriate conditions will be included within the conditions of consent to ensure the existing trees are protected and retained.	Complies.
(f) Vegetation which adds to the soil stability of the land should be retained.	No tree removal is proposed as part of this application. Appropriate conditions will be included within the conditions of consent to ensure the existing trees are protected and retained.	Complies.
(g) All subdivision proposals should be designed so as to minimise fragmentation of bushland.	Complies.	Complies.
<b>3.5 Utility Services</b>		
(a) Underground power provided to all residential and industrial subdivisions. Where infill subdivision is proposed, the existing system, whether above or underground shall be maintained.	Electricity is currently provided to the site via existing above ground transmission lines.	Complies.
(b) All lots created are to have the provision of power.	Each new lot has the ability to connect to the existing electrical infrastructure provided to the site.	Complies.
(c) Where reticulated water is not available, a minimum storage of 100,000 litres must be provided. A minimum of 10,000 litres must be available at all times on Bushfire Prone Land.	The proposed subdivision does not include the construction of any new dwellings. Future dwellings must comply with this section.	Complies.

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<b>DCP 2002</b>		
<b>DCP Control</b>	<b>Proposed</b>	<b>Complies</b>
<b>3.6 Flooding, Landslip &amp; Contaminated Land</b>		
(a) Compliance with clause 25 of Hawkesbury Local Environmental Plan 1989.	The proposal satisfies Clause 5.31: Flood Planning of the HELP 2012	Complies.
(b) Access to the subdivision shall be located above the 1% AEP flood level.	The subject site is not mapped on Council's flood map.	Complies.
(c) Where a subdivision proposal is on land identified as being potentially subject to landslip, the applicant shall engage a geotechnical consultant to prepare a report on the viability of subdividing the land and provide recommendations as to the siting and the type of buildings which could be permitted on the subject land.	Not Applicable.	Not Applicable.
(d) In the event that Council deems that there is the potential that land subject to a subdivision application is contaminated then the applicant shall engage a suitably qualified person to undertake a soil and ground water assessment.	Detailed Site Assessment has been submitted as part of this application which demonstrates that the site does not contain contaminated land.	Complies.
(e) Contaminated Land shall be remediated prior to the issue of the Subdivision Certificate.	Not Applicable.	Not Applicable.
<b>3.8 Rural and Rural-Residential Subdivision</b>		
<b>3.8.1 Rural Lot Size and Shape</b>		
(a) The minimum allotment size for land within rural and environmental protection zones are contained within Hawkesbury Local Environmental Plan 1989.	The minimum lot size specified within Hawkesbury LEP 2012 for the subject land is 9,100m <sup>2</sup> . The proposal complies with the minimum lot size provisions of Hawkesbury Local Environmental Plan 2012.	Complies.
(b) Lots should be able to accommodate a building envelope of 2000m <sup>2</sup> with a minimum dimension of 20 metres. Building envelopes should be located a minimum of 30 metres from significant trees and other significant vegetation or landscape features. Building envelopes would contain the dwelling house, rural sheds, landscaping, and on-site effluent treatment and disposal areas, and bushfire mitigation.	Building envelopes of between 440m <sup>2</sup> and 1250m <sup>2</sup> are indicated on each vacant lot.  These envelopes are of sufficient size to contain a dwelling of an appropriate size. The envelopes are sited to ensure that vegetation is not impacted by buildings or the required asset protection zones.	Complies.
(c) In calculating the area of a battle-axe or hatchet shaped allotment, the area of the battle axe handle should be included.	The right-of-carriageway for proposed Lot 2 is included in the area calculation for proposed Lot 10, and access is provided by way of a 6m easement for access.	Complies.

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<b>DCP 2002</b>		
<b>DCP Control</b>	<b>Proposed</b>	<b>Complies</b>
(d) The width to depth ratio of allotments should not exceed 1:5.	Proposed Lot 2 complies with this control. Proposed Lot 11 has a frontage to depth ratio of 6.5:1. It is considered that this minor departure from the DCP control is justified in the circumstances of the detailed work and concept layout which informed the planning proposal to facilitate the Lot size map amendment.	Satisfactory
(e) Lot layout shall consider the location, the watercourse vegetation and other environmental features.	The proposal satisfies the relevant aims and objectives of this section.	Complies.
<b>3.8.3 Rural Road and Accessway Design</b>		
(a) The design specifications in Figure D3.9 at the end of this clause are to be met.	No public roads are proposed.	Complies.
(b) Where the road width is insufficient or unsatisfactory, an applicant should dedicate or provide land required for local road widening or new roads at no cost to Council.	Bells Lane is considered appropriate to support the proposed traffic movements resulting from the subdivision.	Complies.
(c) Upgrading of the accessway from the nearest sealed road to the proposed subdivision to an all weather standard suitable for the expected traffic generation arising from the subdivision. This work may require the sealing of the pavement dependent upon traffic generation.	The access easement for proposed lot 2 will be constructed in accordance with the DCP specifications.	Complies.
(d) Where access to the subdivision is via a Crown or Reserve road in addition to the above, the road should be fully constructed to a standard commensurate with roads in the locality and linked to the nearest Council road. Prior to any construction works being undertaken the relevant section of Crown road is to be transferred to Council.	Not Applicable.	Not Applicable.
(e) The road fronting the subdivision shall be sealed into half width (minimum 3.5 metres). An all weather standard of road construction may be acceptable where the expected traffic volume generated by the subdivision proposal is low and no sealed roads in the vicinity.	Complies.	Complies.
(f) Water courses should be piped where they cross roads and the applicant should create drainage easements generally 10 metres long and 4 metres wide over the point of	Not Applicable.	Not Applicable.

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<b>DCP 2002</b>		
<b>DCP Control</b>	<b>Proposed</b>	<b>Complies</b>
any discharge of any water from any public road onto private property.		
(g) All internal driveways shall be constructed to an all weather standard suitable for the expected traffic generation. An all weather access should also be provided across the footway to any battle-axe lot. Such access should be sealed within the vicinity of existing houses on adjoining lots where dust nuisance may occur and also on steeply sloping land.	To be conditioned.	Complies.
(h) Where 3 or more individual access handles are proposed, common roads are to be provided.	Not Applicable.	Not Applicable.
(i) Battle axe handles shall have a minimum width of 6 metres.	Not Applicable. Proposed right-of-carriageway has a minimum width of 6m.	Not Applicable.
(j) Accessways should have a maximum grade of 25% (1:4) and be sealed if the grade exceeds 1:6, concrete if exceeds 1 in 5.	The maximum grade of the proposed access easement over lot 10 is approximately 1:8.	Complies.
(k) Where an accessway meets a public road there should be a minimum sight distance of 70 metres. This may be increased on roads with a high speed limit.	A minimum sight distance of at least 70 metres is achieved for the proposed access easement over lot 10 and the proposed lot 11 which has direct frontage to Bells Lane.	Complies.
(l) Cul-de sacs for rural roads should have minimum seal radii of 12.0 metres and boundary radii of 17.0 metres.	Not Applicable.	Not Applicable.
<b>3.8.4 Effluent Disposal</b>		
(a) An effluent disposal report prepared by a suitably qualified person is required to accompany any development application for rural and rural-residential subdivisions.	A wastewater report has been prepared by Broadcrest Consulting (dated:26/07/2022, reference: 1989-WW-A-02) as part of this development application.	Complies.
(b) Any system proposed other than a Household Aerated Wastewater Treatment System is required to be installed prior to release of subdivision certificate.	A wastewater report has been prepared by Broadcrest Consulting (dated:26/07/2022, reference: 1989-WW-A-02) as part of this development application.	Complies.
<b>4.0 Soil Erosion and Sediment Control</b>		
Appropriate conditions will be included within the conditions of consent to manage sediment and erosion for the site.		
<b>5.0 Bushfire Prone Land</b>		
The subject site is identified as Bush Fire Prone Land (BFPL). A Bushfire Assessment Report was prepared by Control Line Consulting (dated: 07/07/2022, reference: 22.07.247) as part of this development application. As the application is for the subdivision of land, a Bush Fire Safety Authority (BFS) is required in accordance with Section 100B of the Rural Fires Act 1997.		
The application was referred to the NSW RFS for assessment. General terms of approval are provided for the application.		

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DCP 2002		
DCP Control	Proposed	Complies
<b>8.0 Management of Construction and Demolition Waste</b>		
Waste management plan in accordance with 8.7 shall be submitted with any application.	Appropriate conditions to manage waste management will be included within the conditions of consent to manage construction and demolition waste on the subject site.	Yes
<b>9.0 Preservation of Trees and Vegetation</b>		
Consent is required for tree removal in accordance with 9.3.1.	No tree removal is proposed as part of this application.	Yes

**(i) Planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4:**

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

**(ii) Matters prescribed by the Regulations:**

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

As the applicant has offered to enter into a VPA with Hawkesbury City Council, no additional contributions are required as part of this application.

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

The assessment demonstrates that the proposal would not result in significant adverse impacts within the site, upon adjoining properties and the environment due to the nature of the development. As such, it is considered that the development would not result in risk to life and property associated with the use of land.

Issues identified with the application, such as relating to the protection of the biodiversity values of the site and exiting easements have been resolved by way of conditions of consent.

**c) Suitability of the site for the development:**

The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development.

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

The subject application was notified from 19 September 2022 to 5 October 2022 in accordance with the Hawkesbury Community Participation Plan. One (1) submission was received in response to the proposal and is discussed in the following table:

Concern	Comment
<b>a) Easement for Water Service Line</b>	Concerns were raised relating to the provision of water to neighbouring properties which passes through the subject site. The applicant has noted:  <i>“From our investigations the owners of lot 11 DP 711049 (No.91) do in fact benefit from an “easement for water supply over existing line of pipes” over the subject land (lot 38 DP 7565). The easement was created by Deposited</i>

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<b>Concern</b>	<b>Comment</b>
	<p><i>Plan 643143 which was registered on 27 March 1990. Accordingly, the subdivision plans have been amended to include the easement.”</i></p> <p><b>Planner’s comment:</b> Council is satisfied that the plans prepared by the applicant put forward for endorsement indicate that the existing easement for water supply will be carried forward within the proposed subdivision.</p>
<p><b>b) Increased traffic, safety issues and the potential impact on the current road network</b></p>	<p>Bells Lane is a rural road with a sealed carriageway and gravel shoulders. It is a no through road, which serves 16 existing lots over a length of approximately 1000 metres.</p> <p>Access directly from Bells Lane is provided for proposed Lot 11. Access to proposed Lot 2 will be via a six (6) metre wide access easement over Lot 10 to Bells Lane.</p> <p>It is considered that the sight stopping distances for the proposed access to Lot 2 and Lot 11 are adequate in both directions for the low speed rural lane environment of Bells Lane.</p> <p>The additional traffic likely to be generated by two additional lots is within the capacity of Bells Lane and the sight stopping distances for the proposed new access points are adequate for safe entry and exit.</p> <p>As such, the proposed access arrangements are considered to be suitable for the proposed subdivision.</p>
<p><b>c) Timeframe for the Subdivision to occur</b></p>	<p>Pursuant to Section 4.53 of the Environmental Planning and Assessment Act 1979, a development consent for subdivision will lapse in 5 years unless it is physically commenced within that period.</p> <p>Once work has physically commenced, the consent will be activated in perpetuity. The subdivision will be carried out in two stages and the timing is entirely a matter for the owner of the land within the provisions of the Environmental Planning and Assessment Act 1979.</p>

**e) The Public Interest:**

Subject to implementation of conditions of consent outlined in the recommendation below, no circumstances have been identified to indicate this proposal would be contrary to the public interest.

**Development Contributions**

Development contributions are not applicable to this development a Voluntary Planning Agreement between the property owner and Hawkesbury City Council has been endorsed between each party.

**Conclusion**

The application has been assessed relative to Section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls.

Having regard to the assessment of the proposal, Council Officers are satisfied that the proposed development has been appropriately designed and will provide acceptable levels of amenity for future residents. It is considered that the proposal would be consistent with the objectives of the RU1 zone in respect to the retention and enhancement of existing landscape values and would not detract from the



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existing rural character or create unreasonable demands for the provision or extension of public amenities and services.

The proposed development is consistent with the relevant planning controls and represents a form of development contemplated by the relevant statutory applying to the land. Noting the issue raised in the submission, it is considered on balance, that the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979 and is recommended for approval subject to conditions.

**ATTACHMENTS**

- AT - 1** Executed Voluntary Planning Agreement – LEP002/15 – 79 Bells Lane Kurmond – *(Distributed under separate cover)*.
- AT - 2** Revised Subdivision Plan Stage 1 with Easement – 79 Bells Lane Kurmond (2).
- AT - 3** Revised Subdivision Plan Stage 2 with Easement – 79 Bells Lane Kurmond (1).
- AT - 4** Flora and Fauna Assessment Report – 79, 95 and 100 Bells Lane & 457 Bells Line of Road, Kurmond NSW (Dated: 17/09/2019, Reference: 19 – 8216 – A) – *(Distributed under separate cover)*.
- AT - 5** Local Planning Panel Conditions of Consent No.79 Bells Lane Kurmond – *(Distributed under separate cover)*.

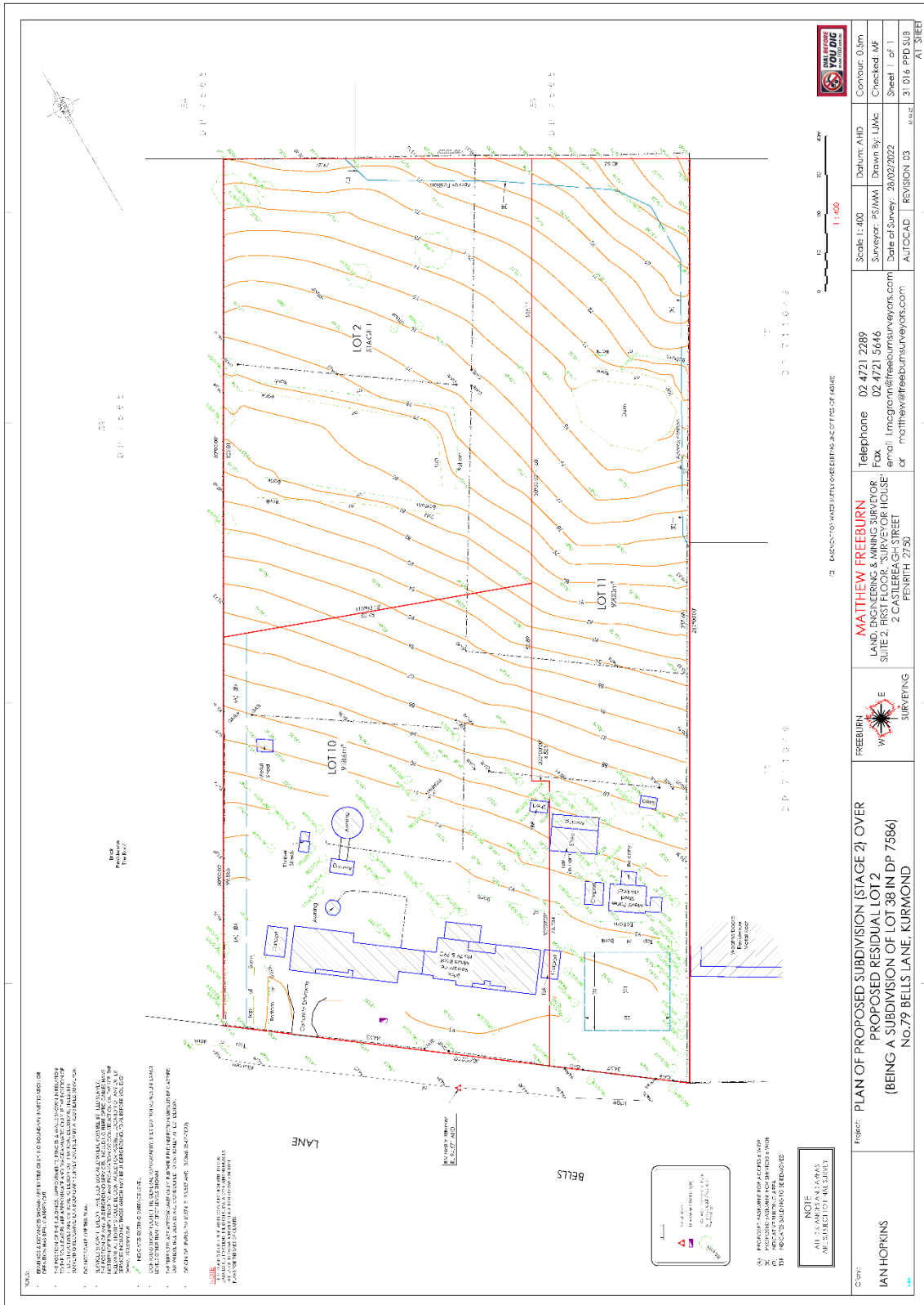


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**AT - 3 Revised Subdivision Plan Stage 2 with Easement – 79 Bells Lane Kurmond (1)**



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## HAWKESBURY LOCAL PLANNING PANEL

### 3. REPORTS FOR ADVICE

Meeting Date: 17 August 2023

### 3. REPORTS FOR ADVICE

**3.1.1. CP - Planning Proposal - LEP001/21 - 172 Commercial Road, Vineyard  
Amendment to Schedule 1 Additional Permitted Uses of Hawkesbury Local  
Environmental Plan 2012 - (95498, 124414)**

**Directorate:** City Planning

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As this matter is a Planning Proposal, it is referred to the Hawkesbury Local Planning Panel for advice only.

The Panel will consider this matter in a closed session and formulate its advice in the form of a resolution.

The advice will be recorded in the Minutes of the Hawkesbury Local Planning Panel meeting and placed on Council's website.

The advice for the Planning Proposal will also form part of the subsequent report to Council on the matter.

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#### DEVELOPMENT INFORMATION

#### PLANNING PROPOSAL INFORMATION

**File Number:** LEP004/23

**Property Address:** 172 Commercial Road, Vineyard

**Applicant:** Mecone Group Pty Ltd

**Owner:** EG Capital Finance Pty Limited

**Date Received:** 28/06/2023

**Current Zone:** RU4 Primary Production Small Lots

**Site Area:** 4.8Ha

**Key Issues:** Depot, light industry and warehouse or distribution centre  
Vineyard Stage 2  
Proposed additional permitted use clause

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#### EXECUTIVE SUMMARY

Council is in receipt of a Planning Proposal from Mecone Group Pty Ltd for land legally described as Lots 2 & 3 DP 229135 at 172 Commercial Road, Vineyard (subject site). The Planning Proposal seeks to amend the Hawkesbury Local Environmental Plan (LEP) 2012 to enable a depot, light industry and warehouse or distribution centre as additional permitted uses with consent on the subject site.

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The Planning Proposal seeks to achieve the above intended outcome by inserting a new local clause in Schedule 1 'Additional permitted uses' of the Hawkesbury LEP 2012 to include a depot, light industry and warehouse or distribution centre on the subject site. However, the Planning Proposal does not seek to amend any existing development standards that apply to the subject site.

This report provides an overview of the Planning Proposal which is considered to be generally consistent with the relevant NSW State and Local planning framework.

#### RECOMMENDATION

That the Hawkesbury Local Planning Panel provide advice on the Planning Proposal which seeks to insert a new local clause in Schedule 1 'Additional permitted uses' of the Hawkesbury LEP 2012 to enable a depot, light industry and warehouse or distribution centre as additional permitted uses on the subject site.

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#### BACKGROUND

##### *Subject Site and Surrounds*

The subject site is located within the Vineyard Precinct Stage 2 Area in the North West Growth Area and directly opposite the Vineyard Precinct Development - Stage 1 and approximately 800m from the Riverstone West Residential Precinct which forms part of the North-West Growth Centre within the Blacktown Local Government Area as shown in Figures 1 and 2 respectively:



Figure 1: Location of Subject Site within the Vineyard Release Area - Stage 2

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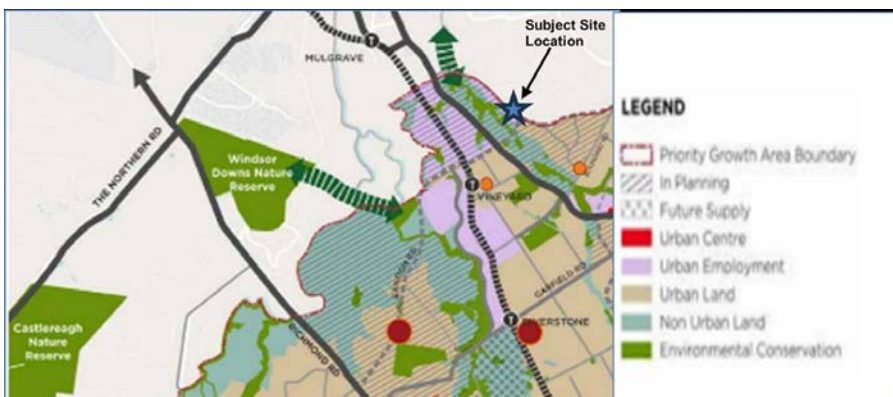
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**Figure 2: Subject Site in Relation to Vineyard Precinct Stage 1**

The subject site is located within the future 'Urban Employment' area within the Vineyard Release Area Stage 2 as shown in Figure 3.



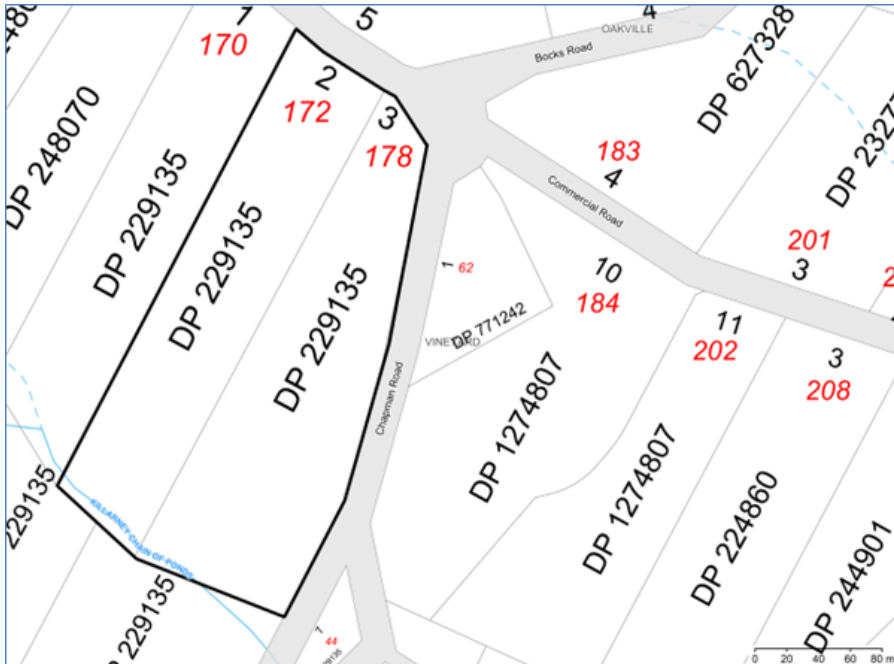
**Figure 3: Subject Site Shown as Employment Land within Vineyard Release Area - Stage 2**

The subject site comprising of the two properties shown in Table 1 is in irregular shape and has a total area of 4.80Ha.

**Table 1: Subject Site**

Legal Description	Property Address	Land Area
Lot 2 DP 229135	172 Commercial Road, Vineyard	2.21 Ha
Lot 3 DP 229135	178 Commercial Road, Vineyard	2.59 Ha
Total		<b>4.80Ha</b>

For Council's rating purposes, the subject site comprising of the above two properties is identified as 172 Commercial Road, Vineyard. The subject site is located at the intersection of Commercial Road and Chapman Road, north-east of Windsor Road, Vineyard. The subject site is bounded by Commercial Road to the North East, Chapman Road to the South East, and large rural residential properties to the South West and North West as shown in Figure 4.



**Figure 4: Subject Site**

The subject site has an approximate frontage to Commercial Road of 133m, and approximately 313m frontage to Chapman Road and is currently accessed via a loop access road with two separate entry and access points from Chapman Road. The Planning Proposal states that the subject site was accessed via Commercial Road in the past, however this access is now closed. A 132KV electricity transmission line traverses the north-western corner of the subject site and therefore it is affected by a 30m wide electrical transmission easement.

A telecommunications tower and associated kiosk is located at the north-eastern corner of the subject site.

The Planning Proposal states that the subject site is currently used for the storage of large equipment by a number of tenants, which is confirmed by machinery and other objects stored in several sheds and open yard storage within the subject site.

The subject site is surrounded by large residential and primary production/rural agricultural land uses such as market farms, poultry industries, mushroom growing businesses, rural industries and associated commercial uses, and east of the subject site is predominantly urban residential uses within the Vineyard Residential Precinct Stage 1. Further south of the subject site, there are industrial uses fronting Windsor Road and Chapman Road.

**Current Planning Controls**

The subject site is currently zoned RU4 Primary Production Small Lots under the Hawkesbury Local Environmental Plan 2012. A 2Ha minimum Lot Size and 10M maximum height of building provisions apply to the subject site.

The subject site is identified as being flood prone land, and Killarney Chain of Ponds and associated riparian corridor traverses the southern boundary.

The subject site is identified as being Bushfire Prone land and is mapped as containing Agriculture Land Classification 3 in the maps prepared by the former NSW Department of Agriculture.

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The subject site is affected by Class 5 Acid Sulfate Soils on the Acid Sulphate Soils Planning Maps contained within the Hawkesbury Local Environmental Plan 2012.

The Terrestrial Biodiversity Map of the Hawkesbury Local Environmental Plan 2012 identifies some areas/patches of land along the boundaries of the subject site as 'endangered ecological community' and a land area closer the southern boundary of the subject site as 'connectivity between remnant vegetation'.

The subject site falls within the Hawkesbury-Nepean conservation area sub-catchment of Part 6.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021.

The Planning Proposal states that the subject site is currently used by various tenants, with a key tenant specialising in the supply of geotechnical equipment. The subject site contains an office and three warehouse buildings, several outbuildings and open storage areas with gravel and concrete hardstand as shown in Figure 5 below:



Figure 5: Aerial View of the Subject Site

#### Past Approvals and Existing Use Rights

The subject site has a history of development approvals over the past few years including the following key developments shown in Table 2.



**HAWKESBURY LOCAL PLANNING PANEL****3. REPORTS FOR ADVICE****Meeting Date:** 17 August 2023**Table 2: Past Development Approvals**

<b>Approved Development/ Work</b>	<b>Development Application (DA)</b>	<b>Date of Approval</b>
Establishment and operation of a sawmill	DA2/1966	10/02/1966
Continuation of the operation of a sawmill and timberyard and erection of additional buildings	DA 1/1972	11/01/1972
Resiting existing buildings and construct new building	38/1972	10/10/1972
Establishment of a timber yard building	30/1974	15/10/1974
Extensions to sawmill and timber yard	10/1975	18/03/1975
Use of the existing premises as a road transport terminal	DA38/1976	10/08/1976
Extension of the existing road transport terminal	DA0593/85	14/02/1986
Extension to the existing road transport terminal to allow for the erection of two grain storage buildings	DA59/1986	11/04/1986
Conversion of the lower floor existing office building to provide additional office space associated with the existing road transport terminal	DA365/89	20/12/1989
Landfill Works	MA0595/01	20/05/2002

The Planning Proposal includes the following information to establish the existing use rights on the subject site:

Council's assessment report on development application (DA365/89) seeking approval for conversion of the lower floor existing office building to provide additional office space associated with the existing road transport terminal mentioned that the subject site is benefiting from existing use rights for the purposes of a depot storage and the like.

There has been continual use and no evidence or even suggestion of abandonment. Accordingly, the current depot/road transport terminal use on the subject site would constitute an 'existing use' as the subject site was being used lawfully for this purpose before the use became prohibited. The Planning Proposal seeking to list the existing depot as an additional permitted use via an amendment to Schedule 1 Additional permitted uses of the Hawkesbury LEP 2012 is to recognise that the subject site benefits from this existing use rights.

**Planning Proposal**

The intended outcome of the Planning Proposal is to allow a 'depot', 'light industry' and 'warehouse or distribution centre as additional permitted uses on the middle part of the subject site with no significant vegetation as shown in Figure 6 – Development Concept Plan.

The Planning Proposal states that the Development Concept Plan identifies and has regard to:

- the electrical easements in the northwestern corner of the subject site.

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- areas of significant vegetation along the Chapman Road and Commercial Road frontage, within a 15 m building setback.
- a 30 m wide riparian zone from the Killarney Chain of Ponds riparian corridor at the rear of the subject site.
- access to the subject site from Chapman Road and Commercial Road, connected by an internal driveway.
- an indicative building footprint of 5,500m<sup>2</sup> to accommodate the additional permitted uses, located above the 1 in 100 flood planning level at 17.3 AHD.

The Planning Proposal also states that the Development Concept Plan demonstrates that the subject site is capable of being developed for the proposed additional permitted uses. It is indicative only and the detailed site layout, footprint/s and design of future buildings will be subject to future development applications.

The Planning Proposal seeks to achieve this intended outcome by inserting a new local clause in Schedule 1 'Additional permitted uses' of the Hawkesbury LEP 2012 to include a 'depot', 'light industry' and 'warehouse or distribution centre as additional permitted uses on the subject site. In addition, it is proposed to amend the Additional Permitted Use Map of the Hawkesbury Local Environmental Plan 2012 to identify the subject site to which the proposed additional permitted use clause applies as item "8".



Figure 6: Development Concept Plan

#### Justification for the Planning Proposal

The applicant has provided the following justification for the Planning Proposal:

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The Planning Proposal has site-specific and strategic merit to enable the proposed amendment to the Hawkesbury Local Environmental Plan 2012 as:

- the subject site already benefits from existing use rights as a depot storage and related industrial uses are lawfully operating on the subject site since their approval by Council.
- past planning studies designate the site and surrounding RU4 lands as future 'urban employment land'.
- there is an unknown timeframe for rezoning of Vineyard Precinct Stage 2.
- the subject site is close to other employment activities, commercial uses and the Vineyard Residential Precinct - Stage 1.
- the proposed approach is consistent with many other Additional Permitted Uses listed in Schedule 1 of the Hawkesbury Local Environmental Plan 2012.
- the Planning Proposal will enable improved visual amenity and environmental management operations on the subject site.

#### DISCUSSION

##### Relationship to State and Local Strategic Planning Framework

The following section discusses the consistency of the planning proposal with the relevant State and Local planning framework, strategic merits, and site-specific merits and subject site's suitability and capability to achieve the intended outcomes of the Planning Proposal.

##### Greater Sydney Region Plan

On 18 March 2018, the NSW Government released A 'Metropolis of Three Cities' – the Greater Sydney Region Plan. The Greater Sydney Region Plan, along with Transport for NSW's Future Transport 2056, and Infrastructure NSW's State Infrastructure Strategy 2018-36 provide a vision for Greater Sydney as a Metropolis of Three Cities- the Western Parkland City, the Central River City and the Eastern Harbour City where most residents live within 30 minutes of their jobs, education and health facilities, services and great places. The strategy outlines 38 objectives, 10 directions, and 42 objectives guiding the future of Sydney.

The Planning Proposal states:

*"The Site is located within the Western Parkland City, which is expected to grow from 740,000 in 2016 to 1.1 million residents by 2036 and 1.5 million in 2056. The vision for the Western Parkland City is a polycentric city harnessing the potential of the Western Sydney International Airport and Aerotropolis, Liverpool, Greater Penrith and Campbelltown-Macarthur. These centres will establish the Western Economic Corridor, complemented by city shaping transport links such as the North South Rail Link, airport, east-west mass transit corridor and a potential Outer Sydney Orbital in the long term.*

*Hawkesbury LGA is in the Western City District. Directions for productivity include developing a well-connected city that supports shorter, localised connections to jobs, schools and services through integrated land use, transport and infrastructure planning, and enhancing productivity through strategic planning that enables jobs and skills growth and investment for LGAs. The Region Plan contains a number of objectives that will impact employment in Hawkesbury LGA. The key objectives are outlined below:*

The Planning Proposal provides the information in Table 3 to demonstrate that it is consistent with relevant Objectives and Strategies of the Greater Sydney Region Plan, 'A Metropolis of Three Cities':

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**Table 3: Consistency with Greater Sydney Region Plan**

Objective & Strategy	How the Planning Proposal is consistent with
<p><b>Objective 16:</b> <i>Freight and logistics network is competitive and efficient.</i></p> <p>The Objective seeks to manage the interface of industrial areas by providing buffers to nearby activities such as residential uses and optimise the efficiency and effectiveness of the freight and logistics network.</p>	
<p><b>Strategy 16.1:</b> Manage the interfaces of industrial area, trade gateways and intermodal facilities.</p> <p><b>Strategy 16.2:</b> Optimise the efficiency and effectiveness of the freight handling and logistics network.</p>	<p>The Planning Proposal seeks to support the Objective by providing opportunities for warehouse or distributions centres to be located on the subject site, which is in close proximity to Windsor Road that connects to Sydney Orbital Road network.</p> <p>Chapman Road forms the eastern boundary of the Site. It is a planned as a sub-arterial road that provides direct access to Windsor Road and provides adequate separation to future residential uses in the Vineyard Precinct - Stage 1.</p> <p>Future redevelopment of the subject site as facilitated by this Planning Proposal is capable of being adequately managed, given the nature of the uses, to ensure the residential interface is protected.</p> <p>The subject site also forms part of a future larger employment area as part of the Vineyard Precinct – Stage 2.</p>
<p><b>Objective 23:</b> <i>Industrial and urban services land is planned retained and managed.</i></p> <p>The Objective identifies principles to ‘retain and manage’ industrial and urban services lands. In particular, it states that in land release areas, there is a need for additional industrial and urban services land in response to longterm projected population and development growth.</p> <p>This objective recognises the value of industrial lands, where it is not necessarily the number of jobs provided, but the operational role and function industrial lands play that is of importance. Industrial lands in the Hawkesbury can support the economy of the Local Government Area and the wider region, including a range of activities from major freight and logistics, heavy manufacturing, light industry, to urban services and creative uses.</p>	
<p><b>Strategy 23.1:</b> Retain, review and plan industrial and urban services land in accordance with the principles for managing industrial and urban services land.</p>	<p>A key principle for managing industrial and urban services land is to ‘retain and manage’ industrial and urban services (including future employment lands). This directly relates to the subject site as it benefits from existing use rights as a depot and as a land release area identified for employment uses in the Vineyard Precinct – Stage 2 of the North West Growth Area. The subject site is mapped in the Region Plan as ‘retain and manage’ in its approach to managing industrial and urban services lands. Its principle is to safeguard it from competing pressures such as mixed use or residential. The Planning Proposal is consistent with this principle by expanding the range of permissible employment uses on the subject site.”</p>

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The Planning Proposal is considered to be generally consistent with the Greater Sydney Region Plan.

#### Western City District Plan

The Western City District Plan sets out planning priorities and actions for improving the quality of life for residents of the Western City District as the District grows and changes.

The Western City District covers the Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, Liverpool, Penrith and Wollondilly Local Government Areas. This 20-year Plan is to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision for Greater Sydney.

The Planning Proposal provides the information in Table 4 to demonstrate that it is consistent with Planning Priority W10 of the Western City District Plan:

**Table 4: Consistency with Western City District Plan**

Planning Priority W10	How the Planning Proposal is consistent with
<p><b>Planning Priority W10:</b> <i>Maximise freight and logistics Opportunities and planning and managing industrial and urban services land.</i></p> <p>·The Planning Priority identifies that urban services require access to industrial land across the District.</p> <ul style="list-style-type: none"><li>• Demand for this land increases with population growth.</li><li>• Local access to these services also reduces travel times and minimises traffic congestion.</li><li>• Future employment growth across all industries and urban services will require additional floor space, additional land or both.</li><li>• Owing to the substantial long-term population growth and development in land release areas, there may be a need for additional industrial and urban services land.</li></ul>	<p>Similar to the Region Plan, the Planning Priority in the District Plan outlines principles to ‘retain and manage’ industrial and urban services land.</p> <p>The subject site is identified for future employment lands in the North West Growth Area structure plan. The District Plan maps the Site as ‘retain and manage’ in its approach to managing industrial and urban services lands. Its principle is it safeguard it from competing pressures such as mixed use or residential.</p> <p>Further, the District Plan states that in land release areas, there is a need for additional industrial and urban services land in response to long-term projected population and development growth.</p> <p>The Planning Proposal seeks to support this priority and principle by expanding the range of permissible employment uses on the Site through an amendment to Schedule 1. This would enable the subject site to be developed in accordance with its intended future use as employment lands.</p>

The Planning Proposal is considered to be generally consistent with the Western City District Plan.

#### Metropolitan Rural Area

The Greater Sydney Region Plan and the Western City District Plan identify the whole Hawkesbury Local Government Area (except the Vineyard Precinct in the North West Growth Area) as a

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Metropolitan Rural Area. Objective 29 of The Greater Sydney Region Plan is to protect and enhance the environmental, social and economic values in rural areas.

The Planning Proposal provides the following information to demonstrate how it is consistent with the objectives of the Metropolitan Rural Area.

*“Further, the District Plan includes the following planning priority and action relating to the Metropolitan Rural Area, which is relevant due to the current rural zoning on the Site:*

- *Planning Priority W17 Better managing rural lands.*

*Action 78 Maintain or enhance the values of the Metropolitan Rural Area using place-based planning to deliver targeted environmental, social and economic outcomes.*

*The District Plan states that urban development in the Metropolitan Rural Area will only be considered in the urban investigation areas identified in the Region Plan. The*

*Region Plan identifies the Site as a land release area, as part of the Vineyard Precinct in the North West Growth Area. The proposed additional permitted uses are consistent with the future intentions of the Site as an employment area and as such does not need to be maintained as valuable rural land.”*

The Planning Proposal is considered to be generally consistent with the planning priorities identified in the Western City District Plan relevant to Metropolitan Rural Area.

#### **State Environmental Planning Policies (SEPP)**

The Planning Proposal's consistency with the relevant SEPPs is outlined below.

*State Environmental Planning Policy (Biodiversity and Conservation) 2021*

*Chapter 6: Water Catchment (6.13 Hawkesbury-Nepean conservation area sub-catchments)*

Chapter 6 requires Council to consider the following matters when determining a development application for a land within the Hawkesbury-Nepean conservation area sub-catchments:

- (a) whether the development will minimise human interference with the condition of the sub-catchment,
- (b) whether the development will maintain and enhance the structure and floristics of native vegetation in the sub-catchment,
- (c) whether the development will maintain or enhance the scenic quality of the locality,
- (d) whether development has previously been carried out on the development site.

It is considered that the future use of the subject site for the purposes of a depot, **light industry** and warehouse or distribution centre would be able to satisfy the above development provisions or be able to appropriately minimise any impacts. Should the plan be made to give effect to the Planning Proposal, the above matters can be further considered at the development application stage.

*State Environmental Planning Policy (Resilience and Hazards) 2021*

*Chapter 4: Remediation of land*

Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to carrying out

any development on that land and, if the land is contaminated, be satisfied that the land is suitable in its current state or will be after remediation for the purpose for which the development is proposed to be carried out.

According to Council's records, the subject site has not been used for agriculture purposes or any other purpose referred to in Table 1 to the contaminated land planning guidelines. Therefore, development of the subject site is considered to be suitable for the proposed uses. The Planning Proposal is not accompanied by a Preliminary Site Investigation Report confirming that the subject site is not contaminated and is suitable for the proposed uses. Should Council resolve to proceed with the Planning Proposal, this is a matter for consideration by the Department of Planning and Environment at the Gateway Determination stage.

*State Environmental Planning Policy (Resources and Energy) 2021*

*Chapter 3: Extractive Industries in Sydney*

The subject site is not within the vicinity of land described in Schedules 1, 2 and 5 of the SREP. The Planning Proposal is therefore consistent with this SEPP. Regardless of the above comments, should the Planning Proposal proceed and receive a Gateway Determination, the NSW Department of Industry will be consulted in accordance with Direction 8.1, during the relevant government agency consultation period.

#### **Local Planning Directions (Ministerial Directions)**

Relevant to the Planning Proposal are the following ministerial directions:

##### *Direction 1.1 Implementation of Regional Plans*

As outlined in the early part of this report, the Planning Proposal is considered to be generally consistent with the relevant regional plans.

##### *Direction 1.3 Approval and Referral Requirements*

The Planning Proposal does not require concurrence, consultation or referral of development application to a minister or public authority therefore the Planning Proposal is consistent with this direction.

##### *Direction 1.4 Site Specific Provisions*

The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls. The Planning Proposal is consistent with Direction 1.4 as the proposal seeks an amendment to Schedule 1 Additional Permitted Uses of the Hawkesbury Local Environmental Plan 2012 only and does not propose any site-specific development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

##### *Direction 4.1 Flooding*

This Direction applies to flood prone land, which means "land susceptible to flooding by the Probable Maximum Flood (PMF) event. Clause 6.3 – Flood Planning of the Hawkesbury Local Environmental Plan 2012 and Council's Flood Policy 2020 will apply to future development of the subject site.

This Direction requires that a Planning Proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Employment, Mixed Use, W4 Working Waterfront or Special Purpose Zones. Also, a Planning Proposal must 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 and ensure that the provisions of a Local

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Environmental Plan on flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject site.

The Planning Proposal is accompanied by a Flood Analysis & Report prepared by Infrastructure & Development Consulting. This report states that existing buildings are retained on the subject site and the proposed additional hardstand areas between the 1 in 20-year and 1 in 100-year flood levels and building areas above the 1 in 100-year flood level.

The report concludes that:

*“The site is affected by mainstream flooding from both the upstream catchment and regional backwater flooding from the Hawkesbury-Nepean floodplain. The regional backwater flooding is more severe than the localised flooding and exhibits high depths, with little to no velocity.*

*The proposed site design has taken Council’s flooding requirements for other commercial and industrial land into account including:*

- *Citing new buildings above the 100-year flood level.*
- *Avoiding earthworks, structures, etc. within the 100-year flood extents to eliminate affectation to any neighbouring properties.*
- *Providing a continuously rising driveway to Commercial Road and access to PMF flood free regional evacuation routes.*

*The above analysis is sufficient to demonstrate that compliance is readily achievable to support the proposed LEP amendments, while future Development Applications for the built form will need to be supported with additional detail including a Site-Specific Flood Management and Evacuation Plan.”*

The Planning Proposal does not seek to rezone the subject site other than seeking an amendment to Schedule 1 Additional permitted uses of the Hawkesbury Local Environmental Plan 2012 to include the proposed uses as additional permitted uses on the land.

In accordance with this Direction, the Planning Proposal will not change the existing flooding provisions of the Hawkesbury Local Environmental Plan 2012, which give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. In addition, no new provisions are proposed which would permit or intensify development in floodway or high hazard areas, increase flood impacts on other properties or result in increased demand for government spending on flood mitigation measures infrastructure or services.

Table 2 – Compatibility of Land Uses with Hazard Categories of the Council’s Development of Flood Liable Land Policy 2020 incorporates six hazard vulnerability categories (H1 – H6) consistent with Australian Disaster Resilience Handbook Collection, Guideline 7-3 Flood Hazards. The hazard categories used in Table 2 relate to the 1:100 ARI flood event. This Table includes different land use categories (eg. Critical Uses Facilities, Sensitive Uses and Facilities) and identifies the compatibility and incompatibility of land uses within those six hazard categories.

The proposed land uses a depot, light industry and warehouse or distribution centre on the subject site are compatible within the H1, H2, H3 and H4 hazard vulnerability categories. Given the proposed additional hardstand areas located between the 1 in 20-year and 1 in 100-year flood levels and building areas above the 1 in 100-year flood level, the proposed uses can be accommodated subject to relevant development controls specified in the Council’s Development of Flood Policy 2020. Should the Plan be made to give effect to the Planning Proposal, any flood impacts of the proposed development can be taken into consideration at the development application stage.



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Should Council resolve to proceed with the Planning Proposal, and a Gateway Determination advising to proceed is received from the Department of Planning and Environment, the Hawkesbury-Nepean Valley Flood Risk Management Directorate which includes Infrastructure NSW, Transport for NSW and the NSW State Emergency Service will be consulted on the Planning Proposal.

#### *Direction 4.3 Planning for Bushfire Protection*

The subject site is identified as being bushfire prone containing Category 1 Vegetation on the NSW Rural Fire Service's Bushfire Prone Land Map.

The Planning Proposal is accompanied by a Bushfire Assessment Report prepared by Peterson Bushfire Expert Consulting Services. The report concludes that the Planning Proposal together with the recommended bushfire protection measures satisfies the specifications and requirements of Ministerial Direction No. 4.3 and Planning for Bush Fire Protection.

Irrespective of the recommendations of the Bushfire Assessment Report, consultation will be undertaken with the NSW Rural Fire Service following receipt of a Gateway Determination and take into account any comments made on the Planning Proposal prior to commencement of community consultation in accordance with this Direction.

#### *Direction 4.4 Remediation of Contaminated Land*

The subject site is not within an investigation area within the meaning of the Contaminated Land Management Act 1997. According to Council's records, the subject has not been used for agriculture purposes or any other purpose referred to in Table 1 to the contaminated land planning guidelines.

The Planning Proposal is not accompanied by a preliminary Site Investigation Assessment. However, should the Planning Proposal proceed, the Department of Planning and Environment will consider this as part of the Gateway Determination, and if required will request further information/consideration of this matter. The Planning Proposal is considered to be generally consistent with this Direction.

#### *Direction 4.5 Acid Sulfate Soils*

This Direction requires that a relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps.

The subject site is identified as containing Class 5 acid sulfate soils on the Acid Sulphate Soils Planning Maps, and as such any future development on the land will be subject to Clause 6.1 Acid Sulfate Soils of the Local Environmental Plan 2012 which has been prepared in accordance with the 'Acid Sulfate Soils Model Local Environmental Plan provisions within the Acid Sulfate Soils' Planning Guidelines adopted by the Director General.

#### *Direction 8.1 Mining, Petroleum production and Extractive Industries*

The objective of this direction is to ensure that future extraction of State or Regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

The Planning Proposal is consistent with this direction as the subject site is not located within an Identified Resource Area, Potential Resource Area or the Transition Area which is adjacent to Identified Resource Areas as identified by mineral resource maps provided by the NSW Resource & Energy Division of NSW Trade & Investment.

Additionally, the subject site is not located within or in the vicinity of land described in Schedule 1, 2 and 5 of the State Environmental Planning Policy (Resources and Energy) 2021.

*Direction 9.1 Rural Zones*

The objective of this direction is to protect the agricultural production value of rural land. This Direction requires that planning proposals must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone and must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

The Planning Proposal seeks to amend Schedule 1 Additional Permitted Uses of the Hawkesbury Local Environmental Plan 2012, and does not propose to rezone the subject site to a different zone to permit the proposed development on the subject site.

As the Planning Proposal does not rezone land from a rural zone to a residential, business, industrial, village or tourist zone and does not contain provisions that will increase the permissible density of land within a rural zone, it is considered to be consistent with this Direction.

*Direction 9.2 Rural Lands*

This direction applies when a relevant planning authority prepares a planning proposal that:

- (a) will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or
- (b) changes the existing minimum lot size on land within a rural or environment protection zone.

The Planning Proposal is only to amend Schedule 1 Additional Permitted Uses of the Hawkesbury Local Environmental Plan 2012, and does not propose to amend the minimum lot size provision applying to the subject site.

The land has not previously been used for agricultural purposes other than for warehouse or distribution purposes.

However, should the Planning Proposal proceed and receive a Gateway Determination to proceed, the NSW Department of Industry – Agriculture will be consulted on the Planning Proposal.

**Local Planning Framework**

The following section describes the Planning Proposal's consistency with the relevant Local Planning framework:

**Hawkesbury Community Strategic Plan 2022-2042**

The Hawkesbury Community Strategic Plan 2022-2042 is the core document underpinning Council's future planning, and determines its strategies. The Plan reflects the Hawkesbury community's priorities and aspirations for the future and focuses on four key Outcome areas - Great Place to Live, Protected Environment and Valued History, Strong Economy and Reliable Council. Under each Outcome area, Long-term Objectives and Success Indicators are identified in order to meet the Community's expectations and aspirations.

The Planning Proposal provides the following information to demonstrate that it is consistent with the Plan:

*"The Hawkesbury Community Strategic Plan is a high-level plan that outlines the key aspirations for the Hawkesbury Local Government Area and sets the essential direction for future Council activities and decision making.*

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*The Plan is divided into four Community Outcomes:*

- *Great place to live*
- *Protected environment and valued history*
- *Strong economy*
- *Reliable Council.*

*The planning proposal is consistent with the Community Outcome of a strong economy by satisfying the following long-term objectives of the Plan:*

- *3.2 Increase the range of local industry opportunities and provide effective support to continue growth*
- *3.3 Promote our community as the place to visit, work and invest.*

*The Plan states that the success of these objectives relates to the employment opportunities in the city through increased businesses and industries. Whilst the planning proposal seeks to regularise the existing use, the additional permitted uses provides opportunities for industry to invest and enable employment opportunities locally, which is consistent with the Community Strategic Plan.”*

The Planning Proposal is considered to be generally consistent with the Hawkesbury Community Strategic Plan 2022-2042.

Hawkesbury Local Strategic Planning Statement 2040

Council adopted the Hawkesbury Local Strategic Planning Statement 2040 in January 2021 which identifies the Hawkesbury Community’s economic, social and environmental land use needs over the next 20 years and sets out clear planning priorities about what will be needed in terms of jobs, homes, services and recreational needs. The Hawkesbury Local Strategic Planning Statement identifies short medium, and long-term actions to deliver the priorities for the Hawkesbury Community’s future vision, and is a key document to guide Local Strategic Planning in the Hawkesbury Local Government Area.

The Planning Proposal includes the following statement to demonstrate that it is consistent with the Hawkesbury Local Strategic Planning Statement 2040:

*“The Hawkesbury Local Strategic Planning Statement 2040 (LSPS) sets out a 20-year land use vision for the Hawkesbury Local Government Area. The LSPS aims to promote sustainable growth and development in the Hawkesbury by guiding decision-making around land use and development. The LSPS is structured around six themes: Liveability, Employment, Environment, Infrastructure, Housing, and Character. These themes are underpinned by a range of objectives and strategies aimed at achieving sustainable outcomes for the Hawkesbury community.*

*The LSPS structure plan identifies the Site in the North West Growth Area, which will be subject to future rezonings for urban development. The relevant Planning Priorities applying to the Planning Proposal request are:*

- *Planning Priority 7 – Promote and support all sectors of industry and businesses in the Hawkesbury to meet current and future demands and trends*

*The proposed additional permitted uses on the Site is consistent with the priorities of the LSPS, particularly in relation to promoting employment growth and supporting the development of diverse industries within employment lands.”*

The Planning Proposal is considered to generally consistent with the Hawkesbury Local Strategic Planning Statement 2040.

### **Hawkesbury Rural Lands Strategy**

The Planning Proposal provides the following information to justify that it is consistent with the Hawkesbury Rural Lands Strategy:

*“The Hawkesbury Rural Lands Strategy analyses the quantity and quality of rural lands and identifies the needs of the local community and their aspirations for the future of rural lands. It includes an objective relating to the future planning, development and management of rural lands.*

*Whilst the Site is zoned rural, the Planning Proposal request seeks to align with the current and future planning and development of the Site for employment uses as identified in the Northwest Growth Area structure plan. It is no inconsistent with the objectives of the Rural Lands Strategy”.*

Council adopted the Hawkesbury Rural Lands Strategy in March 2021 which identified five broad land use units - Agriculture Production, Rural Landscape, Native Vegetation, Rural Residential and Towns & Villages within the Hawkesbury Local Government Area as shown in Figure 8. These broad land use units have been designated using a sieve methodology which is generally a soil and land capability assessment, and findings of a recent land use survey undertaken as part of the Hawkesbury Rural Lands Strategy. The Strategy states that these land units can be translated into land use designations, and recommends two broad designations of Agriculture Production and Rural Landscape for rural land within the Hawkesbury Local Government Area.

The Strategy designates lands that are zoned RU4 Primary Production Small Lots within Vineyard, Oakville, Maraylya, Pitt Town, Cattai, and McGraths Hill as Rural Landscape. The Strategy states that RU4 Primary Production Small Lots zoning was not considered necessary because its objectives are not as robust as the RU1 Primary Production zone. However, the Strategy is a guiding document for better management and protection of Hawkesbury’s rural land, and does not rezone or transform RU4 Primary Production Small Lots zoned lands to RU2 Rural Landscape zone which is a matter for Council’s consideration during a major review of the Hawkesbury Local Environmental Plan 2012.

Given all agricultural land uses are permitted with consent within the RU4 Primary Production Small Lots zone, should Council resolve to proceed with the Planning Proposal and receive a Gateway Determination advising to proceed with the Planning Proposal from the Department of Planning and Environment, the Department of Primary Industries - Agriculture will be consulted seeking feedback on the Planning Proposal irrespective of the identification of the subject site as ‘Future Urban Employment Land’ and its location within the Future Employment Land Area within the Vineyard Precinct Stage 2 Release Area as shown in Figure 3 above.

### **Hawkesbury Employment Lands Strategy**

The Planning Proposal includes the following information to demonstrate that it is consistent with the Hawkesbury Employment Lands Strategy:

*“The Hawkesbury Employment Lands Strategy analyses the quality and quantity of employment lands within the Hawkesbury LGA and provides guidance for land use planning that focuses economic development in the right locations. The Strategy identifies changes in freight transportation. It states that:*

*‘with the growth in online retailing and raised expectations for speedy delivery, ‘last mile’ logistics has become a priority. This places greater value on logistics, industrial services and dispatch land uses that are in the right areas on the transport network with respect to access to suppliers and customers.’*

*The proposed additional permitted uses on the Site specifically addresses this demand and related objectives within Council’s endorsed Employment Lands Strategy by providing opportunities for a modest expansion of employment uses on the Site, but with greater environmental control and management.”*



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*(a) Amendment to Schedule 1 Additional Permitted Uses*

The Planning Proposal proposes seeks to amend Schedule 1 Additional permitted uses as follows:

Insert the following clause after Clause 20 of Schedule 1:

*Use of certain land at 172 Commercial Road, Vineyard*

*(1) This clause applies to land at 172 Commercial Road, Vineyard, being Lot 2 and 3 DP 229135 identified as "X" on the Additional Permitted Uses Map.*

*(2) Development for the purposes of a depot, light industry or warehouse or distribution centre is permitted with consent.*

*(3) Subclause (2) does not apply to a development application lodged more than 2 years after the commencement of the Hawkesbury Local Environmental Plan 2012 (Amendment No X).*

A Planning Proposal seeking amendments to local environmental plans to allow certain land uses as additional permitted uses on land are not generally supported by the Department of Planning and Environment unless otherwise the Planning Proposal has clear merits, and the subject site has environmental capability to accommodate the proposed development on land. Therefore, it is suggested to include a maximum gross floor area cap for the proposed development on the subject site. This approach will enable the Department of Planning and Environment to determine the appropriateness of the extent of the development on the subject site as additional permitted uses and whether the sufficient setbacks or buffers are there to ensure that the residential interface is not adversely impacted. It will also avoid any ambiguity or speculations among the adjoining neighbours and the local community.

It is therefore, suggested to amend the proposed Clause 21 to include a new subclause 4 as follows:

*21 Use of Certain Land at 172 Commercial Road, Vineyard*

*(1) This clause applies to land at 172 Commercial Road, Vineyard, being Lot 2 and 3 DP 229135, identified as "8" on the Additional Permitted Uses Map.*

*(2) Development for the purposes of a depot, light industry or warehouse or distribution centre is permitted with consent.*

*(3) Subclause (2) does not apply to a development application lodged more than 2 years after the commencement of the Hawkesbury Local Environmental Plan 2012*

***(Amendment No X).***

***(4) Development consent under subclause (2) must not be granted if the total gross floor area of a depot, light industry or warehouse or distribution centre within the site is greater than X,XXXm<sup>2</sup>.***

*(b) Proposed Amendment to Additional permitted use Map*

The Planning Proposal seeks to make an amendment to the Additional Permitted Use Map of the Hawkesbury Local Environmental Plan 2012 to identify the south-eastern part of the subject site to which the proposed additional permitted use clause 21 applies as item "8" on the Additional permitted uses Map.

In addition to the above proposed amendments, the current Clause 2.5 of the Hawkesbury Local Environmental Plan 2012 will apply to the subject site:

**“2.5 Additional permitted uses for particular land**

(1) Development on particular land that is described or referred to in Schedule 1 may be carried out—

(a) with development consent, or

(b) if the Schedule so provides—without development consent, in accordance with the conditions (if any) specified in that Schedule in relation to that

development.”

(2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

**Suitability of the Subject Site**

The following section discusses the suitability of the subject site for the proposed development.

**Topography**

The subject site varies in elevation from approximately 34.5m AHD at Commercial Road to 13m AHD at the rear. The subject site is relatively flat with a gentle slope towards the Killarney Chain of Ponds at rear. This means, the topography of the subject site is not unfavourable to the proposed development.

**Public Infrastructure and Services**

The subject site has access to all the required infrastructure services including electricity, telephone and reticulated water other than access to a reticulated sewerage system. Should the Plan be made, the capability of any existing onsite sewerage system on the subject site to accommodate the proposed development could be considered at the development application stage.

However, if the Planning Proposal is to proceed and receive a Gateway Determination, relevant public agencies such as Sydney Water, Energy Australia, AGL and Telstra Corporation would need to be consulted about the Planning Proposal. This will be to receive advice on the adequacy and any need for augmentation of the existing infrastructure to support future development on the subject site.

**Flora and Fauna**

The Terrestrial Biodiversity Map of the Hawkesbury Local Environmental Plan 2012 identifies some areas of land mainly along the boundaries of the subject site as ‘endangered ecological community’ and an area of land closer to the southern boundary of the subject site as ‘connectivity between remnant vegetation’ as illustrated in Figure 8 below.

Council vegetation mapping shows the subject site as containing Shale Plains Woodland mainly along the site boundaries and free of any vegetation at the middle of the subject site as shown in Figure 8. Shale/ Plains Woodland is listed as a Critically Endangered Ecological Community (CEEC) under the NSW Threatened Species Conservation Act 1995 and under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The proposed development area is mainly located within the area free of any vegetation and the ‘connectivity between remnant vegetation’ area.

However, Figure 5 - Aerial view of the subject site above shows otherwise. According to the aerial view, existing vegetation is mainly accommodated within the riparian corridor of the Killarney Chain of Ponds along the southwestern boundary, southeastern boundary along Chapman Road and northeastern boundary along Commercial Road. In addition, some patches of vegetation is closer to the northeastern boundary and closer to the rear of the subject site





Proposal states that heavy vehicles enter the subject site via the southern access point and exit the via the northern access point back onto Chapman Road.

A Transport Assessment prepared by JMT Consulting in support of the Planning Proposal introduces a revised access arrangement to the subject site by re-establishing the access point from Commercial Road and connecting this through to the existing southern access point from Chapman Road through an internal loop road as shown in Figure 6 above. The existing Chapman Road northern access point would be closed off under this concept. The Traffic Assessment states that the final access arrangements, including details of new/modified driveway crossovers, will be detailed as part of a future Development Application for the subject site.

The Traffic Assessment has used the Transport for NSW Guide to Traffic Generating Developments (TDT 2013/04a) for business parks and industrial estates to forecast traffic generation and revealed that the proposed development accommodating an additional 5,000m<sup>2</sup> floor space generate 29 vehicles generated in the morning peak hour and 31 vehicles in the afternoon peak hour as summarised in Table 5 below. Further it states that this level of traffic generation is equivalent to approximately one vehicle every two minutes and would not have a significant impact on the surrounding road network.

**Table 5: Forecasted traffic generation**

<b>Peak Hour</b>	<b>Additional Gross Floor Area</b>	<b>Traffic Generation Rate</b>	<b>Vehicles into Site</b>	<b>Vehicles out of Site</b>	<b>Total Vehicles</b>
AM peak hour	5,500m <sup>2</sup>	0.52 trips /100m <sup>2</sup>	20	9	<b>29</b>
PM peak hour	5,500m <sup>2</sup>	0.56 trips /100m <sup>2</sup>	9	22	<b>31</b>

The Traffic Assessment states that Traffic modelling has been undertaken using the Transport for NSW approved SIDRA modelling software package to consider the impacts of a potential redevelopment of the subject site at the intersections Windsor Road/Chapman Road and Chapman Road/Commercial Road. The Assessment states that:

*“The traffic modelling demonstrates that the relatively small increase in traffic flows associated with a potential redevelopment of the site will not result in adverse impacts on the surrounding road network. The two key intersections in the vicinity of the site retain their Level of Service when compared to a ‘future base’ scenario. This demonstrates that the proposal can be supported by the existing road network with no additional measures required to accommodate future traffic demands.”*

Further, the Assessment states that:

*“Traffic modelling undertaken in accordance with Transport for NSW guidelines demonstrates that the operation of key intersections in the vicinity of the site will not be impacted by the small number of additional vehicle movements associated with a future DA for the site. A sensitivity assessment was conducted which considered both a low and high case development scenario. This sensitivity assessment showed the level of service of key intersections remained unchanged under the scenarios modelled - confirming that any future development arising from the Planning Proposal will not unduly impact the performance of the surrounding road network In the above context the traffic and transport impacts of the Planning Proposal are considered acceptable”.*

Irrespective of the above findings, if the Planning Proposal is to proceed and receive a Gateway Determination, the Transport for NSW will be consulted about the Planning Proposal to receive any feedback on the proposed development on the subject site.

### Character of the Area

The immediate locality of the subject site is predominantly characterised by rural residential development and the approximate lot size within the immediate vicinity is 2ha. As shown in Figure 9, the properties immediately north, south and west are rural residential development, and the Vineyard Precinct Stage 1 Development to the east. In summary, the area immediately surrounding the subject site has two distinct visual characteristics. One area having a rural-residential character, and the other area having an urban low to medium density residential developments.



**Figure 9: Subject Site and Surround**

The Planning Proposal enabling a depot, light industry and warehouse or distribution centre on the subject site is generally a single-storey development and therefore is consistent with the immediate vicinity which is predominantly characterised by a low to medium rise development. The scale of development is not considered to be a key factor determining a Planning Proposal. However, a maximum gross floor for the development is included in order to ensure that the proposed development will not adversely impact the visual character of the locality.

### Agricultural Land Classification

The subject site is shown as being Agriculture Land Classification 3 on maps prepared by the former NSW Department of Agriculture. This land is described by the classification system as being:

*"3. Grazing land or land well suited to pasture improvement. It may be cultivated or cropped in rotation with pasture. The overall production level is moderate because of edaphic or environmental constraints. Erosion hazard, soil structural breakdown and other factors including climate may limit the capacity for cultivation; and soil conservation or drainage works may be required."*

The Planning Proposal states that:

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*“Notwithstanding this classification, the Site has been highly disturbed. It is currently used by various tenants, with a key tenant specialising in the supply of geotechnical equipment. It contains an office and three warehouse buildings, with gravel and concrete hardstand. The existing use is in accordance with historical approvals on the Site for a ‘road transport terminal’ now defined as a ‘depot’ under Hawkesbury LEP 2012.*

*The Agricultural Land Classification does not align with the nature of the current uses on the Site. Current and historical development on the Site suggest that it has very low agricultural value. The Planning Proposal does not change the permissibility of agriculture on the Site.”*

Agricultural land classification and development history showing a rural residential use and not showing as prime agricultural land as well as the subject site's proximity to the Vineyard Residential Precinct Stage 1 and the immediate surrounding is predominantly rural residential site, it is considered that it is unlikely the subject site could sustain a commercially sustainable agricultural business.

However, should Council resolve to proceed with the Planning Proposal and receive a Gateway Determination advising to proceed with the Planning Proposal from the Department of Planning and Environment, the NSW Department of Industry – Agriculture will be consulted on the Planning Proposal as part of the relevant government agency consultation.

#### **Heritage**

The subject site is not listed as a heritage item under Schedule 5 Environmental Heritage of the Hawkesbury Local Environmental Plan 2012 and not located within the vicinity of any heritage listed items where future development of part of the subject site may have an impact on the significance of these items. In addition, the subject site is not within or adjoining a heritage conservation area and not identified as an archaeological site.

#### **Conclusion**

An assessment of the Planning Proposal contained in this report highlights that the subject site has strategic and site-specific merits and potential to accommodate the planned development with no adverse impacts on amenity of the locality and the road network.

The Planning Proposal is consistent with the State and Local Planning frameworks. It will enable an orderly development, and improved amenity of the subject site and potential increase of the percentage of people who live and work within the Hawkesbury Local Government Area.

#### **ATTACHMENTS**

- AT - 1** Planning Proposal for 172 Commercial Road, Vineyard - *(Distributed under separate cover).*
- AT - 2** Bushfire Assessment Report - *(Distributed under separate cover).*
- AT - 3** Transport Assessment - *(Distributed under separate cover).*
- AT - 4** Flood Analysis and Report - *(Distributed under separate cover).*
- AT - 5** Detailed Site Layout Plan.



**HAWKESBURY LOCAL PLANNING PANEL**

**4. CONFIDENTIAL REPORTS**

**Meeting Date:** 17 August 2023

**4. CONFIDENTIAL REPORTS**

Nil reports.



# Hawkesbury Local Planning Panel Meeting

## End of Minutes

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