

ORDINARY MEETING

Meeting Date: 26 May 2015

Item: 75 **CP - LEP004/14 - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 6 Speedwell Place, South Windsor - (95498, 124414)**

Previous Item: 2, Ordinary (3 February 2015)

REPORT:

In September 2014, Council received a planning proposal from Natalie Richer Planning seeking to rezone part of Lot 21 DP 806993, 6 Speedwell Place, South Windsor from RU1 Primary Production to IN1 General Industrial under *Hawkesbury Local Environmental Plan 2012* (the LEP). This is to allow development of an increased portion of the subject site for general industrial purposes and retain the balance for rural purposes.

On 3 February 2015, Council considered a report on the planning proposal and resolved to defer the matter pending a further report regarding the importation of fill to the site.

This report provides information regarding the filling of the site following further information provided by the applicant on 16 April 2015.

It is recommended that the preparation of a planning proposal to rezone part of the site to IN1 General Industrial as explained in the previous Council report attached as Attachment 1 to this report, be supported.

Consultation

The planning proposal has not yet been exhibited. 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 (the Act) and associated Regulations and as specified in the Gateway determination.

Background

On 3 February 2015, Council considered the attached report on a planning proposal seeking to rezone part of Lot 21 DP 806993, 6 Speedwell Place, South Windsor from RU1 Primary Production to IN1 General Industrial under the LEP to allow development of an increased portion of the subject site for general industrial purposes and retain the balance for rural purposes. The Council resolution on this matter was as follows:

"That Council defer the matter pending a further report regarding the fill on the site."

Filling of the site

In March 2007, Council approved a development application (DA 358/06) seeking approval for intensive agriculture, land filling, dam construction and a wholesale plant nursery on the site. The proposed development of the site consisted of the filling of the site to grade evenly from the western boundary to two elevated storage dams and enable construction of the proposed whole sale plant nursery with associated sales office and car parking area on the graded platform at a level of 16m AHD.

The land fill covers an area of approximately 4.4ha to a maximum depth of 3.26m and average depth of 1.27m. The proposed timeframe for the filling operation was three years based on the likely availability of suitable fill material and climatic conditions.

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Condition No 43 of the development consent allowed the filling of the site only with uncontaminated virgin excavated natural material (VENM). A later amendment to this condition allows filling of the site with excavated natural material (ENM). Condition 45 required the land filling to be undertaken in stages to reduce the amount of exposed soil at any one time to reduce dust nuisance. Condition 50 required the construction of the proposed wholesale plant nursery with associated sales office and car parking area upon completion of the filling of part of the site at a level of 16m AHD.

The applicant advised that the importation of fill to the site commenced soon after a construction Certificate was received from Fitzgerald Building Certifiers Pty Ltd in September 2008. However since that time, the site was closed to filling for a period of two years due to technical reasons.

According to the applicant the site has been filled with approximately 150,000m³ of soil to-date, and further filling on the site with approximately 100,000m³ of soil up to the approved level of 16m AHD is expected to be completed within two years time subject to material availability and the economic conditions.

The applicant advised that the current stockpiles of soil near the northern boundary of the site are topsoil and overburden stripped from the site which needs to be screened as per the Environmental Site Management Plan applying to the site. Currently the screening work is being done.

As mentioned in the previous Council report attached as Attachment 1 to this report, some materials used to fill the site initially were not VENM as required by the original development consent. As a result, in June 2013 Council received a development application (DA0291/13) for site remediation works supported by a remediation action plan (RAP) prepared by David Lane Environmental to address minor asbestos contamination that occurred on the site as a result of the use of non-recommended fill material.

In March 2014 a review of the present land use suitability of the site undertaken by DLA Environmental (DLA) in accordance with the amended National Environmental Protection (Assessment of Site Contamination) Measures (NEPM) guidelines 2013 stated that:

"The site is now considered suitable for its intended land use and requires no remedial actions to be undertaken and can be developed in its current state without risk to human health or the environment. The Site identified as Lot 21 DP806993, located at 6 Speedwell Place NSW, complies with the most sensitive health investigation levels, being Residential A - Residential with accessible soils, in accordance with NEPM 2013 and as such complies with the designated Industrial/Commercial land use criteria".

Despite this finding of the review, it is recommended that if the planning proposal is to proceed, further consideration of potential contamination be dealt with after DP&E's Gateway determination.

The assessment of the planning proposal contained in the previous Council report, attached, revealed that the planning proposal is generally consistent with the relevant state and local plans, policies and strategies. The report concluded that the planning proposal has some merit and the site has potential for some form of industrial development. Therefore, it is recommended that Council support amending the LEP to allow part of the subject site to be developed for general industrial purposes.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Supporting Business and Local Jobs Directions statement.

- Plan for a range of industries that build on the strengths of the Hawkesbury to stimulate investment and employment in the region.
- Offer an increased choice and number of local jobs and training opportunities to meet the needs of Hawkesbury residents and to reduce their travel times.
- Help create thriving town centres, each with its own character that attracts residents, visitors and businesses.

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Financial Implications

The applicant has paid the planning proposal application fees required by Council's Fees and Charges for the preparation of a local environmental plan.

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. The information regarding the history of approvals of fill on the site be received.
2. Council support the preparation of a planning proposal to rezone part of Lot 21 DP 806993, 6 Speedwell Place, South Windsor from RU1 Primary Production to IN1 General Industrial under Hawkesbury Local Environmental Plan 2012.
3. The planning proposal be forwarded to the Department of Planning and Environment with a request for a Gateway determination.
4. The Department of Planning and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.

ATTACHMENTS:

AT - 1 Council Report (Item 2, Ordinary Meeting, 3 February 2015)

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AT - 1 Council Report (Item 2, Ordinary Meeting, 3 February 2015)

Item: Business Paper - Ordinary Meeting Agenda - 26 May 2015

REPORT:

Executive Summary

This report discusses a planning proposal from Natalie Richter Planning (the applicant) which seeks to rezone part of Lot 21 DP 806993, 6 Speedwell Place, South Windsor from RU1 Primary Production to IN1 General Industrial to allow development of an increased portion of the land for general industrial purposes and retain the balance for rural purposes. The site is located within the recommended South Windsor investigation area identified by the Hawkesbury Employment Land Strategy (HELS).

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

Consultation

The planning proposal has not yet been exhibited. 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* (the Act) and associated Regulations and as specified in the Gateway determination.

Planning Proposal

The planning proposal submitted by the applicant seeks an amendment to the Land Zoning Map of Hawkesbury Local Environmental Plan 2012 (the LEP) to rezone part of the site zoned from RU1 Primary Production to IN1 General Industrial under the provisions of the LEP to allow industrial and ancillary uses on that part of the land.

The planning proposal is supported by the following reports:

- Bushfire Assessment Statement prepared by Building Code & Bushfire Hazard Solutions Pty Ltd.
- Remediation Action Plan/Environmental Assessment prepared by DLA Environmental.

Subject Site and Surrounds

The subject site is located to the east of the South Windsor shops (a Small Village Centre), and is immediately east of the existing South Windsor industrial area. The site is located approximately 1.9kms from the Windsor Railway Station and 2.9kms from the Windsor Town Centre (see Figure 1 below). The site has a rear boundary to South Creek.

The site is legally described as Lot 21 DP 806993, 6 Speedwell Place, South Windsor, and has an area of approximately 11.45ha. The overall site is approximately 203m wide and 545m long and is accessed via an approximately 65m long and 8m wide access handle off Speedwell Place which forms part of the site (see Figure 2 below).

The site (other than the access handle) is zoned RU1 Primary Production and the access handle with an area of approximately 525m² is zoned IN1 General Industrial under the LEP.

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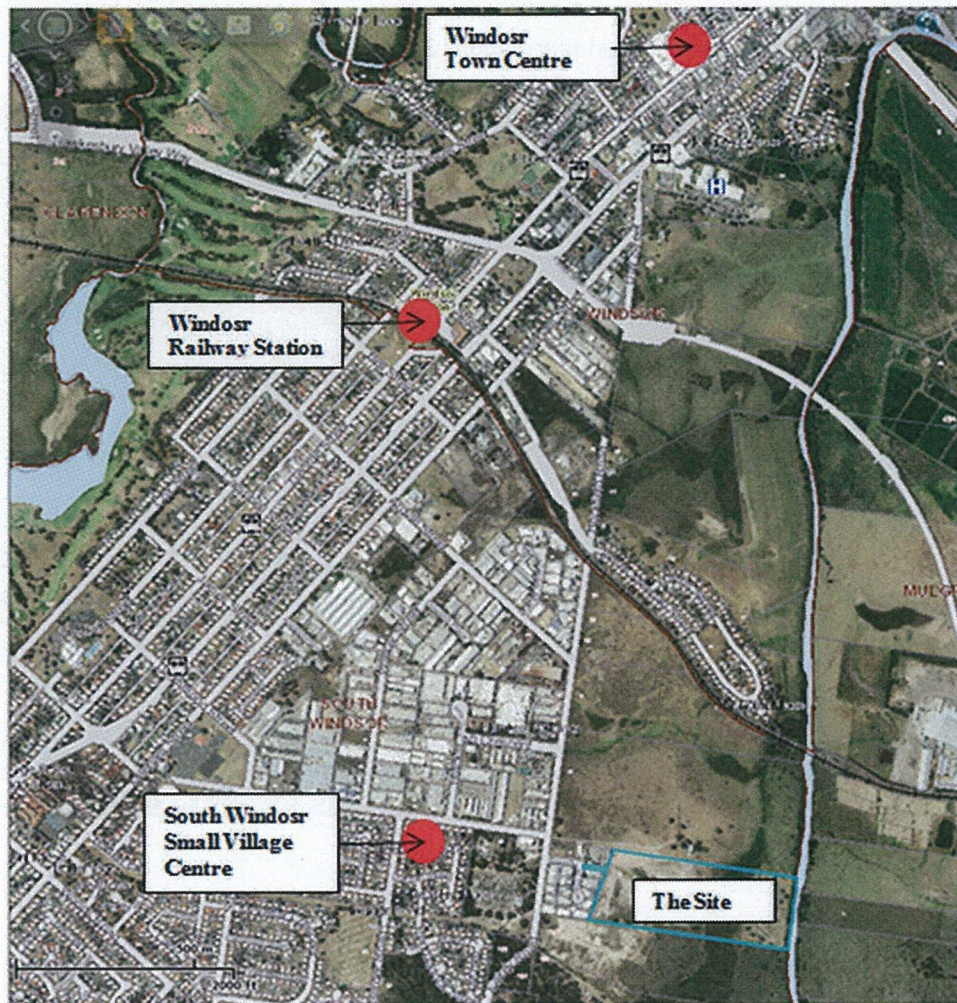


Figure 1: Locality Map

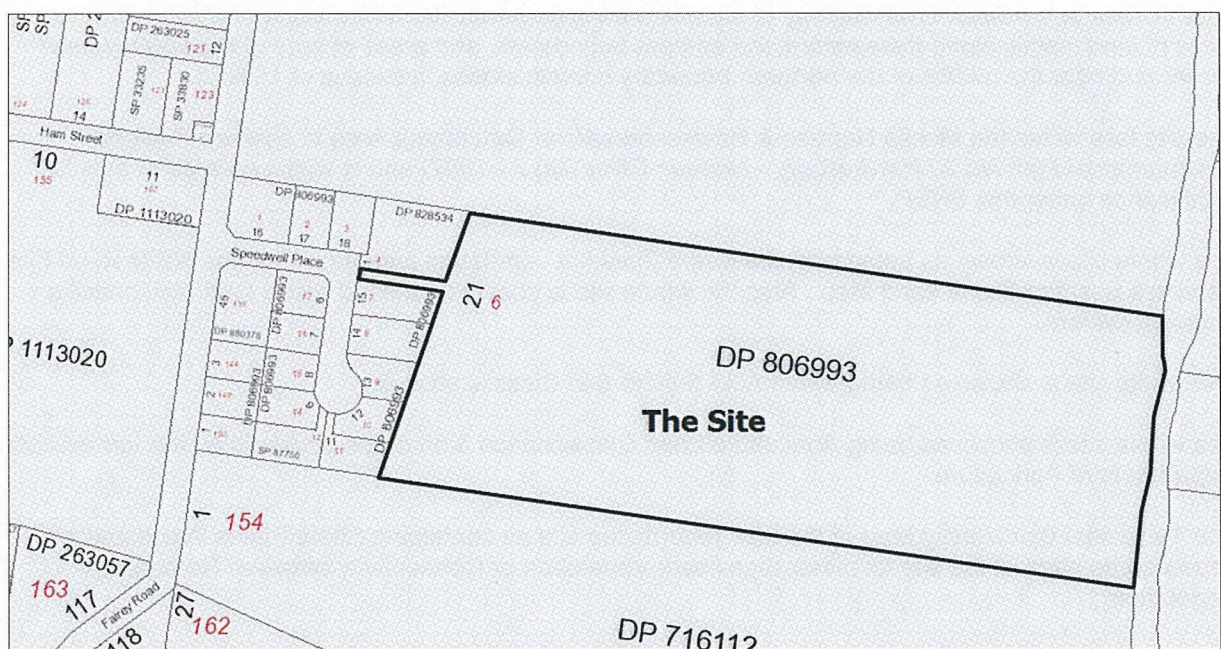


Figure 2: Subject Site

The site is currently vacant and undeveloped (see Figure 3).

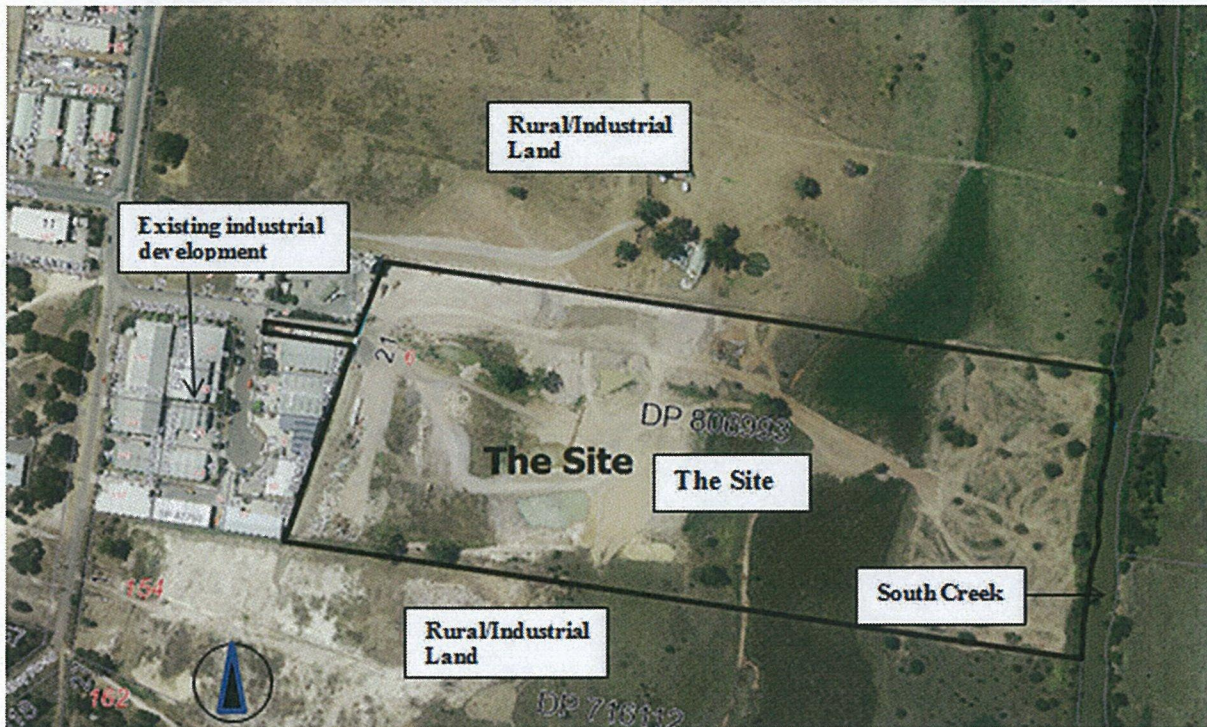


Figure 3: Aerial View of the Site

Whilst the existing industrial development fronting Speedwell Place forms the western boundary of the site, South Creek forms the eastern boundary and similarly split zoned Industrial/Rural properties form northern and southern boundaries (see Figure 3 above).

According to Council's mapping information the natural elevation of the site varies between 1m AHD at eastern boundary and 16m AHD at western boundary and the site generally falls north-easterly direction to South Creek at 1m AHD. The majority of the site area is generally flat with a slope of 6% or less. Narrow strips of land mainly along the western and eastern boundaries, and areas of land at the south-western corner and near the middle of the northern boundary contain slopes in excess of 15%.

The site falls within the Middle Nepean & Hawkesbury River Catchment Area of *Sydney Regional Environmental Plan No.20 Hawkesbury - Nepean River (No.2 - 1997)* and is within an area of scenic significance under this SREP.

The whole site is shown as being bushfire prone (bushfire vegetation category 1) on the NSW Rural Fire Service's Bushfire Prone Land Map. Also the whole site is shown as a flood prone land on Council's mapping system.

The whole site is shown as being within Acid Sulfate Soil Classification 5.

The whole site is shown as being Agriculture Land Classification 3 on maps prepared by the former NSW Department of Agriculture.

The Terrestrial Biodiversity Map of the LEP records the site as containing Shale Plains Woodland and shows some parts of the site as either Significant Vegetation or Connectivity between Remnant Vegetation.

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According to Council's records, a development application for the use of the site as intensive horticulture, land filling and a wholesale plant nursery (DA 358/06) was approved for the land in March 2007. Council's records also show that a dwelling house was approved on the site in 1992 and 1997. The site has previously been used as a building materials storing facility, a recycling facility and pasture and grazing land. In the early nineties part of the site near the southern boundary was used as a 'borrow pit' to fill the adjoining industrial land that has been subdivided later.

The site is surrounded by a mixture of land uses including industrial, rural, residential and public recreation uses. Properties immediately to the north and south are zoned both IN1 General Industrial and RU1 Primary Production, properties immediately to the west are zoned IN1 General Industrial and east are zoned RU1 Primary Production.

Applicant's Justification of Proposal

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

- *The site is located within an area zoned for industrial/employment services. This area is well serviced by transport and is located nearby the Windsor Town Centre and surrounding residential areas.*
- *The proposal is considered reasonable given that the access handle of the site is zoned for industrial and that the adjoining properties are zoned for industrial.*
- *Given the position of the site within industrial land, the proposed adjusted ratio of RU1 and IN1 is considered appropriate.*
- *Given the interface with industrial uses and site presentation, the site is not considered particularly suitable for agricultural purposes.*
- *The proposal will boost the take up of industrial land given that the owner/business operator will provide for the necessary servicing.*
- *The proposal will provide more opportunities for working close to home in line with local and metropolitan planning objectives.*
- *The site is cleared and altered, lending itself to industrial uses (similar to those surrounding) as opposed to rural.*
- *Future development could incorporate improvements to landscaping, parking and road links and site rehabilitation.*
- *The proposal represents the efficient use of available land, sustainable and energy efficient development and has the effect of relieving land pressure in outer areas in keeping with local and metropolitan land development objectives.*
- *The lower section of the site could be used for agricultural purpose, providing a balance between Council's industrial/employment generating and agricultural objectives.*
- *The planning proposal is considered to be consistent with the relevant state and local planning policies.*
- *The proposal will not have any adverse implications on flood planning, trees, biodiversity, acid sulfate soils or wetland. The site is not classified as heritage.*

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- The site does not display a rural or landscape character. The area proposed to be expanded is adjoined on either side by the IN1 zone, so the proposal results in a logical expansion and alignment of IN1 zonings. The rear portion of the site is to be retained for rural purposes and to protect the natural environment, in line with the RU1 objectives. Land use conflicts are not expected.

Hawkesbury Employment Lands Strategy 2008

In December 2008 Council adopted the Hawkesbury Employment Lands Strategy (HELS). The purpose of the strategy is to provide a planning framework for employment precincts (industrial, commercial, retail) and locations for a range of employment types to support and enhance the economic competitiveness of the Hawkesbury region. The HELS recommended Council pursue eight strategies to increase the economic prosperity of the Hawkesbury LGA. The recommended Strategy 5 of the HLES states that:

"Additional land could be zoned industrial where demand is identified and conditions are met. Areas that would be appropriate for such investigations include South Windsor, and North Richmond which are close to current population concentrations, and Mulgrave which is close to McGraths Hill and to the North West Growth Centre (expected to accommodate up to 67,000 new dwellings), and can also service the growing Pitt Town Area."

At South Windsor areas to the east of Fairey Road not currently zoned for industrial land uses should be considered for industrial.

The site is located within the recommended South Windsor investigation area (see Figure 4).

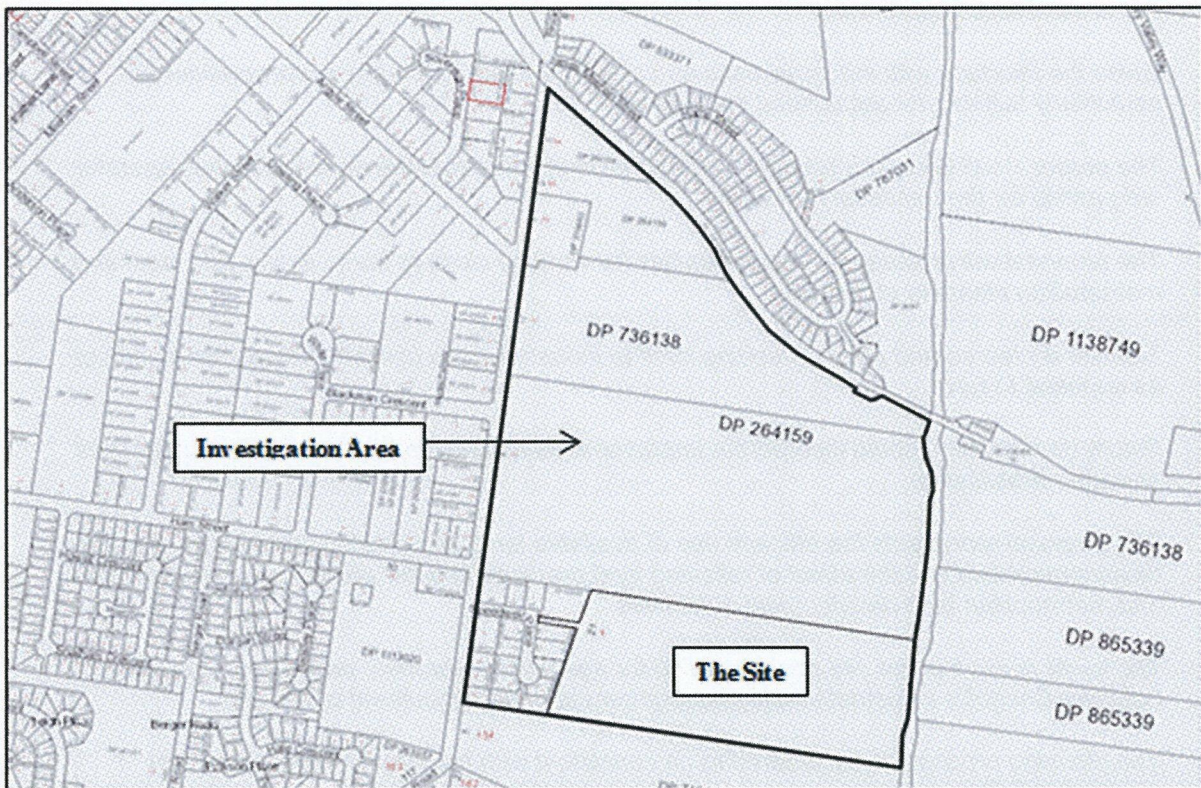


Figure 4: South Windsor Investigation Area

Given the site is located within the area recommended for investigation the planning proposal seeking rezoning of the land to IN2 Light Industrial is generally consistent with the HELS.

Hawkesbury Local Environmental Plan 2012

The site is currently zoned part RU1 Primary Production and part IN1 General Industrial under the LEP (see Attachment 1). A range of land uses are permitted in the RU1 zone but industrial uses are not a permitted land use in the zone. Therefore, the planning proposal is seeking to amend the Land Zoning Map of the LEP to rezone part of the subject site to IN1 General Industrial to allow development of that part of the land for general industrial purposes (see Attachment 2).

As shown in Attachment 1 to this report the properties immediately west of the site are zoned IN1 General Industrial and the properties immediately north and south are zoned part IN1 General Industrial and part RU1 Primary Production. The properties east of the site are zoned RU1 Primary Production. The predominant zonings in the immediate locality are IN1 General Industrial and RU1 Primary Production. Therefore, the planning proposal seeking rezoning part of the site to IN1 General Industrial which is aligned with the current IN1 General Industrial zoned land immediately north and south of the site and retaining the current RU1 Primary Production zoning for the remainder of the site is considered generally consistent with the surrounding zonings (see Attachment 2).

Section 117 Directions

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 (See 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 1.1 Business and Industrial Zones

The objectives of this direction are to:

- a) encourage employment growth in suitable locations;
- b) protect employment land in business and industrial zones, and
- c) support the viability of identified strategic centres.

The planning proposal seeks to rezone part of the subject land from a rural to general industrial zone. The land adjoins the existing South Windsor light industrial area. This will therefore enable the expansion of the established industrial area and economic development of the site for a range of general industrial uses including light industries, depots, freight transport facilities, general industries, industrial training facilities, neighbourhood shops, warehouse or distribution centres. Additionally the land is in close proximity to the South Windsor Small Village Centre and the surrounding residential population so the land has potential to boost economic, business and employment activities in the locality and help improve the viability of the small village centre. Hence, it is considered that the planning proposal is consistent with this direction.

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).

There is a minor inconsistency with this direction as the planning proposal seeks to rezone RU1 Primary Production zoned land area within the site to IN1 General Industrial to allow certain general industrial uses on the site. This minor inconsistency is justified with the following reasons:

- This is a good opportunity to provide additional industrial land adjacent to the established South Windsor industrial area and in proximity to South Windsor Small Village Centre Windsor Town Centre and the Windsor Railway Station and Bus Interchange to enable improved viability of the Centres and the public transport system consistent with both State and Local Government strategic frameworks.

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- The subject land is located within the recommended investigation area for future industrial uses in the HELS.
- Given the location of the site adjacent to the established South Windsor industrial area, as well as its easy access to community infrastructure, the land can be developed more economically for industrial purposes than a rural or an agricultural use to boost the local economy.
- Future development of that part of the land for general industrial purposes is more compatible with surrounding land uses.
- The land appears not to have been previously used for agricultural use (other than grazing). The majority of the site would remain zoned RU1 Primary Production and is not proposed for rezoning hence would still be available for agricultural purposes if required.

Direction 1.3 Mining, Petroleum Production and Extractive Industries

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 NSW Trade and Investment (NSW T&I) would be consulted accordance with Direction 1.3(4).

Direction 3.4 Integrating Land Use and Transport

The objective of this Direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) *improving access to housing, jobs and services by walking, cycling and public transport,*
- (b) *increasing the choice of available transport and reducing dependence on cars,*
- (c) *reducing travel demand including the number of trips generated by development and the distances travelled, especially by car,*
- (d) *supporting the efficient and viable operation of public transport services, and*
- (e) *providing for the efficient movement of freight.*

The Planning Proposal will enable approximately 3.4ha of industrial employment land with reasonably good access to both rail and road transport networks and improved local business/retail activities and employment opportunities within a reasonable walking distance from the South Windsor Small Village Centre and surrounding residential development, thereby minimising likely travel demand and distance for shopping and employment activities. It is therefore considered that the proposed planning proposal is generally consistent with this Direction.

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 DP&E. 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 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.

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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 study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act. An acid sulfate soil study has not been included in the planning proposal.

The land has been filled since the preparation of the Acid Sulfate maps and the DP&E will consider this as part of their Gateway determination and if required can request further information/consideration of this matter.

Direction 4.3 Flood Prone Land

The objectives of this Direction are:

- (a) *to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and*
- (b) *to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

This Direction states that:

- Planning proposals 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 (including the Guideline on Development Controls on Low Flood Risk Areas).
- A planning proposal must not rezone land within the flood planning areas from special use, special purpose, recreation, rural or environmental protection zones to a residential, business, industrial, special use or special purpose zone.
- A planning proposal must not contain provisions that apply to the flood planning areas which:
 - (a) permit development in floodway areas,
 - (b) permit development that will result in significant flood impacts to other properties,
 - (c) permit a significant increase in the development of that land,
 - (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or
 - (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodway or high hazard areas), roads or exempt development.

The land is identified as flood prone land. Clause 6.3 Flood Planning of the LEP makes provisions for flood prone land, and the planning proposal does not contain any flood planning provisions. According to the NSW Floodplain Development Manual 2005, Council has developed and adopted the Hawkesbury Floodplain Risk Management Study and Plan for the entire Hawkesbury LGA to enable effective development and management of flood prone land with minimal impact of flooding on individual owners and occupiers of flood prone property and to reduce private and public losses resulting from floods, and the likely impacts of future development of the land on flood management and evacuation can be effectively assessed at development application stage.

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However there is a minor inconsistency with this direction as it is proposed to rezone part of the flood prone site to IN1 General Industrial. This inconsistency has already been justified under the Direction 1.2 Rural Zones above.

It is anticipated that due to the flood affectation of the land the planning proposal will be referred to the Office of Environment and Heritage and the State Emergency Service for consideration.

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*
 - (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 Land Zoning Map only. It is therefore considered that the proposed amendment is consistent with this Direction.

Direction 7.1 Implementation of the Metropolitan Strategy

The objective of this Direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the *Metropolitan Plan for Sydney 2036*. This Direction requires that planning proposal should be consistent with the NSW Government's *Metropolitan Plan for Sydney 2036*.

'*Metropolitan Plan for Sydney 2036*', which is one of the issues taken into consideration in the early part of the assessment of the Planning Proposal, establishes that the planning proposal is consistent with this Plan.

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The Section 117 Directions do allow for planning proposals to be inconsistent with the Directions. In general terms a planning proposal may be inconsistent with a Direction only if the DP&E is satisfied that the proposal is:

- a) justified by a strategy which:
 - gives consideration to the objectives of the Direction, and
 - identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
 - is approved by the Director-General of the DP&I, or
- b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this Direction, or
- c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this Direction, or
- d) is of minor significance.

The HELS has been prepared with consideration given to the various policies and strategies of the NSW Government and Section 117 Directions of the Minister. In this regard, a planning proposal that is consistent with the Hawkesbury Employment Land Strategy is more likely to be able to justify compliance or support for any such inconsistency.

State Environmental Planning Policies

The State Environmental Planning Policies of most relevance are *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, is it suitable for future permitted uses in its current state or does it require 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.

Council records reveal that materials used to fill the site was not the Council recommended Virgin Excavated Natural Materials (VENM) in the development approval for Intensive agriculture, land filling, dam construction and operation of a wholesale nursery (DA 0358/06).

In June 2013 Council received a DA0291/13 for site remediation works supported by a remediation action plan (RAP) prepared by David Lane Environmental to address the minor asbestos contamination that occurred on the site.

A review of the present land use suitability of the site undertaken by DLA Environmental (DLA) in accordance with the amended National Environmental Protection (Assessment of Site Contamination) Measures (NEPM) guidelines 2013 in March 2014 states that:

"The site is now considered suitable for its intended land use and requires no remedial actions to be undertaken and can be developed in its current state without risk to human health or the environment. The Site identified as Lot 21 DP806993, located at 6 Speedwell Place NSW, complies with the most sensitive health investigation levels, being Residential A - Residential with accessible soils, in accordance with NEPM 2013 and as such complies with the designated Industrial/Commercial land use criteria".

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As a result DA0291/13 has been withdrawn as remedial work was no longer required.

The applicant states that:

"Further investigations and potential remediation may be required for future industrial development of the site, however the likelihood and type of potential contamination does not preclude the site for use as industrial."

Despite the findings of the above review, if the planning proposal is to proceed, further consideration of potential contamination can be dealt with after DP&E's 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 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 not within the vicinity of land described in Schedule 1, 2 and 5 of the SREP nor will the proposal development restrict the obtaining of deposits of extractive material from such land.

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

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. 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 SREP 20 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; when considering a proposal for the rezoning or subdivision of land which will increase the intensity of development of rural land (for example, by increasing cleared or hard surface areas) so that effluent equivalent to that produced by more than 20 people will be generated, consider requiring the preparation of a Total Water Cycle Management Study or Plan;*
- *minimise or eliminate point source and diffuse source pollution by the use of best management practices;*

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- *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;*
- *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 SREP 20.

The applicant states:

"The proposed zoning change is considered to be consistent with the objectives and planning provisions of SREP 20.

The South Creek catchment area is a regionally significant landscape unit. A Part 3A permit and Environmental Management Plan is applicable under the current development consent for the site. This plan required the construction of dams at the lower point on the site using aquatic plants to rehabilitate the area and these dams have been constructed.

A bund wall has also been constructed adjacent to the rear boundary of the site in the accordance with the Environmental Management Plan. This provides a suitable buffer between industrial land uses and earthworks from South Creek.

Given the above, the proposal is considered consistent with the environmental and planning strategies embodied in the SREP."

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It is considered that some form of industrial development on the subject land has the potential to either satisfy the relevant provisions SREP 20 or to minimise likely impacts on the environment of the Hawkesbury-Nepean River system. Further detailed consideration of the above matters can be addressed at the development application stage.

Character of the Area

There is a mix of land uses around the site including low-rise urban and rural residential development, parks and public reserves, childcare centres, schools and industrial development. The predominant land use within the immediate vicinity of the site is industrial and therefore the planning proposal seeking rezoning of part of the site to IN1 General Industrial is generally consistent with the surrounding land uses.

Services

The site is adjacent to the existing South Windsor industrial area with good access to infrastructure services that could be made available to the site through satisfactory arrangements with the relevant service providers.

The applicant advises that the owner/developer will make appropriate arrangements to provide the required level of services to accommodate a suitable form of an industrial development on the site. The site also has good access to both regional road transport system and Sydney Metropolitan Rail Network.

If the planning proposal is to proceed, the relevant public authorities such as Sydney Water, Integral Energy and Telstra Corporation will need to be consulted on the planning proposal after DP&E's Gateway determination.

Public Transport and Traffic Movement

The planning proposal is not supported by a transport/traffic statement or traffic impact statement. The applicant states that the area is well serviced by public transport system.

There is a limited bus service within the South Windsor area. A public bus service (Route No. 676) is operating between South Windsor and Windsor. Also public buses are running through South Windsor between Windsor and Mount Druitt Interchange (Route No 674) and Windsor and Penrith Interchange (Route No 673).

The site is located approximately 1.9kms from Windsor Railway Station and Bus Interchange. Public bus service is available from Windsor Interchange to surrounding suburbs in the region including Penrith, Mt Druitt, Richmond, Wilberforce, Pitt Town and Riverstone, McGraths Hill and Vineyard. Also a NightRide bus service operates three times a week between Richmond and City (Town Hall) via Windsor Station. Therefore it is considered that the site has reasonably easy access to public transport.

Given the proposed site access arrangement from Speedwell Place which is a local road with no significant traffic movements, it is a matter for Council to consider any likely impacts of the future development of the land on the local road network or the residential amenity in the locality at the development application stage.

Ecology

The applicant states that there are no significant trees or landscape features on the site. The majority of vegetation has been removed under previous approvals.

The Terrestrial Biodiversity Map of the LEP records the site as containing Shale Plains Woodland and shows some parts of the site as either Significant Vegetation or Connectivity between Remnant Vegetation.

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A recent site investigation undertaken by Council's Land Management Officer reveals that there is very little vegetation remaining on site other than a couple of remnant trees. There is a wetland towards the rear of the property which is not affected by the proposed rezoning. The wetland is not a RAMSAR wetland.

A detailed consideration of any future development of the land can occur at development application stage.

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.

A bushfire report prepared by Building Code & Bushfire Hazard Solutions Pty Ltd states that:

"The subject site is a large allotment with an area of industrial and rural/production allotments. The vegetation posing a potential threat to the proposed rezoning is located to the north and south within neighbouring private allotments and east within the site itself. The vegetation posing a hazard was determined to be Grassland to all three aspects.

The Rural Fire Service supports protection of the subfloor or the integration of 1.8metre high protective (non-combustible) fencing in conjunction with screened windows and a basic Asset Protection Zone of 10 metres for Grassland hazards regardless of the type of development. The subject site can accommodate multiple building footprints >10 metres from the northern and southern boundaries and the proposed RU1 boundary (to the east).

We are satisfied that future permissible development within the new IN1 (General Industrial) zone can achieve the minimum Asset Protection Zone, Water Supply Access and other relevant specifications and requirements detailed in Planning for Bushfire Protection 2006.

In accordance with the bushfire safety measures contained in this assessment, and consideration of the site specific bushfire risk assessment it is our opinion that the proposed planning proposal can provide a reasonable level of bushfire protection and can also satisfy the relevant specifications and requirements of Planning for Bushfire Protection 2006".

If the planning proposal is to proceed it will be referred to the NSW Rural Fire Service (RFS), being the responsible authority of bushfire protection, for comment.

Agricultural Land Classification

The 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.*"

Given the site has not been used for any agricultural purposes (other than grazing) in the past and is adjacent to the existing South Windsor industrial area with reasonable access to public transport system and road transport network and other public amenities it has a reasonable urban development potential and therefore more economical and sustainable development can be achieved should part of the site be rezoned to IN1 General Industrial as proposed in the planning proposal.

Heritage

The subject property is not listed as a heritage item in Schedule 5 Environmental Heritage of the LEP (Schedule 5) or identified as an archaeological site.

Conformance to the Hawkesbury Community Strategic Plan

The following provisions of the CSP are of most relevance to the planning proposal.

Supporting Business and Local Jobs

Directions:

- Plan for a range of industries that build on the strengths of the Hawkesbury to stimulate investment and employment in the region.
- Offer an increased choice and number of local jobs and training opportunities to meet the needs of Hawkesbury residents and to reduce their travel times.

Strategy:

- *Increase the focus on high end jobs and innovation to build on our strengths and achieve a diverse industry base.*

Goals:

- *Have and expanded, sustainable and growing industry base.*
- *Stronger, broader range of sustainable businesses.*

The planning proposal will enable increased business and ancillary retail opportunities on the land and boost the Hawkesbury LGA's economic activities and employment opportunities, and therefore it will be an appropriate tool in the implementation of the Directions and Strategies contained in the CSP and the recommendations of the HELS.

Financial Implications

The applicant has paid the planning proposal application fees required by Council's Fees and Charges for the preparation of a local environmental plan.

Conclusion

The assessment of the planning proposal with regard to the matters considered in this report reveals that the subject site has the potential for some form of industrial development and the planning proposal has some merit.

It is recommended that Council support amending the LEP as explained in this report to allow part of the subject land to be developed for general industrial purposes.

The following matters discussed in this report and/or any other additional studies or investigations required by a Gateway determination issued by the DP&E in respect of this planning proposal will need to be undertaken by the applicant and/or Council as specified in the determination prior to finalisation of the proposed amendment to the LEP.

- Acid sulfate soil study.
- Consultation with the Office of Environment and Heritage, the State Emergency Service, the NSW Rural Fire Service, the NSW Trade and Investment, Sydney Water, Integral Energy and Telstra Cooperation prior to public exhibition of the planning proposal.

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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:

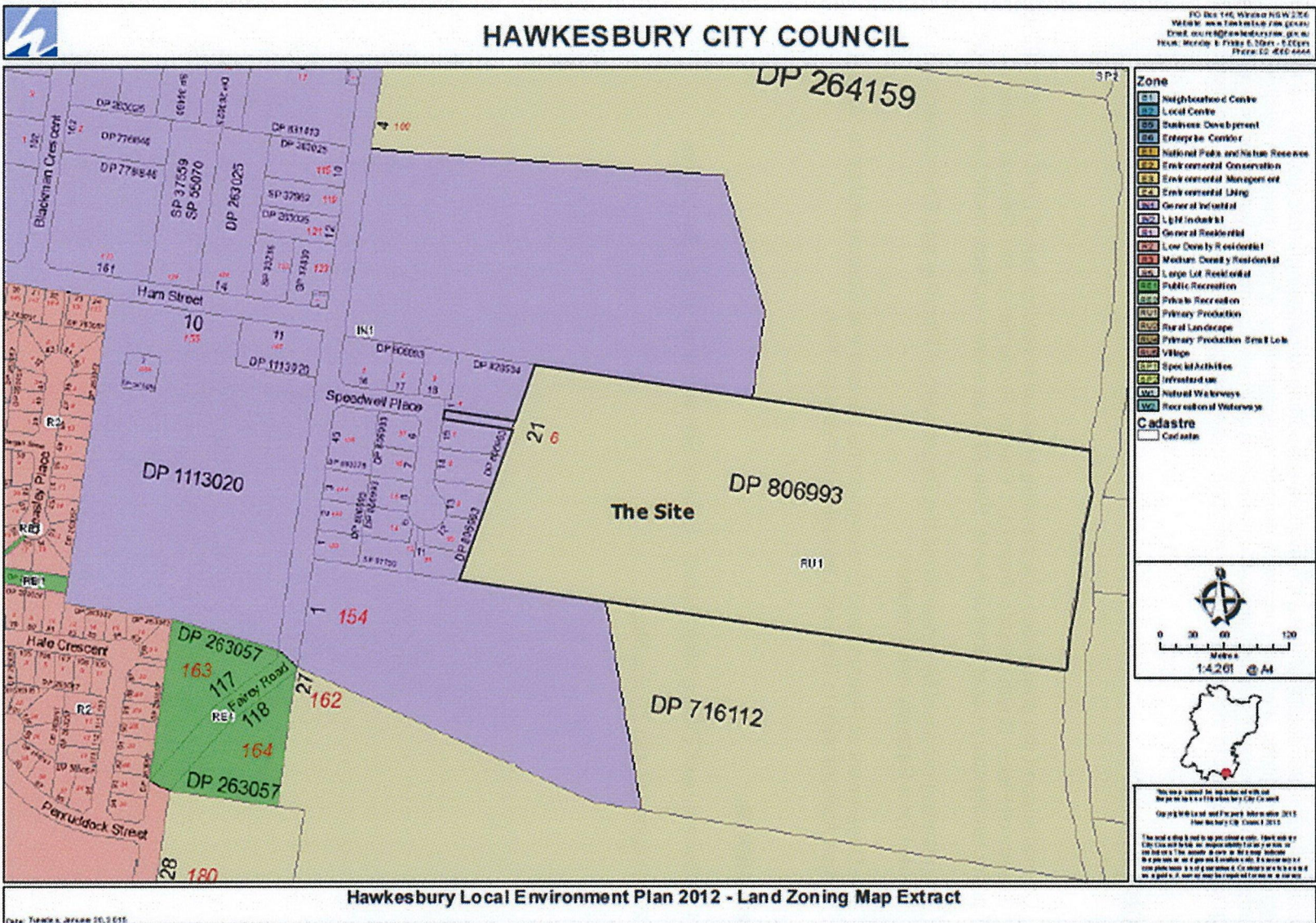
1. Council support the preparation of a planning proposal to rezone part of Lot 21 DP 806993, 6 Speedwell Place, South Windsor from RU1 Primary Production to IN1 General Industrial under Hawkesbury Local Environmental Plan 2012 as shown in Attachment 2 to this report.
2. The planning proposal be forwarded to the Department of Planning and Environment with a request 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.

ATTACHMENTS:

AT - 1 Current Land Zoning Map Extract - Subject Site and Surrounding Properties

AT - 2 Proposed Land Zoning Map

HAWKESBURY CITY COUNCIL



HAWKESBURY CITY COUNCIL

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Hours: Monday to Friday 8.30am - 5.30pm Phone: 02 4955 4444

Legend

- Land Parcels
- Subject Site
- Land Zoning**
 - IN1 General Industrial
 - RU1 Primary Production
 - RE1 Public Recreation

Proposed Land Zoning Map
Speedwell Place, South Windsor

Date: 5/8/2014