

**Reduction in minimum lot size from 2ha to 4,000sqm at 280 Castlereagh Rd, Agnes Banks**

Proposal Title : **Reduction in minimum lot size from 2ha to 4,000sqm at 280 Castlereagh Rd, Agnes Banks**

Proposal Summary : **The proposal seeks to reduce the minimum lot size at 280 Castlereagh Rd, Agnes Banks from 2ha to 4,000sqm to enable subdivision of the land into four lots.**

PP Number : **PP\_2016\_HAWKE\_005\_00**

Dop File No : **16/08679**

**Proposal Details**

Date Planning Proposal Received : **14-Jun-2016**

LGA covered : **Hawkesbury**

Region : **Metro(Parra)**

RPA : **Hawkesbury City Council**

State Electorate : **LONDONDERRY**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

**Location Details**

Street : **280 Castlereagh Rd**

Suburb : **Agnes Banks**

City : **NSW**

Postcode : **2753**

Land Parcel : **Lot 23 DP 778553**

**DoP Planning Officer Contact Details**

Contact Name : **Georgina Ballantine**

Contact Number : **0298601568**

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**RPA Contact Details**

Contact Name : **Karu Wijayasinghe**

Contact Number : **0245604546**

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**DoP Project Manager Contact Details**

Contact Name : **Derryn John**

Contact Number : **0298601505**

Contact Email : **derryn.john@planning.nsw.gov.au**

**Land Release Data**

Growth Centre : **N/A**

Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Metro North West subregion**

Consistent with Strategy : **Yes**

|                      |      |                                                      |     |
|----------------------|------|------------------------------------------------------|-----|
| MDP Number :         |      | Date of Release :                                    |     |
| Area of Release (Ha) | 0.00 | Type of Release (eg Residential / Employment land) : | N/A |
| No. of Lots :        | 0    | No. of Dwellings (where relevant) :                  | 4   |
| Gross Floor Area :   | 0    | No of Jobs Created :                                 | 0   |

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department's Lobbyist Contact Register has been checked on 24 June 2016 and there are no records of contact with lobbyists in relation to this proposal.**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **To the best of the knowledge of the regional team, the Department's Code of Practice in relation to communications and meetings with Lobbyists has been complied with. Sydney Region West has not met with any lobbyist in relation to this proposal, nor has the Director been advised of any meetings between other departmental officers and lobbyists concerning this proposal.**

#### POLITICAL DONATIONS DISCLOSURE STATEMENT

Political donations disclosure laws commenced on 1 October 2008. The legislation requires the public disclosure of donations or gifts for certain circumstances relating to the Planning system.

"The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

The term relevant planning application means:

- A formal request to the Minister, a council or the Secretary to initiate the making of an environmental planning instrument..."

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Secretary is required to disclose all reportable political donations (if any).

The Department has not received any disclosure statements for this Planning Proposal.

#### Supporting notes

Internal Supporting Notes : **A site layout plan for the subdivision of the site into four allotments has been prepared. The proposal does not seek to amend the RU4 zoning of the land.**

Given that the NSW Floodplain Management Taskforce's advice on other, similar proposals has been to recommend refusal, it is considered unnecessary for the proposal to be referred to the Taskforce for consultation. If the proposal should proceed beyond Gateway determination, the Taskforce should be consulted under public authority consultation.

In this regard, the Department has consistently applied the Taskforce's recommendations by refusing the following planning proposals:

- 35 Chapel St, Richmond. Refused 15/02/2016; and
- Various Properties at Mitchell Rd, Pitt Town. Refused 31/03/2016.

The above proposals were refused on the Taskforce's recommendation due to their intent

to increase residential densities, and their location being in the study area of the NSW Hawkesbury Nepean Flood Management Taskforce. The current proposal also seeks to increase residential density in the study area. As such, the Taskforce is likely to recommend refusal of the proposal.

External Supporting  
Notes :

## Adequacy Assessment

### Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : The proposal seeks to reduce the minimum lot size applying to the land from 2ha to 4,000sqm to enable the subdivision of the subject site into four (4) large lot residential lots.

### Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The objective of the proposal will be achieved by amending the relevant Lot Size Map of Hawkesbury Local Environmental Plan 2012 to reflect the 4,000sqm minimum lot size. A local provision will be prepared to restrict the maximum lot yield to 4 lots and the site will be included in the relevant Lot Yield Restriction Map.

### Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

\* May need the Director General's agreement

- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

- SEPP No 44—Koala Habitat Protection
- SEPP No 55—Remediation of Land
- SEPP (Exempt and Complying Development Codes) 2008
- SREP No 9—Extractive Industry (No 2—1995)
- SREP No. 20 - Hawkesbury–Nepean River (No. 2 - 1997)

e) List any other  
matters that need to  
be considered :

#### SECTION 117 DIRECTIONS.

The proposal is generally consistent with all relevant Section 117 Directions, except for the following:

#### DIRECTION 4.3 - FLOOD PRONE LAND

Direction 4.3 applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. The proposal is inconsistent with this Direction.

Council advises that the land subject to the planning proposal is above the Flood Planning Level, being the 1:100 Average Recurrence Interval (ARI) year flood event. However the subject land and surrounding area is affected by the Probable Maximum Flood (PMF). Additionally, the subject site is surrounded by land north of the site that is

affected under a 1:100 year ARI flood event.

Direction 4.3 subclause (6)(d) requires that planning proposal must not contain provisions that apply to the flood planning areas which are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services. Should the planning proposal proceed, the resulting increase in residential development that is accessed by roads which are below the Flood Planning Level may result in an increased requirement for government spending.

In this regard, the Proposal is inconsistent with subclause 6(d) of the Direction as the land is below the Probable Maximum Flood level identified within the study area of the NSW Hawkesbury Nepean Flood Management Taskforce. The evacuation risks for properties within the PMF area will not be known until the Taskforce's findings are released. Consequently the Taskforce has advised against any increase in residential density within the study area for recent planning proposals.

The Department has consistently applied the Taskforce's recommendations by refusing the following planning proposals:

- 35 Chapel St, Richmond. Refused 15/02/2016; and
- Various Properties at Mitchell Rd, Pitt Town. Refused 31/03/2016.

The proposal is considered to be inconsistent with this Direction, but the extent of such an inconsistency cannot be established until the findings of the Hawkesbury-Nepean Flood Management Taskforce are available to assist in assessing the cumulative impacts of residential intensification.

The current inconsistencies with S.117 Direction 4.3 Flood Prone Land, combined with the Taskforce's advice in relation to residential density on similar planning panels, support refusal of the proposal at the present time.

#### **DIRECTION 1.3 MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES**

The proposal does not address this Direction. The site is an 'Identified Resource Area' in the Mineral Resources Audit of Hawkesbury Plan 2011.

Should the proposal proceed, and to ensure consistency with this direction, the Department of Primary Industry should be notified and consulted with for a minimum of 40 days prior to public exhibition. The proposal should be updated to address any objections/comments in regards to this Direction.

#### **DIRECTION 4.4. PLANNING FOR BUSHFIRE PROTECTION**

The subject site is located in bushfire prone land.

Should the proposal proceed, NSW Rural Fire Service should be notified and consulted prior to exhibition, in accordance with this Direction.

#### **DIRECTION 6.3 RESERVING LAND FOR PUBLIC PURPOSES**

Part of the subject site is identified on the Land Reserved for Acquisition Map (zoned SP2 - classified road) for the purposes of road widening.

Should the proposal proceed, the proposal is deemed consistent with this Direction. The intent of the proposal and subject amendment to minimum lot size provisions do not seek to alter, create or reduce existing zonings or reservations for land.

#### **DIRECTION 7.1 - A PLAN FOR GROWING SYDNEY**

It is considered that the proposal is inconsistent with Action 4.2.2 of A Plan for Growing Sydney in relation to flood constraints. Further details are provided under the Strategic Planning Framework section of this report.

#### **SEPPs AND DEEMED SEPPs**

The proposal is generally consistent with all relevant SEPPs.

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

The aim of SREP 20 is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. Should the proposal receive a Gateway determination, further detailed consideration of the specific requirements of Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean River (No 2-1997) would be required at the development application stage.

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain : **The planning proposal is inconsistent with Direction 4.3 Flood Prone Land, for the reasons stated above.**

**Mapping Provided - s55(2)(d)**

Is mapping provided? **Yes**

Comment : **Sufficient mapping is provided, should the proposal proceed.**

**Community consultation - s55(2)(e)**

Has community consultation been proposed? **Yes**

Comment : **The proposal recommends a 14 day community consultation period. Should the proposal proceed with a Gateway determination, it is recommended that a 28 day period be required.**

**Additional Director General's requirements**

Are there any additional Director General's requirements? **No**

If Yes, reasons :

**Overall adequacy of the proposal**

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

**Proposal Assessment**

**Principal LEP:**

Due Date : **September 2012**

Comments in relation to Principal LEP : **The proposal seeks to amend the Hawkesbury Local Environmental Plan 2012.**

**Assessment Criteria**

Need for planning proposal : **The subject site is located within the Richmond Future Investigation Area. The Hawkesbury Residential Land Strategy identifies the parts of the Investigation Area that are above the 1 in 100 ARI (including the site) as possible expansion areas for Richmond.**

Consistency with strategic planning framework :

#### A PLAN FOR GROWING SYDNEY

The proposal refers to The Metropolitan Plan for Sydney 2036. However this has been superseded by A Plan for Growing Sydney (released December 2014). The proposal does not address consistency with any Directions/Actions of A Plan for Growing Sydney.

A Plan for Growing Sydney's Direction 4.2 Build Sydney's resilience to natural hazards contains Action 4.2.2: Complete and implement the Hawkesbury-Nepean Valley Floodplain Management Review. As part of this review the Government recognises that evacuation and emergency management issues need to be addressed upfront in the planning process. To achieve this the Government will require councils to undertake an evacuation capacity assessment that considers regional and cumulative issues prior to rezoning land in the Hawkesbury-Nepean Valley. The Taskforce has advised against any increase in residential density within the study area for recent planning proposals located at 35 Chapel St, Richmond and Mitchell Rd, Pitt Town and 18 James St, South Windsor.

#### NORTH WEST DRAFT SUBREGIONAL STRATEGY

The Strategy provides direction regarding flood constraints on future housing growth in the Hawkesbury local government area. Future housing growth is generally suitable on land above the 1 in 100 year average recurrence interval (ARI), however consideration needs to be given to the ability to evacuate dwellings in larger flood events. Future housing growth in the Hawkesbury LGA is substantially constrained by the capacity within the existing flood evacuation network. In areas to the south of the Hawkesbury River there is no capacity for additional growth outside the land already zoned under Council's LEP, without substantial further upgrades to the flood evacuation network. In this instance, the subject site is located south of the Hawkesbury River.

Areas north of the Hawkesbury River are predominantly above the probable maximum flood level. In recognition of the flood constraints the Strategy states that residential growth will occur within the capacity of the existing (1989) LEP and north of the Hawkesbury River. If growth is to occur south of the River, it would be necessary to demonstrate that flood evacuation measures are in place to the satisfaction of the SES. In this regard, the proposal is not considered to be consistent with The North West Subregion Draft Subregional Strategy. Conversely, recent rezonings at Jacaranda Ponds (Glossodia) and Redbank (North Richmond) are consistent with the Draft Strategy, as the sites are north (west) of the Hawkesbury River and will provide 1,980 housing sites that are free from flood constraints.

As noted above, the Hawkesbury-Nepean Valley Flood Management Taskforce has recommended that similar planning proposals be deferred until the implications of its cumulative impacts on evacuation can be determined in light of the recommendations to be made by government.

Environmental social economic impacts :

#### ECONOMIC

The potential economic loss associated with flooding should be considered further, should the proposal proceed beyond Gateway stage.

#### SOCIAL

No adverse social impacts are anticipated, however loss associated with flooding should be considered further, should the proposal proceed beyond Gateway stage.

#### ENVIRONMENTAL

The subject site is identified on the LEP Terrestrial Biodiversity Map as containing "significant vegetation". No flora/fauna study has been submitted as part of the proposal. Should the proposal proceed, a flora/fauna study is recommended to assess the vegetation on the subject site.

The site is identified as 'Class 4 Agricultural Land'. However due to the nature and size of the site, the land is unlikely to provide grazing/agricultural opportunities.

## Assessment Process

Proposal type : **Inconsistent**

Community Consultation Period : **Nil**

Timeframe to make LEP : **0 months**

Delegation :

Public Authority Consultation - 56(2)(d)

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **No**

If no, provide reasons : **Flooding impact on the site and access constraints have not been adequately addressed, and these are critical factors that determine whether or not the proposal should proceed for Gateway determination.**

**The Proposal is inconsistent with Direction 4.3 Flood Prone Land, specifically subclause 6(d). While the planning proposal relates to the portion of the site that is above the 1:100 ARI flood level, any access to the site would be via the floodplain.**

**The Hawkesbury-Nepean Valley Flood Management Taskforce has advised against any increase in residential density within the study area for recent planning proposals located at 35 Chapel St, Richmond and Mitchell Rd, Pitt Town .**

**Given the above, it is recommended under s56(2)(a) of the EP&A Act that the planning proposal not proceed.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

**Flora**

**Fauna**

If Other, provide reasons :

Identify any internal consultations, if required :

**No internal consultation required**

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

## Documents

| Document File Name                                             | DocumentType Name | Is Public  |
|----------------------------------------------------------------|-------------------|------------|
| <b>Planning Proposal - 280 Castlereagh Rd, Agnes Banks.pdf</b> | <b>Proposal</b>   | <b>Yes</b> |

## Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Not Recommended**

S.117 directions:

- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information :

**IT IS RECOMMENDED THAT THE PLANNING PROPOSAL NOT PROCEED, FOR THE REASONS BELOW:**

1. The planning proposal has not demonstrated consistency with A Plan for Growing Sydney or the findings of the Hawkesbury-Nepean Valley Flood Management Review.
2. The planning proposal is inconsistent with Section 117 Direction 4.3 Flood Prone Land.

Supporting Reasons :

Signature:



Printed Name:

C VAN LAEREN

Date:

2/8/16