

ORDINARY MEETING

Meeting Date: 30 September 2014

Item: 181 CP - Planning Proposal to amend Hawkesbury Local Environmental Plan 2012
- 24 Greenway Crescent, Windsor - (95498, 124414)

REPORT:**Executive Summary**

This report assesses a planning proposal which seeks to amend *Hawkesbury Local Environmental Plan 2012* (the LEP) in order to permit the subdivision of Lot 1 DP 884408, 24 Greenway Crescent, Windsor into ten lots.

The proposal is to amend the Lot Size Map of the LEP to permit smaller lots on this land and rezone part of the land to R2 Low Density Residential under the LEP.

It is recommended that Council support the preparation of the planning proposal in principle, and the applicant be advised that in addition to all other relevant planning considerations being addressed, final Council support for the planning proposal will only be given subject to satisfactory arrangements being made for flood evacuation of the land.

Consultation

The planning proposal has not yet been exhibited as there has been no decision by Council to support or not support the matter. 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 Falson & Associates Pty Ltd (the applicant) seeks an amendment to the LEP in order to permit the subdivision of Lot 1 DP 884408, 24 Greenway Crescent, Windsor into ten lots.

The effect of the planning proposal would be to amend the Lot Size Map of the LEP to set out three different minimum lot sizes of 450m², 600m² and 4,000m² for the site.

Subject Site and Surrounds

The site is legally described as Lot 1 DP 884408, 24 Greenway Crescent, Windsor. It is located to the south-west of the Windsor Town Centre (the Town Centre), and is immediately north and east of the existing residential area (see Figure 1 below). The site is located approximately 850m from the Town Centre and the Windsor Railway Station.

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Figure 1: Locality Map

The site is predominantly zoned RU2 Rural Landscape and a narrow strip of land with an area of approximately 330m² adjoining the north-western boundary of 22 Greenway Crescent, Windsor is zoned R2 Low Density Residential under the LEP (see Attachment 2 to this report). The current minimum lot size for subdivision of this land (other than this narrow strip of land) is 10ha. The minimum lot size to the narrow strip of land is 450m² (see Attachments 3 to this report)

The site is an irregular shape with an area of approximately 1.6ha. It has a frontage to Greenway Crescent of approximately 125m. The site contains a dwelling house and a number of outbuildings, and has some vegetation along the southern and eastern boundaries and Greenway Crescent frontage. The middle plateau of the site is generally free of any vegetation (see Figure 2 below).



Figure 2: Aerial view of the site and surround

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 Significant Vegetation.

According to Council's mapping information the natural elevation of the site varies between 9.5m AHD at north-western boundary and 20m AHD at south-eastern boundary and the site falls towards the north-western boundary. The majority of the site area, particularly the middle of the site, is generally flat with a slope of 6% or less, and narrow strips of the land mainly along the southern, eastern and western boundaries as well as the Greenway Crescent frontage 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)*.

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

The site is shown as being within Acid Sulfate Soil Classification 4 and 5.

The site is shown as being Agriculture Land Classification 2 and 9 on maps prepared by the former NSW Department of Agriculture.

The site is affected by aircraft noise from Richmond RAAF base and its flight paths.

According to Council's records, an office building (associated with a turf growing operation on adjoining properties) has previously been approved on the land.

Properties immediately to the north and west are zoned RU2 Rural Landscape and properties immediately to the east and south are zoned R2 Low Density Residential. Properties in the immediate vicinity vary in size from 500m² to 3ha.

Applicant's Justification of Proposal

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

- *The planning proposal is consistent with the Metro Plan, dNWSS, HRLS and other relevant statutory framework.*
- *The site is within easy walking distance to Windsor Town Centre, Windsor Railway Station, parks and the community facilities.*
- *Planning proposal will enable the expansion of the existing residential area in Windsor.*
- *The land has appropriate physical characteristics to support the proposed ten lot subdivision.*
- *The planning proposal will assist in meeting the 5000 – 6000 dwellings target within the Hawkesbury Local Government Area (LGA) by 2031.*
- *The planning proposal will contribute to the viability of the local economy.*
- *The proposed subdivision will not require additional infrastructure. Reticulated water and sewer, electricity and telecommunication services are available to the site.*
- *The site is on the fringe of the Windsor Town Centre and is considered to be within an area to be considered for development in accordance with Hawkesbury Residential Land Strategy 2011 (HRLS).*
- *The land is capable of being subdivided into a number of lots consistent with the existing lot sizes and patterns in the vicinity*
- *If the land is not developed it would remain isolated as rural land.*

Metropolitan Plan for Sydney 2036, Draft Metropolitan Strategy for Sydney 2031, Draft North West Subregional Strategy and Hawkesbury Residential Land Strategy

The NSW Government's Metropolitan Plan for Sydney 2036 (the Metro Plan) provides a long-term planning framework for Sydney and identifies the following key Strategic Directions to transform Sydney as a more compact, networked city with improved accessibility, capable of supporting more jobs, housing and lifestyle opportunities by 2036:

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- A. Strengthening 'the City of Cities'
- B. Growing and renewing centres
- C. Transport for a connected city
- D. Housing Sydney's population
- E. Growing Sydney's economy
- F. Balancing land uses on the city fringe
- G. Tackling climate change & protecting Sydney's natural environment
- H. Achieving equity, liveability and social inclusion
- I. Delivering the Plan

The Draft Metropolitan Strategy for 2031 (the draft Metro Strategy) released in March 2013 sets out a vision with key objectives, policies and actions to drive sustainable growth of Sydney to 2031 and beyond and it aims to achieve the following key outcomes for Sydney:

- Balanced growth
- A liveable city
- Productivity and prosperity
- Healthy and resilient environment
- Accessibility and connectivity

Once the draft Metro Strategy finalised, it will replace the Metro Plan.

The Draft North West Subregional Strategy (dNWSS) provides a broad framework for the long-term development of the north-western sector of Sydney, guiding government investment and linking local and state planning issues. (Note: The Department of Planning and Environment are currently preparing revised sub-regional strategies with the 'western' region, containing the Hawkesbury, Penrith and Blue Mountains LGAs, strategy aimed to be in draft form by the end of 2014 or early 2015.)

The above explained documents contain a number of key 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, and identify a hierarchy of centres. In accordance with this centres hierarchy Windsor is a town centre.

The applicant has provided an assessment of the planning proposal against the Metro Plan and dNWSS and concludes that the proposal is consistent with these strategies. Taking into consideration the location of the proposed residential development in close proximity to both Windsor Town Centre and Railway Station along with its reasonable urban development potential and access to the required infrastructure it is considered that the proposal is generally in compliance with all these strategies.

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 acknowledges that centres are the priority locations for future housing growth as they benefit from existing retail, commercial, community and transport infrastructure services, and identifies a dwelling target of 4,500 – 9,000 dwellings within 800m radius for a town centre. The HRLS identifies a corridor between Windsor and Bligh Park in Windsor area as a potential future growth area subject to further investigations on flood related constraints. The land is located on the fringe of this corridor and it appears that it is partly within the area marked as "Windsor Residential Area" and the areas investigated for future growth (see attachment 4 to this report).

However given the location of site within a reasonable walking distance to the Town Centre and adjacent to an established urban residential area, its easy access to public transport system and community infrastructure and the predominant urban land use character in the immediate vicinity, the proposal can be considered as an urban development. The planning proposal seeks development of land adjacent to the established urban residential area for residential purpose that would provide local residents with increased housing opportunity and choice in close proximity to both Windsor Railway Station and Town Centre is considered generally consistent with the objectives of the HRLS and State strategies.

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Council Policy - Rezoning of Land for Residential Purposes - Infrastructure Issues

On 30 August 2011 Council adopted the following Policy:

That as a matter of policy, Council indicates that it will consider applications to rezone land for residential purposes in the Hawkesbury LGA only if the application is consistent with the directions and strategies contained in Council's adopted Community Strategic Plan (CSP), has adequately considered the existing infrastructure issues in the locality of the development (and the impacts of the proposed development on that infrastructure) and has made appropriate provision for the required infrastructure for the proposed development in accordance with the sustainability criteria contained in the HRLS.

Note 1:

In relation to the term "adequately considered the existing infrastructure" above, this will be determined ultimately by Council resolution following full merit assessments, Council resolution to go to public exhibition and Council resolution to finally adopt the proposal, with or without amendment.

Note 2:

The requirements of the term "appropriate provision for the required infrastructure" are set out in the sustainability matrix and criteria for development/settlement types in chapter six and other relevant sections of the Hawkesbury Residential Land Strategy 2011.

Compliance with the HRLS has been discussed above. Compliance with CSP will be discussed later in this report.

Council Policy - Our City Our Future Rural Rezoning Policy

This Policy was adopted by Council on 16 May 1998 and had its origin in the Our City Our Future study of the early 1990s.

Since the time of adoption this Policy has essentially been superseded by subsequent amendments to Hawkesbury Local Environmental Plan 1989, NSW Draft North West Subregional Strategy, the Hawkesbury Residential Land Strategy, the Hawkesbury Community Strategic Plan, the commencement of LEP 2012, and the DP&I's "Gateway" system for dealing with planning proposals.

For completeness of the assessment the Policy is repeated below with responses provided by the applicant.

- a) *Fragmentation of the land is to be minimised.*

Applicant response

The land is already fragmented from the main rural lowlands and has residential land character rather than rural land. Fragmentation of this land is envisaged by this subsequent strategy.

- b) *Consolidation within and on land contiguous with existing towns and villages be preferred over smaller lot subdivision away from existing towns and villages*

Applicant response

The proposed is consistent with this principle.

- c) *No subdivisions along main road and any subdivision to be effectively screened from minor roads*

Applicant response

The site does not front a main road and is not visible from a main road.

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- d) *No subdivision along ridgelines or escarpments*

Applicant response

The site is not on a ridgeline or in an escarpment area.

- e) *Where on site effluent disposal is proposed, lots are to have an area of at least 1 (one) hectare unless the effectiveness of a smaller area can be demonstrated by geotechnical investigation.*

Applicant response

The proposed lots would be connected to reticulated sewer services already provided to the locality.

- f) *The existing proportion of tree coverage on any site is to be retained or enhanced.*

Applicant response

The site has little vegetation and is mostly cleared due to past activities. The subdivision does not propose removal of vegetation and the proposed lots can be provided with retention of vegetation.

- g) *Any rezoning proposals are to require the preparation of Environmental Studies and Section 94 Contributions Plans at the applicant's expense.*

Applicant response

The rezoning process has altered since this policy of Council. The Gateway Process will dictate whether further studies are required.

- h) *Community title be encouraged for rural subdivision as a means of conserving environmental features, maintaining agricultural land and arranging for the maintenance of access roads and other capital improvements.*

Applicant response

The subdivision that would result from this planning proposal is for low-density residential housing and not rural/residential development.

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. 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 Lot Size Map of the LEP to allow subdivision of the land for 10 lots in varying sizes (450m², 600m² and 4,000m²) but it does not propose any changes to the current RU2 Rural Landscape zoning or contain provisions to increase the permissible density of land.

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However given the site has been filled in the past with no development approval, the provisions contained in Clause 4.2B of the LEP in relation to subdivisions in certain flood planning areas of land zoned RU1, RU2, RU4, R5 and E4 will not permit subdivision of the land under the current RU2 zoning. Therefore it is proposed to make an amendment to the planning proposal to rezone part of the land to R2 Low Density Residential consistent with the zoning of the immediate vicinity. This issue is explained in detail in the latter part of this report.

There is a minor inconsistency with this direction as the amended planning proposal will result in rezoning part of the land to R2 Low Density Residential and increased residential allotments on this rural land. This minor inconsistency is justified with the following reasons:

- This is a good opportunity to provide additional residential development adjacent to the established urban residential area and in close proximity to both Windsor Town Centre and the Windsor Railway Station to enable improved viability of the Town Centre and support the planned revitalisation of the Town Centre consistent with both State and Local Government strategic frameworks.
- Given the location of the land within the Windsor Town Centre catchment and adjacent to established residential area as well as its easy access to required infrastructure services (e.g. reticulated sewer and water, electricity, telecommunication) and public transport system it has a significant urban development potential.
- Future development of the land for urban purposes is more compatible with surrounding land uses.
- The land appears not to have been previously used for agricultural use. The site is in proximity to the Windsor Town Centre, Railway Station and Bus Interchange, adjacent to the Windsor residential area. The land has easy access to community infrastructure and required services to accommodate a residential development and can be developed more economically for urban purposes than a rural or an agricultural use.
- The land agricultural classification map which is explained in detail in the latter part of this report shows that the land is not suited to continuous cultivation and the agricultural value is governed by soil condition and other environmental constraints. The land is also classified as 'Urban'.
- The size of area proposed for rezoning is insignificant.

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) will 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.*

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The planning proposal seeks to subdivide the land into 10 lots for residential development and enable the expansion of the existing residential area in proximity to the Town Centre. This would help increase viability of both rail and road transport networks, local business/retail activities and employment opportunities and thereby assist the growth and change of the existing Town Centre. It is therefore considered that the 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 sulphate 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 4 and Class 5 acid sulphate 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 sulphate 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 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 applicant has not provided an acid sulfate soil study demonstrating the appropriateness of the proposed minimum lot sizes for the land. 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,

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- (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.

However there is a minor inconsistency with this direction as it is proposed to rezone a small area of flood prone land to R2 Low Density Residential. This inconsistency has already been justified under the Direction 1.2 Rural Zones above.

Consideration of flooding is discussed in more detail later in this report.

Direction 4.4 Planning for Bushfire Protection

The land is identified as a bushfire prone, containing Vegetation Category 1. This Direction requires consultation with the NSW Rural Fire Service following receipt of a Gateway determination from, 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.

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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 part of the property zoning and the Lot Size 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.

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 HRLS 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 Residential 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)*.

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.

A contamination report has not been submitted with the planning proposal. The applicant advises that the land has not been used for an agricultural use for many years other than for an office, plant and equipment storage and servicing of machinery and vehicles in association with turf farming operation carried out on an adjacent property. The applicant further advises that there is no obvious evidence of surface or groundwater pollution as a result of these past activities.

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However Council's records show the land has been filled in the past without prior approval from Council. According to Table 1 of Managing Land Contamination Planning Guidelines, SEPP 55 – Remediation of Land, landfill sites is an activity that may cause contamination.

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

The primary aims of SREP No 9 (No.2 -1995) 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.

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 No 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;
- 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;

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- 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 No.20 Hawkesbury – Nepean River (No.2 – 1997) and is within the Unit 3.4.1 – Yarramundi Weir to South Creek junction of Scenic Corridor with regional significance under this SREP. It is considered that some form of low density urban residential development on the subject land has the potential to either satisfy the relevant provisions SREP No 20 or to minimise likely impacts on the environment of the Hawkesbury-Nepean River system.

Character of the Area

There is a mix of land uses around the site including urban and rural residential development, parks and public reserves, a place of worship and business premises, and the predominant land use within the immediate vicinity of the site is low density residential development. The allotments sizes in the close vicinity range from 475m² – 1300m², and the proposed lots on the land are not inconsistent with these lot sizes. The applicant advises that there would not be any substantive change to the landscape of the site or surroundings other than there being low density dwellings on the site and in the vicinity of other existing dwellings. The applicant further maintains that the local landscape will eventually alter by the construction of dwellings however this would not be distinguishable in a broader urban context in which the site is located.

Topography

According to Council's mapping information the natural elevation of the site varies between 9.5m AHD at north-western boundary and 20m AHD at south-eastern boundary and the site falls towards the north-western boundary. More than half of the site area, particularly the middle plateau of the site, is generally flat with a slope of 6% or less, and narrow strips of the land mainly along the southern, eastern and western boundaries as well as the Greenway Crescent frontage contain slopes in excess of 15% (see Figure 3 below):



Figure 3 – Slope analysis

The HRLS recognises slopes greater than 15% act as a constraint to development. It is considered that all the proposed lots depicted in the subdivision concept plan have sufficient land with a slope less than 15% to accommodate a dwelling house.

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Services

The applicant advises that the future development of the land will not create additional demand for infrastructure as the site has adequate access to electricity reticulated water and sewer, and telecommunication services to accommodate the proposed low density residential development on the land are available to the site.

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

Flooding

The land is flood prone land with contours ranging from 9.5m AHD to 20m AHD. The majority of the land area is below the 1 in 100 year ARI flood level. However, approximately 1850m² land area at the south-eastern corner of the site is above the 1 in 100 year ARI flood level (see Figure 4 below).

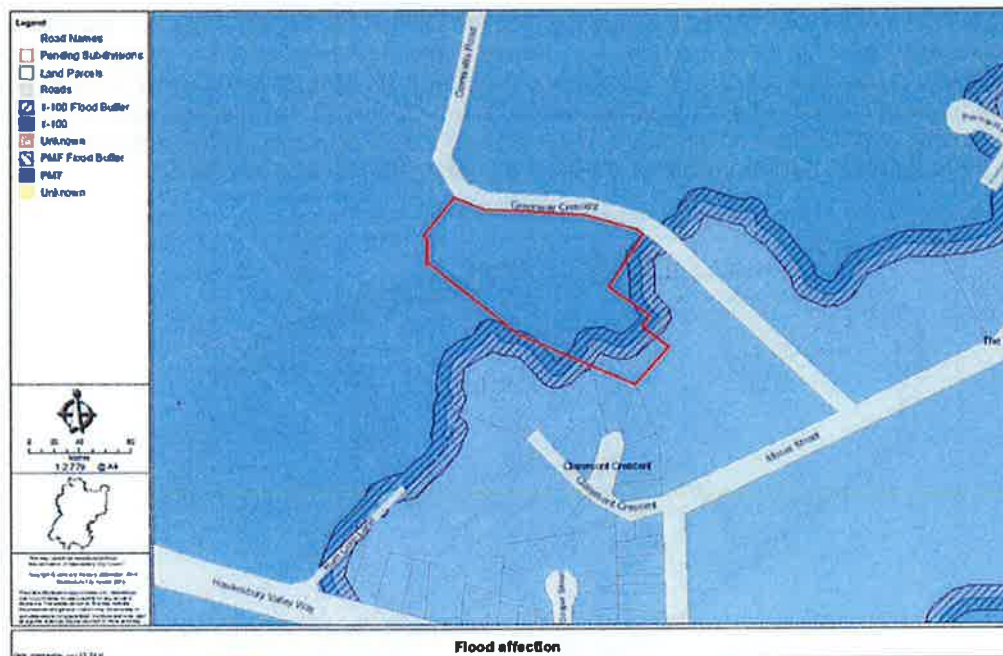


Figure 4 – Flood affection

The concept plan of the proposed subdivision, see Figure 5, (NOTE: this layout will not be endorsed until a formal Development Application has been lodged and appropriately assessed and determined) shows 9 additional lots in varying sizes (ranging from 451m² – 701m²) on the land and a large lot with an area more than 4000m². The applicant suggests that habitable floor levels of future dwellings on those lots would be at least at the 1 in 100 ARI flood level plus 0.5m.

The 1 in 100 ARI flood level at Windsor is 17.3m AHD, and the concept plan showing the proposed lots (other than lots 3, 4 and 5 shown in yellow) in Figure 5 below would need to be filled to accommodate future residential development above the 1 in 100 ARI flood level. According to Council's mapping information the existing ground levels of the proposed lots that would need to be filled are approximately 16m AHD – 16.5m AHD hence approximately 0.8m – 1.3m of filling would be required to achieve a land height of 17.3m.

The subject site falls within the State Emergency Service's (SES's) "Windsor" flood evacuation sector which means future residents would, when required, evacuate via the Jim Anderson Bridge.

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The Hawkesbury Floodplain Risk Management Study and Plan (HFRMS&P) found that, under current SES operations, this sector is evacuation constrained and as a result the existing flood risk is intolerable/unacceptable and therefore no further development should proceed.

The HFRMS&P also considered possible changes in SES operations and other measures to improve flood evacuation and found that if these were implemented the risk could be reduced from "intolerable/unacceptable" to "moderate". Discussions between Council staff and SES staff regarding possible changes to SES operation are ongoing and no resolution has been reached so far.

Good planning practice also suggests that flood evacuation from a site should be via a "rising road access" i.e. where access roads rise steadily uphill and away from floodwaters. The proposal seeks to utilise an existing access onto Greenway Crescent which is approximately 16 – 16.5m in height for a length of approximately 25m until it achieves a height of 17m. This means that a rising road access is not achieved. Possible options to resolve this could be investigating the feasibility of raising Greenway Crescent or by providing an alternative means of access to the site, possibly via Claremont Crescent.

The applicant has not considered flood evacuation from the site or the impact of the development on the flood evacuation capacity of the Windsor sector. These matters will require further discussion/examination by the applicant, Council and SES. It is understood that SES's preference is not to discuss such proposals until after a "gateway" determination has been issued by the Department of Planning and Environment. It is therefore recommended that, at this stage, Council support the forwarding of the planning proposal to the DP&E for a "gateway" determination to enable such future discussions with SES.

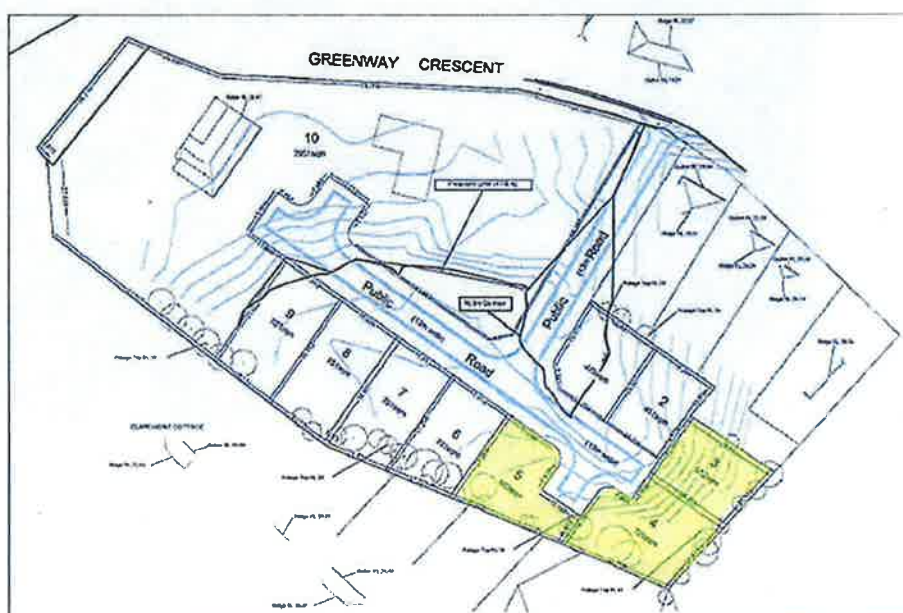


Figure 5 – Proposed subdivision

Public transport and Traffic movement

The planning proposal is not supported by a transport/traffic statement or traffic impact statement other than the applicant's following statement:

"The site is within easy walking distance to the Windsor shopping centre and Windsor Rail Station. Parks, churches, cafes, banks, chemists etc. are all in close proximity."

Access to the site from Greenway Crescent would require a new road construction. Sight distances are satisfactory in each direction onto Greenway Crescent from the point of the new road intersection."

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The site is located within a reasonable walking distance to both 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 NightRide bus service is operated 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.

The site currently has two entry points from Greenway Crescent. As shown in Figure 5 above, the subdivision concept plan proposes to utilise the current main entry point next to 22 Greenway Crescent as the only means of access to the site with a new T-shaped access way providing access to the proposed lots.

Given the proposed site access arrangement from Greenway Crescent 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.

Aircraft noise exposure

The whole site is affected by aircraft noise from Richmond RAAF base and its flight paths. Approximately 92% of the site area is within the 20 - 25 contour range of the 2014 Australian Noise Exposure Forecast (ANEF) Map and the remaining area is within 25 – 30 contour range (see Figure 6 below).



Figure 6 – Aircraft noise exposure forecast

The noise generated by aircraft associated with the RAAF restricts development in the surrounding areas of RAAF Base due to excessive noise exposure. The ANEF classification and the Australian Standard 2021-2000 provide acceptable and unacceptable ANEF levels for development. According to this classification and the standard residential development on land with noise exposure contour between 20 - 25 will require special noise assessment and mitigation measures and development above 25 ANEF is considered unsuitable except in the vicinity of Richmond where up to 30 ANEF may be considered subject to installation of appropriate noise mitigation measures being applied.

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As shown in Figure 6 above only approximately 8% of the land area at the southern boundary of the site is not suitable for development and development of the remaining area for residential development will be subject to a noise assessment which can be undertaken at development application stage. If the planning proposal is to proceed, the Department of Defence will need to be consulted in accordance with its advice dated 8 December 2005 (Dept. Ref: 2013/1550/1).

Ecology

The applicant advises that:

"The site is included in the Terrestrial Biodiversity Map within Council's LEP 2012. The map indicates that approximately 25% of the site is classed as "connectivity between significant vegetation" and approximately 10% is "significant vegetation". If the biodiversity map is assessed in conjunction with the aerial photo of the site it can be seen that the biodiversity map is not accurate as it shows more land containing vegetation than is actually the case.

A flora/fauna assessment has not been carried out at this time and it is not believed that one is required if the site is critically looked at. Development of the site can take place without impact on any significant vegetation".

The Terrestrial Biodiversity (TBV) Map of LEP 2012 identifies approximately 50% of the site area as 'connectivity between remnant vegetation and Endangered Ecological Communities. Council's vegetation mapping records the site as containing Shale Plains Woodland which is a sub-set of Cumberland Plain Woodland which is a critically Endangered Ecological Community under the *Threatened Species Conservation Act 1995*. However, Council's site investigations reveal that the mapping is inconsistent with the vegetation on the site as the land is mostly cleared with vegetation only existing along the boundaries.

The majority of these canopy trees Lemon Scented Gum and Silky Oak which are not part of Cumberland Plain Woodland community. Much of the understorey is quite weedy. However there is still some value in the native vegetation along the boundaries as the majority of them are mature trees and provide habitat aspects.

It is considered that the subdivision concept plan showing building footprints on proposed lots does not accurately reflect the existing vegetation on the land, and the availability of sufficient land free of any significant vegetation for the erection of dwelling houses is not clear. Therefore, any future development on the land, via the development application process, will require consideration of the likely impacts of the development on the existing vegetation.

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.

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 2 and 9 on maps prepared by the former NSW Department of Agriculture. These lands are described by the classification system as:

2. *Arable land suitable for regular cultivation for crops but not suited to continuous cultivation. It has moderate to high suitability for agriculture, but edaphic (soil factors) or environmental constraints reduce the overall level of production and may limit the cropping phase to a rotation with sown pastures.*
9. *Urban*

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Given the site has not been used for agricultural purposes for many years and is within the Windsor Town Centre catchment, adjacent to urban development and its close proximity to public transport system and other public amenities it has a reasonable urban development potential and therefore it is unlikely the site could be used for a substantial or sustainable agricultural enterprise.

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. However, St Matthews Anglican Church at 1 Moses Street and "Claremont Cottage" at 16 Claremont Crescent, Windsor adjoining the property are listed as heritage items with State significance in Schedule 5. The house opposite the subject property at 29 Greenway Crescent, Windsor known as "Former Inn" is also listed as heritage item with local significance in Schedule 5.

The likely impact of the future development of the land on these heritage properties can be assessed at development application stage. Appropriate development conditions ensuring no adverse impacts on these heritage items/properties could be imposed in future development approvals for the subject land.

Minimum allotment size

The planning proposal seeks to amend the current Lot Size Map of the LEP to allow three different minimum lot sizes within the site as shown in Figure 8 below:



Figure 7 – Suggested minimum lot size map

As shown in Figure 7 above, the planning proposal suggests minimum lot sizes of 450m², 600m² and 4000m² for land areas identified with letters "G", "M" and "W" respectively.

However it is noted that the concept plan of the proposed subdivision included in the planning proposal application shows the proposed Lot 3 with an area of 512m² is located within the area proposed for minimum lot size of 600m². It is for these reasons that the planning proposal does not adopt the subdivision concept plans accompanying the application. The subdivision layouts are used to assist in the development of a Lot Size Map only and the subdivision layout is not finalised until the development application stage.

Irrespective of the above, the proposal to amend the Lot Size Map to permit 600m² minimum lots within the land area "M" shown in Figure 7 is inconsistent with the current permissible minimum lot sizes in the surrounding area (see Attachment 3 to this report).

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It is therefore suggested to amend the proposed Lot Size Map in Figure 7 to remove the land area "M" and extend the land area "G" through linking two land areas to which the minimum 450m² provision applies immediately north and south of the south-eastern part of the land to ensure consistency with the permissible minimum lot sizes for land in the locality and enable better planning outcomes as shown in Attachment 5 to this report. This approach would also enable reduced land filling (approximately 0.3m – 1.0m compared with 0.8m – 1.3m as per the current proposal) to achieve the 1 in 100 year ARI flood planning level.

Proposed Zoning

The land is currently zoned RU2 Rural Landscape under the LEP and is flood prone. Clause 4.2B of the LEP makes provisions for subdivisions in certain flood planning areas of land zoned RU1, RU2, RU4, R5 and E4 and therefore this clause applies to the land. Clause 4.2B states that:

- (2) *Development consent must not be granted for a subdivision to which this clause applies unless the consent authority is satisfied that there is an area of land on the lot is above flood planning level and is sufficient for the erection of a dwelling house.*
- (3) *For the purposes of subclause (2), an area of land is **above flood planning level** if the land is above the level of 1:100 ARI (average recurrent interval) flood event (whether the level is a natural surface level or a level achieved by filling carried out with a previous development consent.*

Given the land has been filled with no development consent in the past it cannot be subdivided under the current RU2 zoning in accordance with the above provisions. A possible option to overcome this issue is to rezone the land to an alternative zoning which permits dwelling houses. Given the existing zoning in the immediate locality the most appropriate zoning for the land area "G" shown in Lot Size Map is R2 Low Density and therefore it is proposed to rezone this part of the land as R2 Low Density Residential as shown in Attachment 6 to this report. Given the whole land area "W" is below the 1 in 100 year ARI flood level with contours ranging from 9.5m AHD to 17m AHD it is considered inappropriate to rezone that part of land to R2 Low Density Residential.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Looking After People and Plan Directions statement:

- Offer residents a choice of housing options that meets their needs whilst being sympathetic to the qualities of the Hawkesbury
- Have future residential and commercial development designed and planned to minimise impacts on local transport systems, allowing easy access to main metropolitan gateways
- Have development on both sides of the river supported by appropriate physical and community infrastructure

Conclusion

The assessment of the planning proposal with regard to the matters considered in this report reveals that the land has the potential for some form of residential development and the planning proposal has some merit due to the following:

- The proposal's consistency with the relevant State and Local plan/policy framework
- Its location in proximity to Windsor Town Centre, Railway Station and Public Bus Interchange and adjacent established residential area in Windsor
- Its potential contribution to help achieve the target of 5,000 – 6,000 new dwellings by 2031 set for the Hawkesbury LGA.

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- The planning proposal would enable economic use of the land
- Easy access to community infrastructure and required services to accommodate a residential development

It is recommended that Council support the planning proposal to allow the subject land to be developed for residential development in principle. Final Council support for the planning proposal will be subject to satisfactory arrangement being made for flood evacuation of the proposed development in addition to all other relevant planning considerations being addressed.

Financial Implications

The applicant has paid the 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. Council support the preparation of a planning proposal for Lot 1 DP 884408, 24 Greenway Crescent, Windsor to:
 - a) amend the Lot Size Map of the Hawkesbury Local Environmental Plan 2012 to permit the minimum lot size of 450m² on part of the land as shown in Attachment 5 to this report, and
 - b) amend the Land Zoning Map of the Hawkesbury Local Environmental Plan 2012 to rezone part of the land to R2 Low Density Residential as shown in Attachment 6 to this report.
2. The applicant be advised that in addition to all other relevant planning considerations being addressed, final Council support for the planning proposal will only be given subject to satisfactory arrangements being made for flood evacuation of the proposed land.
3. The planning proposal be forwarded to the Department of Planning and Environment 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.

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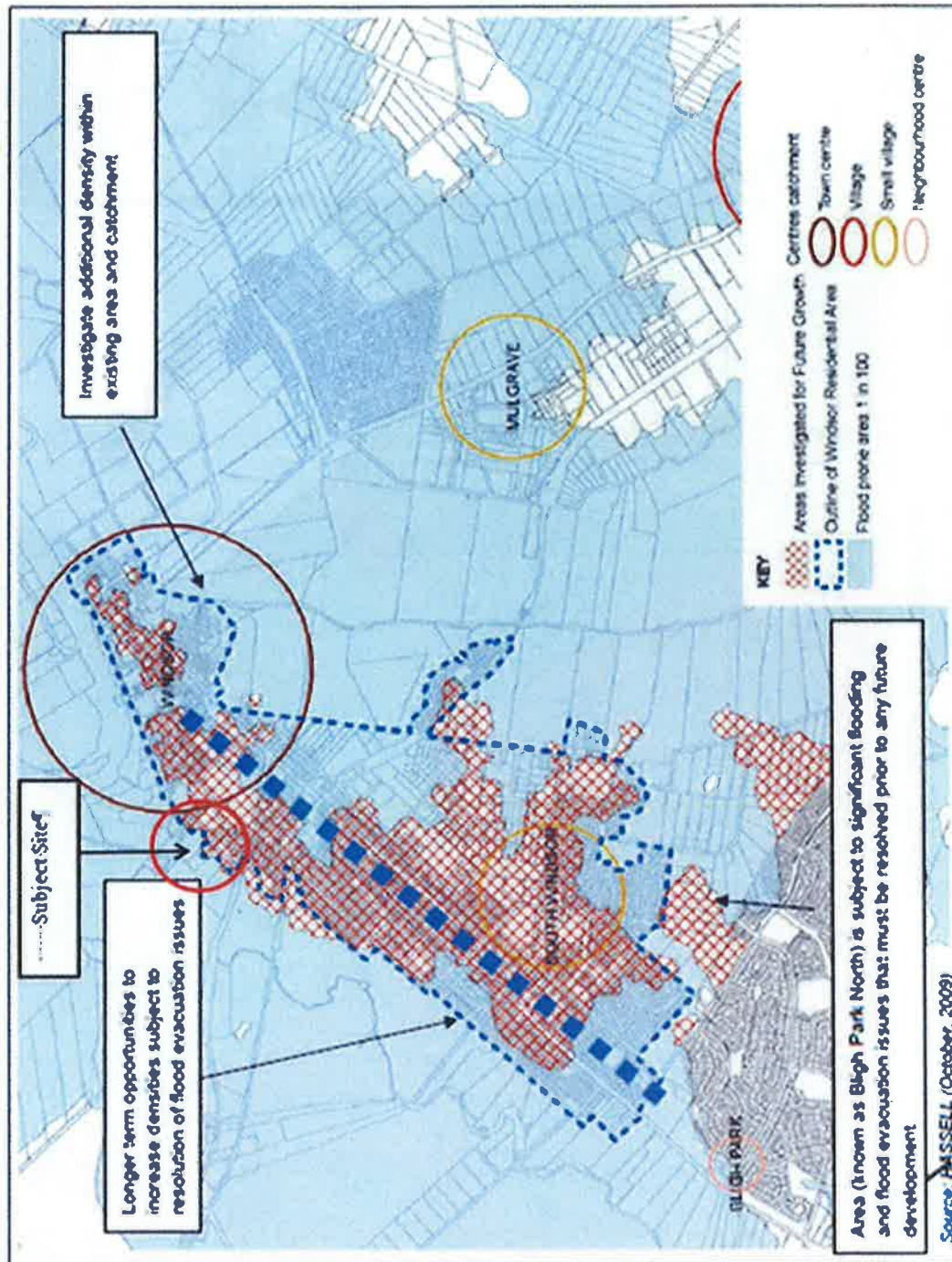
ATTACHMENTS:

- AT - 1** Applicant's Planning Proposal - *(Distributed Under Separate Cover)*
- AT - 2** Current Land Zoning Map extract - Subject Site and Surrounding Properties
- AT - 3** Current Lot Size Map extract - Subject Site and Surrounding Properties
- AT - 4** Future Investigation Area between Windsor and Bligh Park
- AT - 5** Proposed Minimum Lot Size Map
- AT - 6** Proposed Land Zoning Map

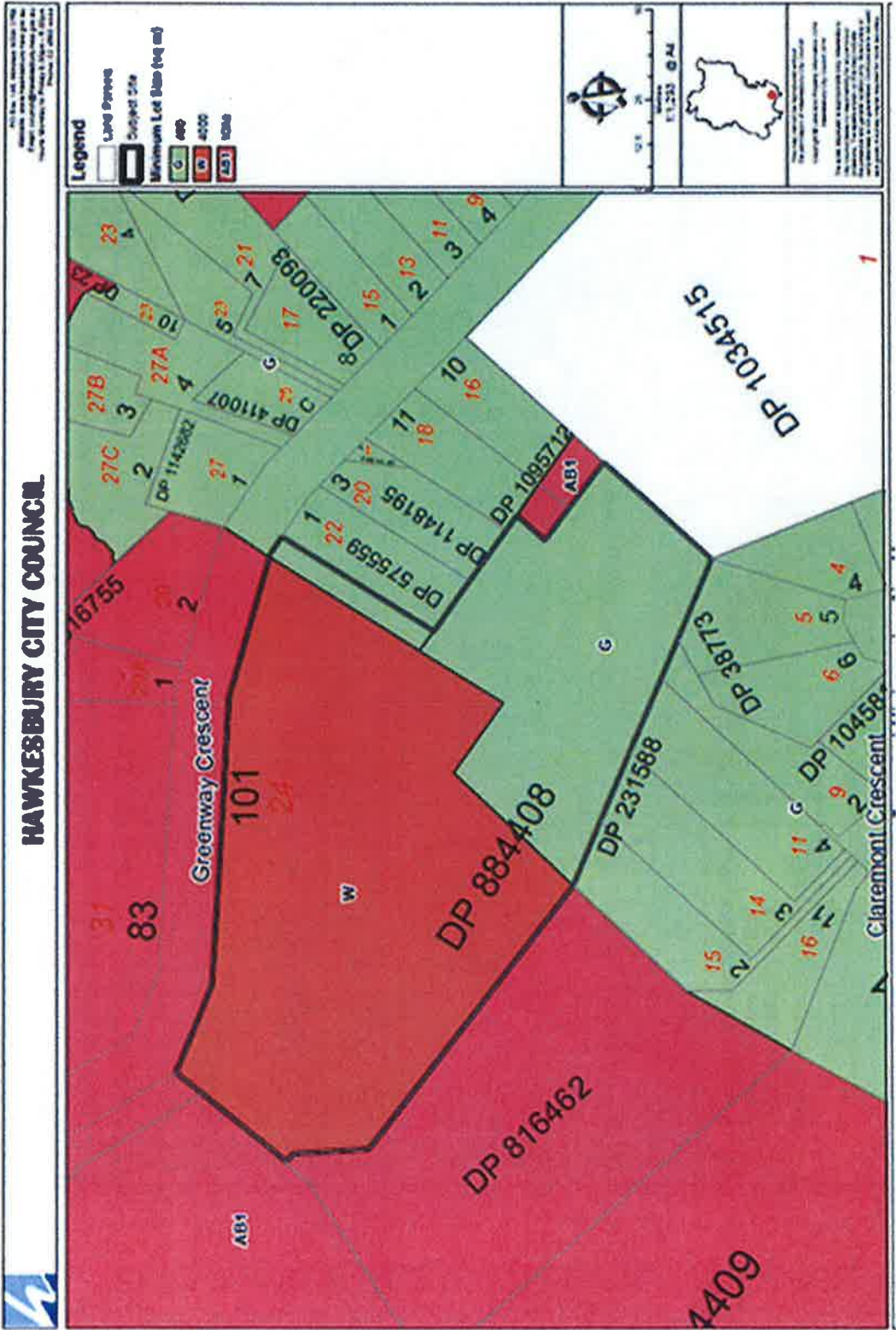
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AT - 4 Future Investigation Area between Windsor and Bligh Park



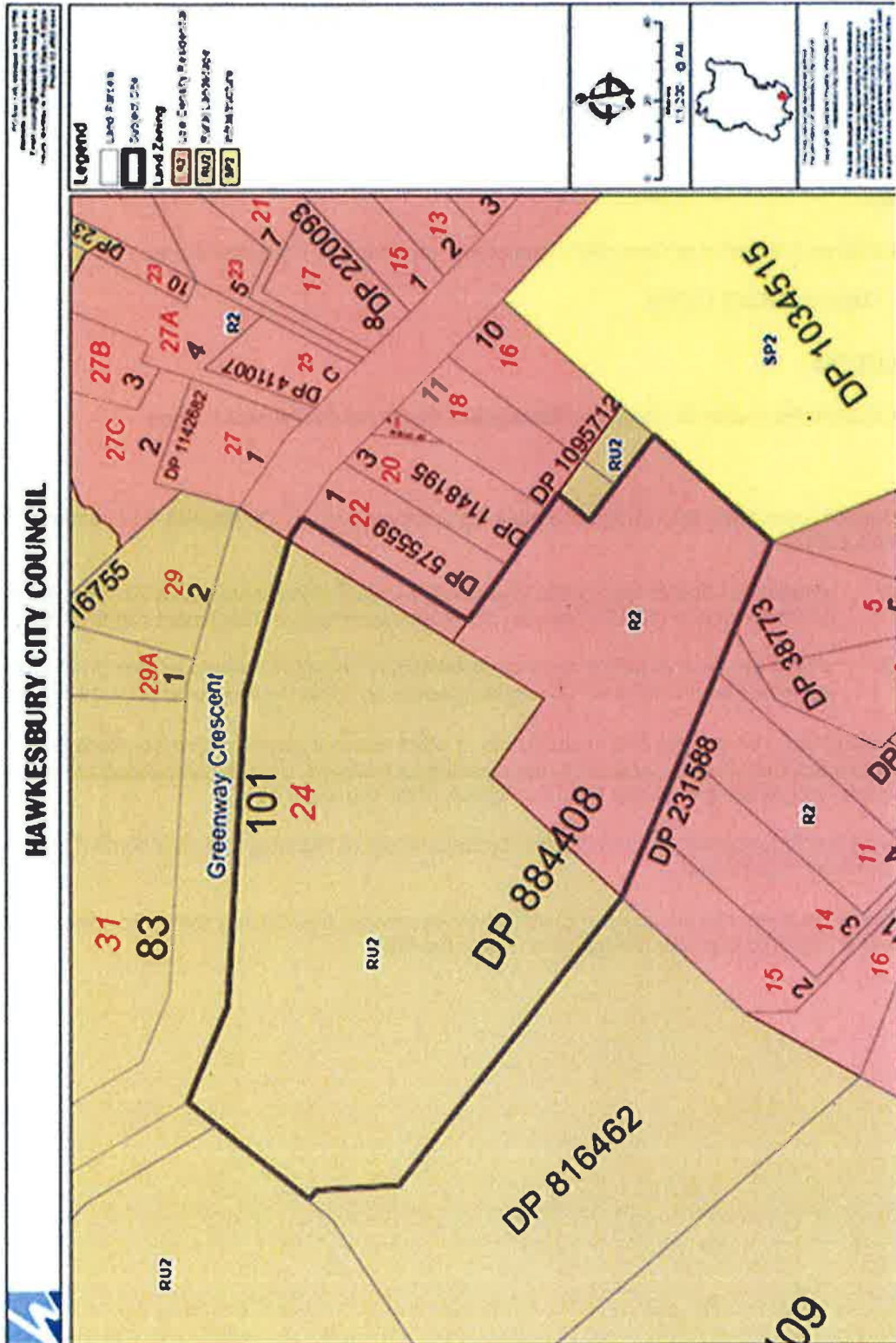
AT - 5 Proposed Minimum Lot Size Map



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AT - 6 Proposed Land Zoning Map



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ORDINARY MEETING

Minutes: 30 September 2014

Item: 181 **CP - Planning Proposal to amend Hawkesbury Local Environmental Plan 2012
- 24 Greenway Crescent, Windsor - (95498, 124414)**

Mr Glenn Falson addressed Council, speaking for the item.

MOTION:

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

Refer to RESOLUTION

322 RESOLUTION:

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

That:

1. Council support the preparation of a planning proposal for Lot 1 DP 884408, 24 Greenway Crescent, Windsor to:
 - a) amend the Lot Size Map of the Hawkesbury Local Environmental Plan 2012 to permit the minimum lot size of 450m² on part of the land as shown in Attachment 5 to this report, and
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2. The applicant be advised that in addition to all other relevant planning considerations being addressed, final Council support for the planning proposal will only be given subject to satisfactory arrangements being made for flood evacuation of the proposed land.
3. The planning proposal be forwarded to the Department of Planning and Environment 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.

ORDINARY MEETING**Minutes: 30 September 2014**

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 Calvert	NIL
Councillor Conolly	
Councillor Ford	
Councillor Lyons-Buckett	
Councillor Mackay	
Councillor Paine	
Councillor Porter	
Councillor Reardon	
Councillor Rasmussen	
Councillor Williams	

Councillors Creed and Tree were absent from the meeting.

