

ORDINARY MEETING

Meeting Date: 10 May 2016

ITEM: 77 **CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012
- 280 Castlereagh Road, Agnes Banks - (95498, 124414)**

Applicant Name:	Glenn Falson Urban and Rural Planning Consultant
Planning Proposal No:	LEP007/15
Property Address:	280 Castlereagh Road, Agnes Banks
Owner/s:	DR and VJ Smith
Date Received:	1 December 2015
Current Minimum Lot Size:	2 Hectare
Proposed Minimum Lot Size:	4,000m ²
Current Zone:	Part RU4 Primary Production Small Lots and part SP2 Infrastructure
Site Area:	2ha
Recommendation:	Council support the planning proposal and submit to the Department of Planning and Environment for a "Gateway" determination

REPORT:

Executive Summary

Council has received a planning proposal from Glenn Falson Urban and Rural Planning Consultant (the applicant) which seeks to amend the *Hawkesbury Local Environmental Plan 2012* (the LEP) to enable potential subdivision of Lot 23 DP 778553, 280 Castlereagh Road Agnes Banks (the subject site) into four large residential lots with a minimum lot size of not less than 4,000m².

This report provides Council with an overview of the planning proposal and recommends that the planning proposal be supported and submitted to the Department of Planning and Environment (DP&E) for a 'Gateway' determination.

Consultation

The planning proposal has not yet been exhibited as Council has not resolved to prepare the proposal. If the planning proposal is to proceed it will be exhibited in accordance with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) and associated Regulations and as specified in the 'Gateway' determination.

Planning Proposal

The planning proposal seeks an amendment to the LEP in order to permit the subdivision of the subject site into four lots with a minimum lot size of not less than 4,000m².

The planning proposal aims to achieve the above proposed outcome by amending the Minimum Lot Size Map (Map Identification No. 3800_COM_LSZ_008BA_020_20140131) of the LEP. As an alternative, the applicant proposes that Council insert an appropriate provision in the LEP to limit the maximum lot yield of the subdivision of the subject site consistent with the planning proposal to allow the site to be subdivided into 4 large rural residential lots.

A concept plan of the proposed four lot subdivision is attached to this report for discussion purposes only in relation to the potential yield of the subject site, and does not form part of the planning proposal. The concept plan shows the proposed four lots ranging in size from 4,000m² to 6,636m². The concept plan is shown in Figure 1 below.

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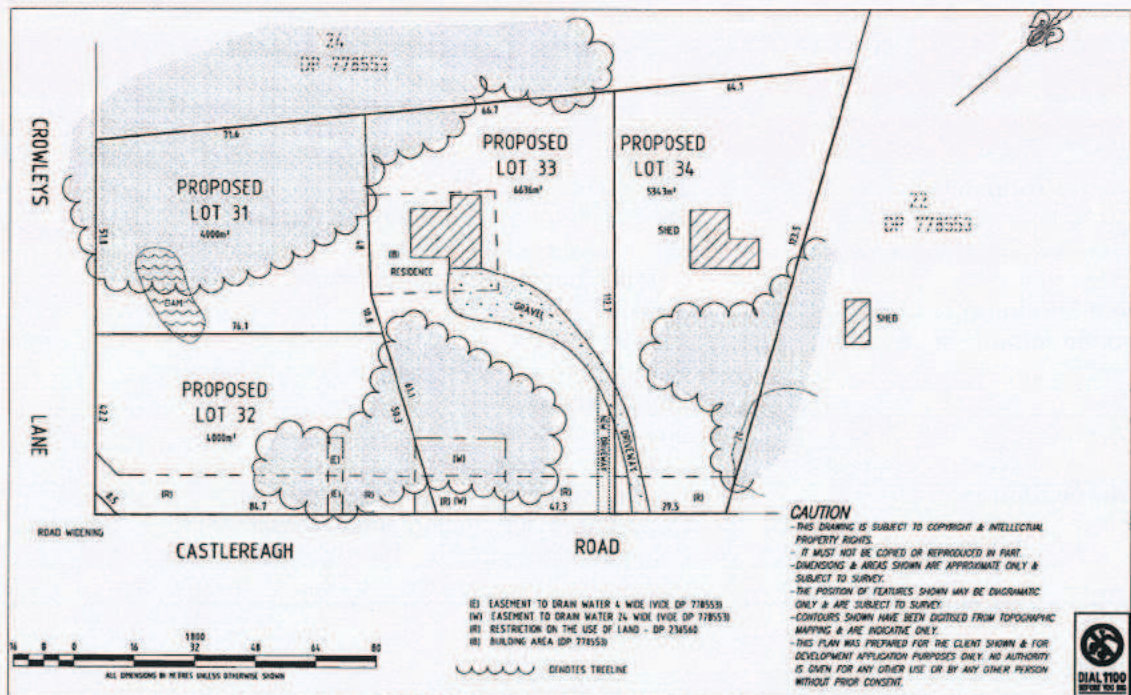


Figure 1: Subdivision Concept Plan (Not for Approval)

Subject Site and Surrounds

The subject site is legally described as Lot 23 DP 778553, and has a street address of 280 Castlereagh Road Agnes Banks. The subject site is located on the northern fringe of the existing low density residential development as highlighted in Figure 2.

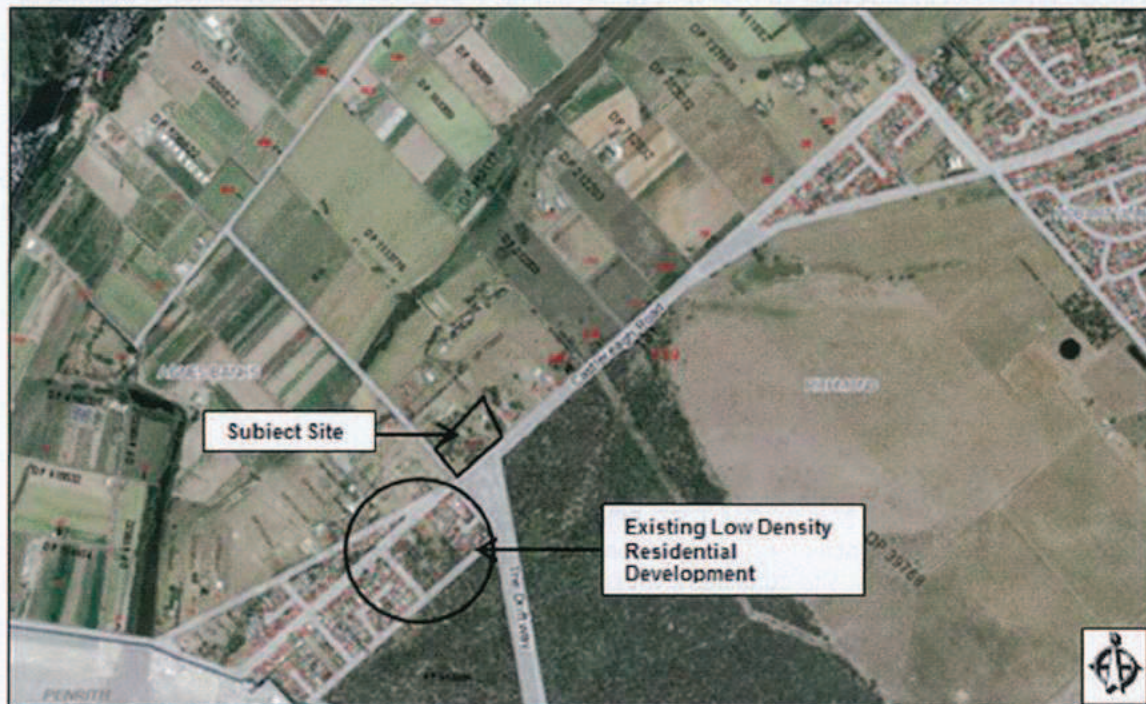


Figure 2: Site Location

The subject site has an area of 2ha and is almost a trapezium in shape. It is a corner allotment and has frontages to both Castlereagh Road, and Crowleys Lane. The site has approximately a 165m primary

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frontage to Castlereagh Road which links Richmond and Penrith. As shown in Figure 3 below, the subject site is currently accessed via Castlereagh Road which is a classified road maintained by Roads and Maritime Services (RMS).



Figure 3: Subject Site

The subject site and several properties fronting Castlereagh Road in this location are affected by future widening of Castlereagh Road. Reservation Acquisition Map (Map Identification No. 3800_COM_LRA_008BA_020_20120316) of the LEP identifies part of the subject site zoned SP2 Infrastructure, and marked "Classified Road" for acquisition for future widening of the Castlereagh Road as shown in Figure 4 below.

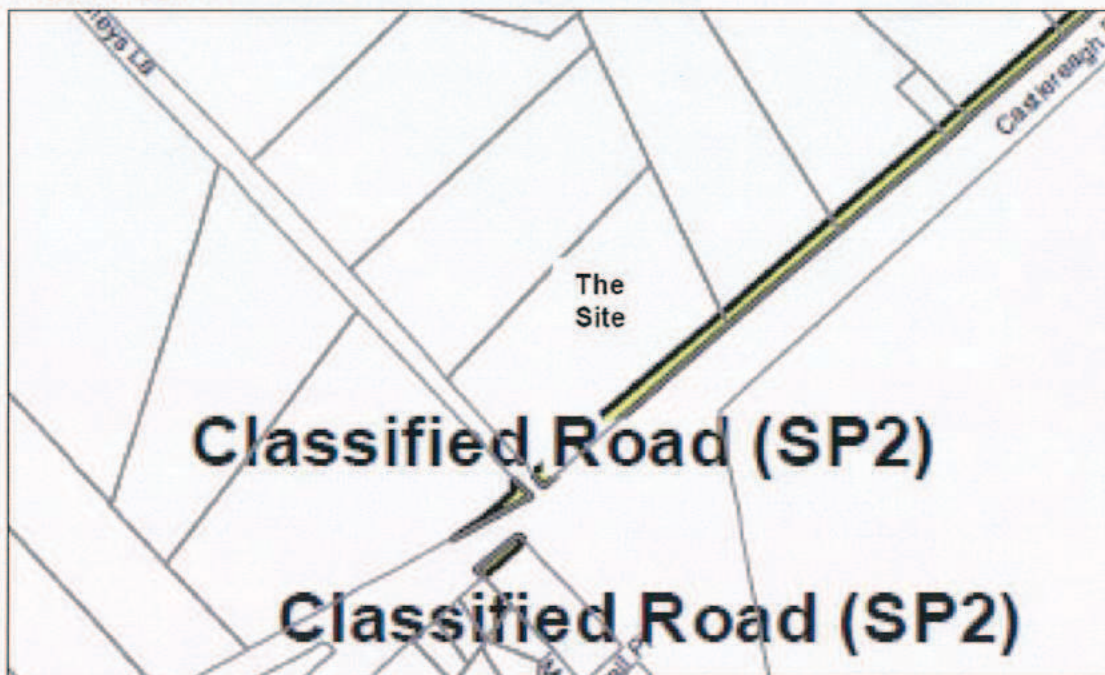


Figure 4: Extract of the Land Reservation Acquisition Map Highlighting Future Widening Requirements

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The site is zoned part RU4 Primary Production Small Lots, and part SP2 Infrastructure (Classified Road) under the LEP, with the current minimum lot size for subdivision of this land being 2ha.

The site is shown as being bushfire prone (Bushfire Vegetation Category 1) on the NSW Rural Fire Service's Bushfire Prone Land Map.

The whole site is shown as being within Acid Sulfate Soil Classification 5 which represents a relatively low chance of acid sulphate soils being present on the site.

The site is shown as being Agriculture Land Classification 4 on maps prepared by the former NSW Department of Agriculture.

The site is situated above the 1 in 100 year ARI flood level. The site is relatively flat, and according to Council's slope mapping, the entire site area has a slope less than 10%.

The site falls within the Middle Nepean & Hawkesbury River Catchment Area of Sydney Regional Environmental Plan No.20 Hawkesbury - Nepean River (No.2 - 1997).

The site contains a dwelling house, a farm building, a dam and some existing vegetation. The existing dwelling house is located closer to the north-western boundary, and the outbuilding is located closer to the north-eastern boundary. A dam is located closer to the south-western boundary as shown in Figure 5.



Figure 5: Aerial view of the Subject Site

The properties immediately to the north, west and east are zoned RU4 Primary Production Small Lots and properties immediately to the south are zoned SP1 Education, Agriculture, Research Station. The immediate locality is predominantly zoned RU4 Primary Production Small Lots. The current minimum lot sizes apply for the subdivision of the immediate surrounding properties are generally in the range of 450m² to 10ha in size.

Land surrounding the subject site consists of a varied mix of lots sizes with small low density residential lots located immediately adjacent in Castlereagh Road. The immediate surrounding area of the site is characterised by rural residential and low density residential development.

Applicant's Justification of Proposal

The applicant has provided the following justification for the planning proposal:

- *The site is within an area identified within Council's strategy for investigation and assessment for smaller lots commensurate with available services and infrastructure.*
- *Preliminary site investigations have been carried out which has demonstrated that the land is capable of being subdivided into four lots that would be in character with other lands in the vicinity and would form an appropriate component of the Agnes Banks township expansion.*
- *The land has reticulated water supply and sewerage past its frontage. It is not known at this stage if each proposed lot would be able to connect to these services however each lot is capable of containing on-site wastewater disposal and matters relating to vegetation management and bushfire control can be satisfied.*
- *Electricity, telephone, garbage and recycling facilities are available to the site.*
- *It has been identified that there is a need for an additional 5 - 6,000 dwelling sites in the Hawkesbury LGA by 2031. Existing zoned areas are mostly built out hence the need identified within Council's strategy to look for additional sites including those around the perimeter of existing towns and villages. The subject proposal will assist in satisfying, in some way, this identified demand and is consistent with strategies identified within Council's Residential Land Strategy.*

'A Plan for Growing Sydney' (the Sydney Metropolitan Strategy), Draft North West Subregional Strategy and Hawkesbury Residential Land Strategy

The NSW Government's 'A Plan for Growing Sydney' December 2014 (the Sydney Metropolitan Strategy) and draft North West Subregional Strategy (dNWSS) establishes the broad planning directions for the Sydney metropolitan area and north-western sector of Sydney respectively. These documents identify a number of strategies, objectives and actions relating to the economy and employment, centres and corridors, housing, transport, environment and resources, parks and public places, implementation and governance.

Agnes Banks does not contain a retail/commercial precinct, and therefore is not classified as a "centre" (e.g. neighbourhood centre, village centre) in the above documents.

The Hawkesbury Residential Land Strategy (HRLS) is in part a response to the above mentioned State strategies and seeks to identify residential investigation areas and sustainable development criteria which are consistent with the NSW Government's strategies. The HRLS identifies the Richmond Future Investigation Area that is above the 1:100 flood level to enable possible expansion of the Richmond urban residential area to accommodate additional dwellings to achieve the Hawkesbury residential dwelling target of 6,000 dwelling units by 2031 identified in the dNWSS. The subject site is located within the Richmond Future Investigation Area as shown in Figure 6 below.

Given the subject site is located within the Richmond Future Investigation Area, the planning proposal seeking amendment to the Lot Size Map of the LEP to allow subdivision of the subject site into four large rural residential lots with a minimum lot size of not less than 4,000m² is considered to be consistent with the HRLS, and thereby generally consistent with both the Sydney Metropolitan Strategy and dNWSS.

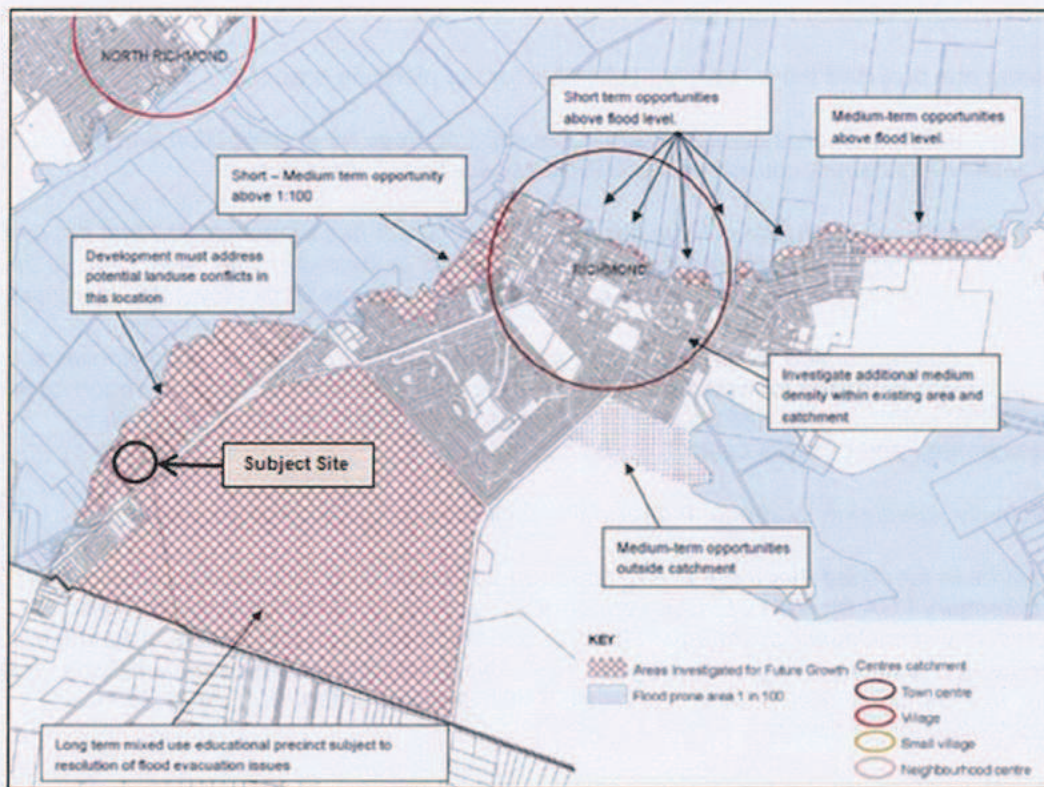


Figure 6: Extract of the Richmond Future Investigation Area Map of the HRLS

Section 117 Directions

The Minister for Planning, under section 117(2) of the EP&A Act, issues directions that relevant planning authorities including councils must comply with when preparing planning proposals. The directions cover the following broad range of categories:

- Employment and resources
- Environment and heritage
- Housing, infrastructure and urban development
- Hazard and risk
- Regional planning
- Local plan making
- Implementation of a Plan for Growing Sydney

Section 117 Directions are issued by the Minister for Planning and Infrastructure and apply to planning proposals. Typically, the Section 117 Directions will require certain matters to be complied with and/or require consultation with government authorities during the preparation of the planning proposal.

However all these Directions permit variations subject to meeting certain criteria (refer to the last part of this section of the report). The principal criterion for variation to a 117 Direction is consistency with an adopted Local or Regional Strategy. A summary of the key Section 117 Directions follows:

Direction 1.2 Rural Zones

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 an amendment to the Lot Size Map of the LEP only, and it does not contain provisions to increase the permissible density of land. It is therefore considered that the planning proposal is consistent with this Direction.

Direction 1.3 Mining, Petroleum Production and Extractive Industries

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

Mineral Resources Audit of Hawkesbury Plan 2011 prepared by the (then) NSW Trade & Investment (now Department of Primary Industry) shows the site as 'Identified Resource', and it is located within the Richmond Lowlands Sand and Gravel Resource Area as shown in Figure 7 below.

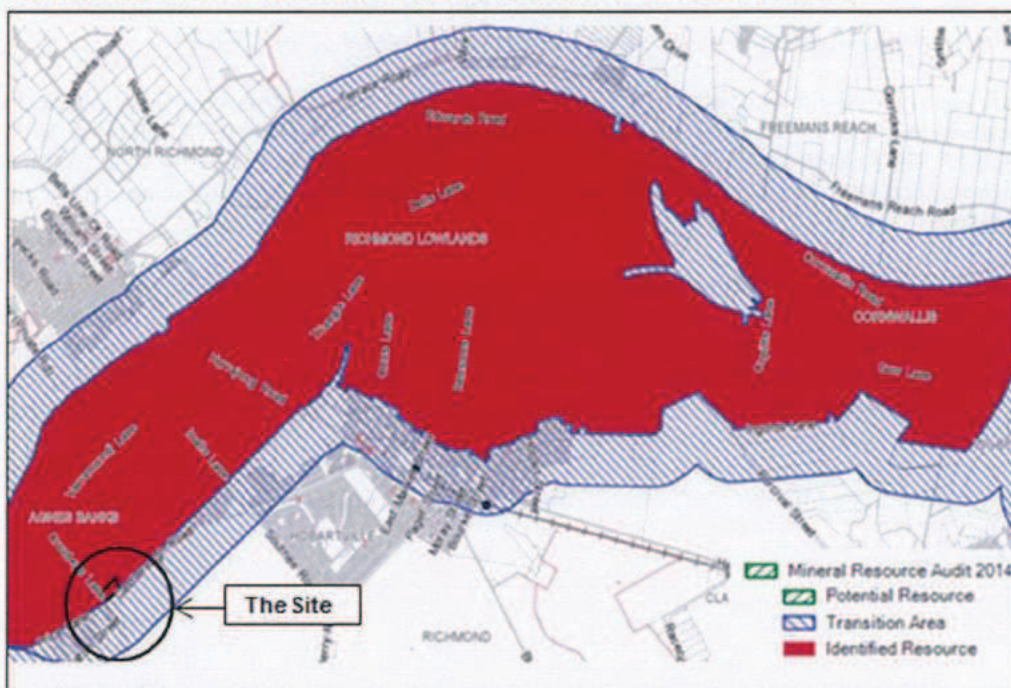


Figure 7: Extract of Mineral Resources Audit of Hawkesbury Plan

According to the (then) NSW Trade & Investment, the Identified Resource Area contains active mineral, petroleum and/or extractive operations. Mineral Resources Branch of the (then) NSW Trade & Investment had updated this plan in 2014. Any proposed zoning changes or development within this area could adversely affect or be affected by current or future resource developments. Should Council resolve to proceed with the planning proposal and receive a Gateway determination advising to proceed with the planning proposal from DP&E, the planning proposal will be referred to the Department of Industry for comments in accordance with the Direction 1.3(4).

Direction 3.4 Integrating Land Use and Transport

Planning proposals must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of Improving Transport Choice - Guidelines for Planning and Development (DUAP 2001)

In summary, this document seeks to provide guidance on how future development may reduce growth in the number and length of private car journeys and make walking, cycling and public transport more attractive. It contains 10 "Accessible Development" principles which promote concentration within centres, mixed uses in centres, aligning centres with corridors, linking public transport with land use strategies, street connections, pedestrian access, cycle access, management of parking supply, road management, and good urban design.

The document is very much centres based and not readily applicable to Agnes Banks which does not contain a retail/commercial precinct other than a large residential precinct with different lots sizes ranging from 550m² to 1.3ha.

The document also provides guidance regarding consultation to be undertaken as part of the planning proposal process and various investigations/plans to be undertaken. It is recommended that if this planning proposal is to proceed Council seek guidance from the DP&E via the "Gateway" process, regarding the applicability of this document.

Direction 4.1 Acid Sulfate Soils

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. This Direction requires consideration of the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the DP&E.

The subject site is identified as containing "Class 5 acid sulfate soils on the Acid Sulphate Soils Planning Maps contained in the LEP. As such any future development on the subject site will be subject to Clause 6.1 Acid Sulfate Soils of the LEP 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.

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 unless the relevant planning authority has considered an acid sulfate soil study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of such a study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the EP&A Act. An acid sulfate soil study has not been included in the planning proposal. The DP&E will consider this as part of their "Gateway" determination and if required can request further information or consideration of this matter.

Direction 4.4 Planning for Bushfire Protection

The land is identified as bushfire prone, containing Vegetation Category 1. This Direction requires consultation with the NSW Rural Fire Service following receipt of a Gateway determination, compliance with Planning for Bushfire Protection 2006, and compliance with various Asset Protection Zones, vehicular access, water supply, layout, and building material provisions.

Direction 6.1 Approval and Referral Requirements

The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. This Direction requires that a planning proposal must:

- "(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and*
- (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:*
 - (i) the appropriate Minister or public authority, and*
 - (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act, and*
- (c) not identify development as designated development unless the relevant planning authority:*
 - (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and*

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- (ii) *has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act."*

It is considered that the planning proposal is consistent with this Direction as it does not contain provisions requiring the concurrence, consultation or referral of development applications to a Minister or public authority, and does not identify development as designated development.

Direction 6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessary restrictive site specific planning controls. The planning proposal proposes an amendment to the Lot Size Map of the LEP only. It is therefore considered that the proposed amendment is consistent with this Direction.

Direction 7.1 Implementation of 'A Plan for Growing Sydney'

This Direction requires planning proposals to be consistent with 'A Plan for Growing Sydney' (the Sydney Metropolitan Strategy) released in December 2014. 'A Plan for Growing Sydney' is the NSW Government's 20-year plan for the Sydney Metropolitan Area. It provides directions for Sydney's productivity, environmental management, and liveability; and for the location of housing, employment, infrastructure and open space.

'A Plan for Growing Sydney' is one of the issues taken into consideration in the early part of the assessment of the planning proposal. As mentioned previously in this report, the conformance with the Council's Hawkesbury Residential Land Strategy establishes that the planning proposal is generally consistent with the Plan for Growing Sydney.

State Environmental Planning Policies

The State Environmental Planning Policies of most relevance include the *State Environmental Planning Policy (SEPP) No. 55 - Remediation of Land*, *Sydney Regional Environmental Plan (SREP) No. 9 - Extractive Industry (No 2- 1995)* and *(SREP) No. 20 - Hawkesbury - Nepean River (No.2 - 1997)*.

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)

SEPP 55 requires consideration as to whether or not land is contaminated, and if so whether it is suitable for future permitted uses in its current state or it requires remediation. The SEPP may require Council to obtain, and have regard to, a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

The applicant states that:

'The land has not been used for any intensive agricultural use or any other use that would suggest that remediation is required. There is no obvious evidence of surface or groundwater pollution. It is not believed that any geotechnical investigations need to be carried out for the planning proposal to proceed'.

Council's records show that the site has not been used or approved for any agricultural uses or any other activities identified in Table 1 - 'Some Activities that may cause contamination of Managing Land Contamination Planning Guidelines SEPP 55 - Remediation of Land' other than residential purpose. Therefore contamination of the land is very unlikely.

If the planning proposal is to proceed further, consideration of potential contamination can be dealt with after the DP&E "Gateway" determination.

Sydney Regional Environmental Plan No. 9 - Extractive Industry (No 2- 1995) - (SREP 9)

The primary aims of SREP 9 are to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of

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regional significance, and to ensure consideration is given to the impact of encroaching development on the ability of extractive industries to realise their full potential. The site is within the Richmond Lowlands Sand and Gravel Resource Area.

Should Council resolve to proceed with the planning proposal and receive a Gateway determination advising to proceed with the planning proposal from DP&E, the planning proposal will be referred to the Department of Industry for comments in accordance with Direction 1.3(4).

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

The aim of SREP No 20 (No. 2 - 1997) 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. This requires consideration of the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy, impacts of the development on the environment, the feasibility of alternatives and consideration of specific matters such as total catchment management, water quality, water quantity, flora and fauna, agriculture, rural residential development and the metropolitan strategy.

Specifically the SREP encourages Council to consider the following:

- *rural residential areas should not reduce agricultural viability, contribute to urban sprawl or have adverse environmental impact (particularly on the water cycle and flora and fauna);*
- *develop in accordance with the land capability of the site and do not cause land degradation;*
- *the impact of the development and the cumulative environmental impact of other development proposals on the catchment;*
- *quantify, and assess the likely impact of, any predicted increase in pollutant loads on receiving waters;*
- *consider the need to ensure that water quality goals for aquatic ecosystem protection are achieved and monitored;*
- *consider the ability of the land to accommodate on-site effluent disposal in the long term and do not carry out development involving on-site disposal of sewage effluent if it will adversely affect the water quality of the river or groundwater. Have due regard to the nature and size of the site;*
- *minimise or eliminate point source and diffuse source pollution by the use of best management practices;*
- *site and orientate development appropriately to ensure bank stability;*
- *protect the habitat of native aquatic plants;*
- *locate structures where possible in areas which are already cleared or disturbed instead of clearing or disturbing further land;*
- *consider the range of flora and fauna inhabiting the site of the development concerned and the surrounding land, including threatened species and migratory species, and the impact of the proposal on the survival of threatened species, populations and ecological communities, both in the short and longer terms;*
- *conserve and, where appropriate, enhance flora and fauna communities, particularly threatened species, populations and ecological communities and existing or potential fauna corridors;*
- *minimise adverse environmental impacts, protect existing habitat and, where appropriate, restore habitat values by the use of management practices;*

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- *consider the impact on ecological processes, such as waste assimilation and nutrient cycling;*
- *consider the need to provide and manage buffers, adequate fire radiation zones and building setbacks from significant flora and fauna habitat areas;*
- *consider the need to control access to flora and fauna habitat areas;*
- *give priority to agricultural production in rural zones;*
- *protect agricultural sustainability from the adverse impacts of other forms of proposed development;*
- *consider the ability of the site to sustain over the long term the development concerned;*
- *maintain or introduce appropriate separation between rural residential use and agricultural use on the land that is proposed for development;*
- *consider any adverse environmental impacts of infrastructure associated with the development concerned.*

The site falls within the Middle Nepean & Hawkesbury River Catchment Area of Sydney Regional Environmental Plan No.20 Hawkesbury - Nepean River (No.2 - 1997).

It is considered that future dwellings on the planned proposed lots have the potential to either satisfy the relevant provisions SREP No 20, or are able to appropriately minimise its impacts.

Hawkesbury Local Environmental Plan 2012

The site is zoned part RU4 Primary Production Small Lots and part SP2 Infrastructure (Classified Road) under the LEP. The current minimum lot size for subdivision of this land is 4ha.

The planning proposal seeks to amend Lot Size Map (Map Identification No. 3800_COM_LSZ_008BA_020_20140131) of the LEP to specify 4,000m² minimum lot size for the subject site (refer to Attachment 1 of this Report) which will allow subdivision of the land into large residential lots. Given the predominant rural residential and low density residential character of the immediate vicinity, and a mix of surrounding lot sizes ranging from approximately 550m² to 3ha, the planning proposal seeking to amend the Lot Size Map of the LEP to enable four large residential lots with minimum lot sizes of 4,000m² is considered appropriate.

However, this report does not propose to endorse any subdivision plan submitted in support of the planning proposal, hence it is not considered appropriate to support an amendment to the Lot Size Map of the LEP as proposed.

As an alternative, the applicant has proposed that Council insert an appropriate provision in the LEP to limit the maximum lot yield of the subdivision of the site consistent with the planning proposal to allow the site to be subdivided into four large rural residential lots. The DP&E will ultimately decide on the type of amendment to the LEP, however it is understood that at present the DP & E's preferred option is to amend the Lot Size Map of the LEP and not the inclusion of a clause or a provision in the LEP to limit the number of lots of subdivision of the land.

Access and Transport

The site is currently accessed via Castlereagh Road which is a Classified Road maintained by RMS. The site and several properties fronting Castlereagh Road are affected by future widening of Castlereagh Road by RMS. The Reservation Acquisition Map of the LEP identifies part of the subject site zoned SP2 Infrastructure and marked "Classified Road" for acquisition for future widening of the road. The relevant acquisition authority is the RMS. Should Council resolve to proceed with the planning proposal and receive a Gateway determination advising to proceed with the planning proposal from DP&E, the RMS

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needs to be consulted on this matter to consider the likely impact of the proposed development on the current traffic movement in the locality.

The planning proposal is not supported by a traffic impact statement and the cumulative impact of similar proposals that may occur in the future has not been taken into consideration by the planning proposal. It is considered that this is a matter for Council and Roads and Maritime Services (RMS) to address with the outcome being incorporated into affected planning proposals.

Public transport is limited to the Westbus Route 678 service between Richmond and Penrith. The bus service operates every 30-60 minutes during peak periods and just one trip per day during off peak period. On Saturdays, there are only two trips in the morning peak period. Given the very limited frequency of services, the future occupants of the proposed subdivision will most likely rely upon private vehicles for transportation.

Topography

The subject site has an elevation of approximately 20.5m AHD towards Castlereagh Road, and is fairly flat. According to Council's slope mapping, the entire site area has a slope less than 10% as shown in Figure 8 below.



Figure 8: Slope Analysis

The HRLS recognises slopes greater than 15% act as a constraint to development and future subdivision of the site for large rural residential lots would need to be limited to that area of land having a slope less than 15%. Given this criterion there is not any slope constraint for subdivision of the land into four lots.

Ecology

The planning proposal is not accompanied by a flora and fauna survey and assessment report, and the applicant provides the following information on flora and fauna on the site:

'Despite that the site only has scattered vegetation shade trees the site is included in the Terrestrial Biodiversity Map within Council's LEP2012. The map indicates that approximately ¾ of the site is classified as "significant vegetation".

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Whilst a flora/fauna assessment of the site has not been carried out at this stage it can be seen from perusal of the aerial photograph of the site on the cover of this report that the subdivision and dwelling locations can take place without impact on vegetation. It is not considered that a formal report on flora/fauna of the site is required at this stage but would be more appropriate if identified through the Gateway process of the Department of Planning & Environment. In reality however vegetation will not be affected and a flora/fauna assessment is probably not required'.

The Terrestrial Biodiversity Map of the LEP identifies approximately 80% of the site area as 'endangered ecological community' as shown in Figure 9 below.



Figure 9: Extract of Terrestrial Biodiversity Map

Council vegetation mapping records the site as containing Shale Plains Woodland, the most widely distributed form of Cumberland Plain Woodland which is listed as an endangered ecological community (EEC) under the *NSW Threatened Species Conservation Act 1995* as shown in Figure 10.

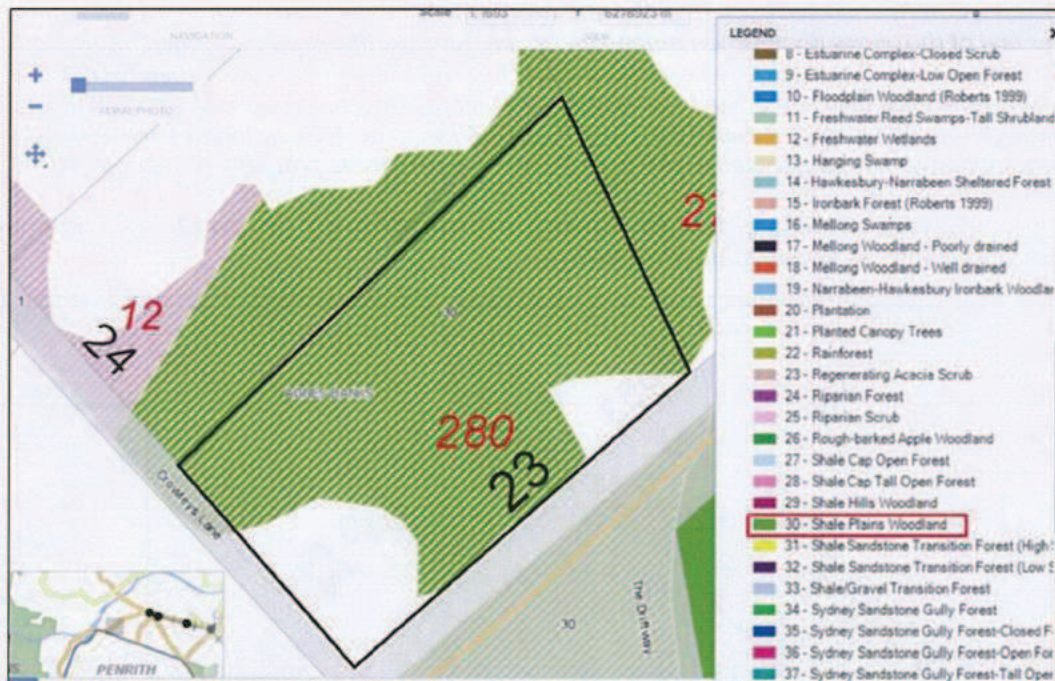


Figure 10: Extract of Council's Vegetation Map

An aerial view of the site which is superimposed onto the subdivision concept plan in Figure 11 indicates that the proposed lots have some areas of land free of any significant vegetation.



Figure 11: Subdivision Concept Plan Overlaying on Existing Vegetation

However, approximately 70% of the land area of proposed Lot 33 contains vegetation, in addition to the existing dam, and therefore it is not considered that this lot has adequate developable area to accommodate a suitable building footprint and on-site sewage system without affecting any asset protection zone required under *Planning for Bushfire Protection 2006*. If the subject site can access the existing reticulated water and sewage system that runs along the site frontage as indicated by the applicant it may be possible to accommodate a building footprint.

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Given the planning proposal does not seek to amend Clause 6.4 Terrestrial Biodiversity of the LEP or the associated map layer, a detailed consideration of any future development of the land can occur at development application stage.

However, given the presence of significant vegetation on the site, a flora and fauna assessment report needs to be prepared and submitted by a suitably qualified and experienced consultant. This can be undertaken at the post "Gateway" determination stage prior to the commencement of the government agency consultation. However, the DP&E will be able to consider this matter as part of their "Gateway" determination.

Bushfire Hazard

The site is shown as being bushfire prone (Bushfire Vegetation Category 1) on the NSW Rural Fire Service's Bushfire Prone Land Map.

The planning proposal is not accompanied by a bushfire assessment report. Given the site is identified as bushfire prone, the planning proposal will be referred to the NSW Rural Fire Service (RFS), being the responsible authority for bushfire protection, for comments should Council resolve to proceed with the planning proposal and receive a "Gateway" determination advising to proceed with the planning proposal from DP&E.

Agricultural Land Classification

The site is shown as being Agriculture Land Classification 4 on maps prepared by the former NSW Department of Agriculture. These lands are described by the classification system as:

- "4. Land suitable for grazing but not for cultivation. Agriculture is based on native pastures or improved pastures established using minimum tillage techniques. Production may be seasonally high but the overall production level is low as a result of major environmental constraints."

Given the proximity of the subject site to surrounding low density and rural residential properties, and the size of the site it is considered that it is unlikely the site could be used for a substantial or sustainable agricultural enterprise.

Character

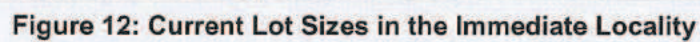
The applicant states that:

'The site has some scattered vegetation. There would not be any substantive change to the landscape of the site or surroundings if the subdivision were to proceed. Additional dwellings are not beyond the capacity of the land and development of the land as proposed would be hardly distinguishable in the context of the site and its surrounds'.

The immediate locality is characterised by a mix of lot sizes with varying frontages, shapes and sizes.

Smaller lots are located immediately adjacent in Castlereagh Road, whilst larger lots are generally located to the north and east as shown in Figure 12.

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Given the predominant rural residential and low density residential character of the immediate vicinity, and a mix of lot sizes ranging from approximately 550m² to 3ha in the immediate vicinity, the intended outcome of the planning proposal to subdivide the land into large residential lots with minimum lot sizes of 4,000m² is not inconsistent with the existing character of the locality.

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Services

According to the applicant, the site has access to electricity, telecommunication, garbage and recycling services. The applicant also states that:

'The land has a reticulated water supply and sewerage past its frontage. It is not known at this stage if each proposed lot would be able to connect to these services however the each lot is capable of containing on-site wastewater disposal and matters relating to vegetation management and bushfire control can be satisfied'.

The planning proposal is not accompanied by a wastewater feasibility assessment report or any other relevant statement or study demonstrating that the proposed lots will be able to accommodate an on-site sewage system without affecting the existing vegetation and required asset protection zone. If the subject site was denied access to the reticulated sewerage system, the development of the subject site will need to rely upon on-site sewage systems. Therefore, a detailed soil assessment will need to be undertaken at the subdivision application stage to confirm the exact sizing and location of the effluent disposal areas.

Given a reticulated sewage system is running along the frontage of the site, the planning proposal would need to be referred to Sydney Water. However, the DP&E will consider this as part of their "Gateway" determination.

Heritage

The site is not identified as a heritage item/property in Schedule 5 Environmental Heritage of LEP 2012 or located within a conservation area and also not subject to any heritage order or identified as a heritage item. A few heritage properties with local significance are located in the vicinity. The likely impacts of the future subdivision of the subject site on these heritage properties can be determined at the subdivision application stage.

Given these heritage listed properties are within the vicinity of the subject site, the planning proposal will be referred to the NSW Office of Environment and Heritage for comments should Council resolve to proceed with the planning proposal and receive a "Gateway" determination advising to proceed with the planning proposal from DP&E.

Section 94 Contributions or a Voluntary Planning Agreement

The planning proposal should be covered by a Section 94 Developer Contributions Plan (S94 Plan) or a Voluntary Planning Agreement (VPA) prior to completion. The current Hawkesbury Section 94 Plan does not apply to residential development in Agnes Banks. If the planning proposal is to proceed further, a draft VPA or an addition to the current S94 Plan to support the required infrastructure upgrade in the locality to support the development would need to be prepared by the applicant in consultation with Council.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is considered to be consistent with the Looking after People and Place Directions statement, and specifically:

- Offer residents a choice of housing options that meet their needs whilst being sympathetic to the qualities of the Hawkesbury.
- Population growth is matched with the provisions of infrastructure and is sympathetic to the rural, environmental, heritage values and character of the Hawkesbury.
- Have development on both sides of the river supported by appropriate physical and community infrastructure.

Conclusion

ORDINARY MEETING

Meeting Date: 10 May 2016

It is considered that some form of residential development on the subject site is appropriate and feasible. It is therefore recommended that Council support and submit the planning proposal to the Department of Planning and Environment (DP&E) for a 'Gateway' determination.

Financial Implications

The applicant has paid the fees required by Council's fees and charges for the preparation of a local environmental plan.

If the planning proposal is to proceed further, a draft VPA or S94 Plan to support the required infrastructure upgrade in the locality to support the development would need to be prepared by the applicant in consultation with Council.

Planning Decision

As this matter is covered by the definition of a "planning decision" under Section 375A of the *Local Government Act 1993*, details of those Councillors supporting or opposing a decision on the matter must be recorded in a register. For this purpose a division must be called when a motion in relation to the matter is put to the meeting. This will enable the names of those Councillors voting for or against the motion to be recorded in the minutes of the meeting and subsequently included in the required register.

RECOMMENDATION:

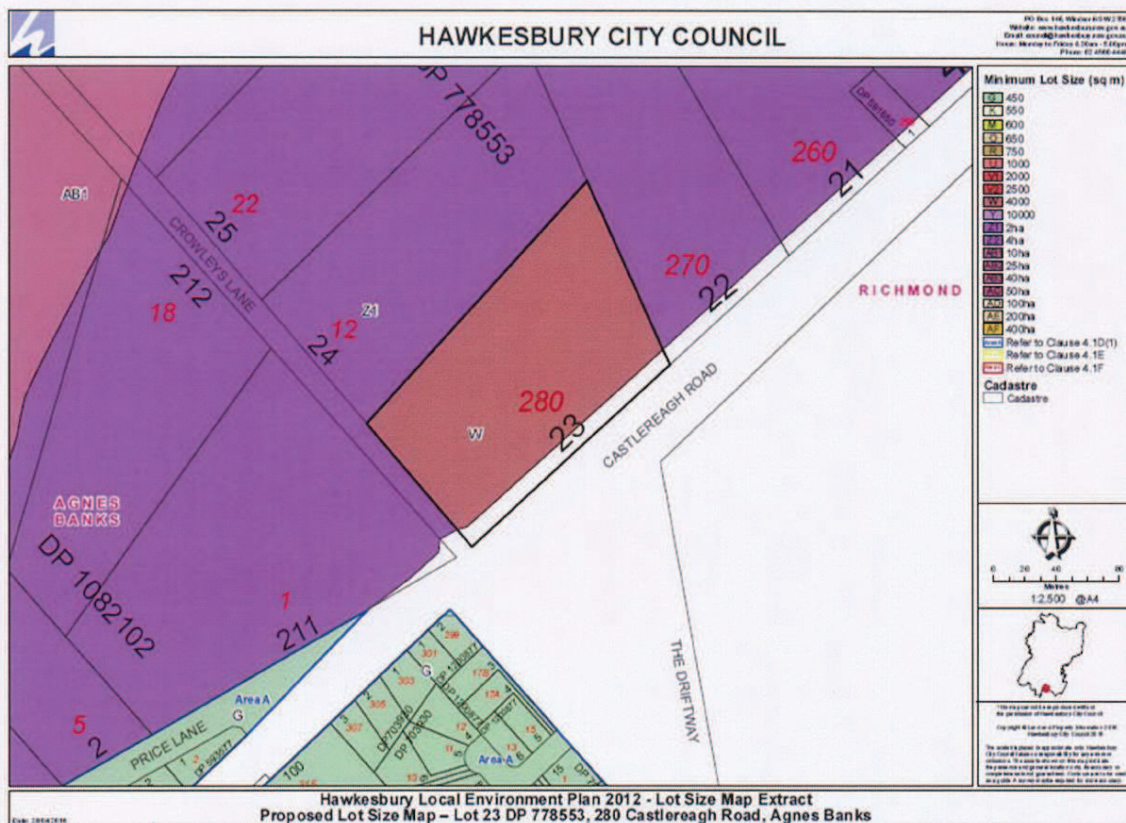
That:

1. Council support the planning proposal for Lot 23 DP 778553, 280 Castlereagh Road, Agnes Banks to allow development of the land for a large lot rural residential development with a minimum lot size of not less than 4,000m².
2. The planning proposal be forwarded to the Department of Planning and Environment for a "Gateway" determination.
3. The Department of Planning and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.
4. The Department of Planning and Environment and the applicant be advised that in addition to all other relevant planning considerations being addressed, final Council support for the proposal will only be given if Council is satisfied that satisfactory progress, either completion of the Section 94 Developer Contributions Plan or a Voluntary Planning Agreement, has been made towards resolving infrastructure provision for this planning proposal.

ATTACHMENTS:

AT - 1 Proposed Minimum Lot Size Map

AT - 1 Proposed Minimum Lot Size Map



0000 END OF REPORT 0000

ACTION ITEM

ADOPTED

At the ORDINARY Meeting held on *10 May 2016*

User Instructions

To view the original Agenda Item, refer to the Meeting tab using the above date.

Resolved Items Action Statement

Action is required for the following item as per the Council Decision or Resolution Under Delegated Authority.

Item: 77

CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 280 Castlereagh Road, Agnes Banks - (95498, 124414)

Mr Glen Falson addressed Council, speaking for the recommendation.

MOTION:

RESOLVED on the motion of Councillor Rasmussen, seconded by Councillor Paine.

Refer to RESOLUTION

123 RESOLUTION:

RESOLVED on the motion of Councillor Rasmussen, seconded by Councillor Paine.

That:

1. Council support the planning proposal for Lot 23 DP 778553, 280 Castlereagh Road, Agnes Banks to allow development of the land for a large lot rural residential development with a minimum lot size of not less than 4,000m².
2. The planning proposal be forwarded to the Department of Planning and Environment for a "Gateway" determination.
3. The Department of Planning and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.
4. The Department of Planning and Environment and the applicant be advised that in addition to all other relevant planning considerations being addressed, final Council support for the proposal will only be given if Council is satisfied that satisfactory progress, either completion of the Section 94 Developer Contributions Plan or a Voluntary Planning Agreement, has been made towards resolving infrastructure provision for this planning proposal.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

For the Motion	Against the Motion
Councillor Conolly	Councillor Creed
Councillor Mackay	Councillor Lyons-Buckett
Councillor Paine	Councillor Porter
Councillor Rasmussen	
Councillor Reardon	
Councillor Williams	

Councillors Calvert, Ford and Tree were absent from the meeting.

ATTACHMENT 4 – EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area:Hawkesbury City Council

Name of draft LEP:LEP007/15 - 280 Castlereagh Road, AGNUS BANKS NSW 2753

Address of Land (if applicable): Lot 23 DP 778553, 280 Castlereagh Road, AGNUS BANKS NSW 2753

Intent of draft LEP: Allow development of the site for large lot residential purposes

Additional Supporting Points/Information: Planning proposal prepared by Glenn Falson Urban and Rural Planning Consultant