

Hawkesbury City Council

Your Ref:

Our Ref: HLEP 1989 -Amendment 157



22 February 2010

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Mr Peter Goth
Department of Planning
Sydney West Region
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Department of Planning
Received

23 FEB 2010

Scanning Room

Dear Mr Goth

Part Lots A and B DP 411701, 126 and 130 Windsor Road, McGraths Hill Submission of Planning Proposal

On 8 September 2009 Hawkesbury City Council resolved as follows:

That:

1. *Council prepare a Planning Proposal, under the provisions of Section 55 of the Environmental Planning and Assessment Act 1979, to rezone land at part Lots A and B DP 411701 (excluding the areas identified for road widening), 126 and 130 Windsor Road, McGraths Hill, from Rural Living to 4(b) Light Industrial zone.*
2. *The Planning Proposal be forwarded to the Minister requesting that the matter proceed.*
3. *This draft amendment be progressed separately to the draft Standard Instrument. However, if it is deemed timely and appropriate to do so, it is to be incorporated into the draft Standard Instrument prior to gazettal.*

As per resolution item 2 enclosed for the Department's consideration is a copy of a planning proposal prepared in accordance with Section 55 of the Environmental Planning & Assessment Act 1979.

If you have any enquiries regarding this matter please contact Philip Pleffer (02) 4560 4544.

Yours faithfully

Philip Pleffer
Strategic Planning Co-ordinator

where people make the difference.

All communications to be addressed to the General Manager
P.O. Box 146, Windsor NSW 2756
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Hawkesbury City Council

Planning Proposal for Part Lots A and B DP 411701, 126 and 130 Windsor Road, McGraths Hill

Part 1. Objectives or intended outcomes of the proposed instrument

The intended outcome of the proposed instrument is to rezone land at part Lots A and B, DP 411701 (excluding the areas identified for road widening), 126 and 130 Windsor Road, McGraths Hill, from Rural Living to 4(b) Industry Light zone.

Part 2. Explanation of the provisions that are to be included in the proposed instrument

The proposed instrument includes an amendment to:

- the Hawkesbury Local Environmental Plan 1989 map in accordance with the proposed zoning map shown in Attachment 1; and,
- the definition of “the map” in Hawkesbury Local Environmental Plan 1989 to include appropriate reference to this instrument.

Part 3. Justification for objectives, outcomes and provisions and the process for their implementation

Introduction

The subject site is located on the north western corner of Windsor Road and Mulgrave Road, at a distance of 1.5 kilometres from the Windsor Town Centre.

Under the provisions of Hawkesbury Local Environmental Plan 1989, 130 Windsor Road, McGraths Hill enjoys an extension to the zoning provisions to permit motor showrooms. This land is currently developed with a number of buildings and display yards. Boats, trucks and caravans are displayed for sale both within buildings and outdoors. The buildings are also used for ancillary offices, accessories showrooms and service workshops associated with the motor showrooms.

126 Windsor Road, McGraths Hill is currently occupied by a service station that has recently received approval for the addition of a car wash facility.

The change in zoning from Rural Living to 4(b) Industry Light will be more in keeping with the current uses of the site. A strip of road widening, approximately 22 metres wide and variable, exists along the Windsor Road frontage of the site. This area is currently zoned 9(b) Proposed Road. It is not proposed to change the zoning of the area shown for road widening.

A number of land uses surround the subject site. Adjoining to the west and north is the Hawkesbury City Council's McGraths Hill Sewage Treatment Plant. Adjoining to the south is Mulgrave Road with another service station and Windsor High School located on the southern side of Mulgrave Road. On the eastern side of Windsor Road, opposite the subject site, is residential housing on the eastern side of Pitt Town Road and a Hotel on the western

side of Pitt Town Road.

Section A - Need for the planning proposal.

1. Is the planning proposal a result of any strategic study or report?

In December 2008 Council adopted the Hawkesbury Employment Lands Strategy. 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 Strategy provides:

- analysis of the existing supply of employment (industrial, commercial, retail) land;
- identification of the drivers of employment land development;
- identification of competitive opportunities for employment land development;
- projections of future employment land requirements by type over 25 years;
- criteria for the spatial distribution of employment lands;
- strategic planning approach for future employment land provision;
- identification of future investigation areas for industrial and commercial uses;
- an implementation strategy for the investigation areas;
- consideration of infrastructure capacity, identifying limitations/augmentations.

The Employment Lands Strategy has recommended a number of strategies for Council to pursue to address the economic prosperity of the LGA. One of these is to “*Identify appropriate development treatments for gateway areas*” which includes, whilst not specifically any particular site, land along Windsor Road as the entry to Windsor.

Strategy 8 in the Employment Lands Strategy identifies “*Windsor Road, Mulgrave (boulevard treatment with higher amenity showrooms and larger format retailing)*”. The proposed change to the zoning from Rural Living to 4(b) Industry Light is consistent with the Hawkesbury Employment Lands Strategy.

It is recognised that significant retail development in this location is not consistent with the government’s centres policy, or with supporting the Windsor Town Centre. In this sense, a number of uses may be appropriate for the site, but, retail uses, i.e, shops, should be discouraged at the site. It should be noted that the 4(b) Industry Light zone does not permit retail premises (except for service shops, such as food and drink).

Future development of the site would require a higher standard of urban design to ensure an appropriate treatment of the frontage of Windsor Road. This is a requirement of the Employment Lands Strategy and may be controlled via specific amendments to the Development Control Plan when that document is reviewed.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

It is considered the planning proposal is the best means of achieving the intended outcome.

The proposal seeks to amend the LEP provisions on the subject site to provide for a more

appropriate zone that is more consistent with the current approved uses on the site. The existing Rural Living zone is no longer appropriate for the site due to the surrounding land uses, being the sewer treatment plant, service station and Windsor Road, and when the existing approved uses for motor showrooms and service stations are considered.

The site may be considered as part of the "gateway" into the Hawkesbury as identified in the Employment Lands Strategy. Given the unique situation of this site and the fact that the proposed change is consistent with the adopted Employment Lands Strategy, it is considered appropriate that the zone be changed.

3. Is there a net community benefit?

The site already provides for employment activity by virtue of the existing approvals and uses on the site. The proposed zoning change will better provide for the protection and enhancement of this employment activity.

Section B - Relationship to strategic planning framework.

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Draft North West Subregional Strategy was released in December 2007 by the NSW Department of Planning and was exhibited for comment until March 2008.

The Strategy acts as a broad framework for the long-term development of the region, guiding government investment and linking local and state planning issues. The key directions for the subregion are as follows:

- Plan to meet employment and housing capacity targets
- Develop Penrith as a regional city
- Strengthen the role of centres
- Improved access to, from and within the subregion
- Protect rural and resource lands
- Promote the environmental and scenic qualities of the region
- Improve access to open space and recreation opportunities

The draft Subregional Strategy contains employment targets for the city and the subregion as a whole. For the Hawkesbury the draft figure is 3,000 jobs by 2031. Councils are required to plan for sufficient land and infrastructure to achieve employment capacity targets. The Hawkesbury Employment Lands Strategy is consistent with the Draft North West Subregional Strategy and the current planning proposal is consistent with that Strategy.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

On 13 October 2009 Council adopted its Community Strategic Plan (CSP). The CSP contains a part specifically dealing with supporting business and local jobs. The vision for this section is:

In 2030 we want Hawkesbury to be a place where we have new and existing industries which provide opportunities for a range of local employment and training options, complemented by thriving town centres.

The Directions that accompany this vision are:

- *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 attract residents, visitors and businesses.*

The proposal is consistent with the CSP's Strategy of:

- *Implement Employment Lands Strategy*

The proposal is consistent with the CSP's Goals of:

- *At least 3,000 additional jobs are created to retain the percentage of local employment*
- *Jobs across a greater range of industry sectors*

6. Is the planning proposal consistent with applicable state environmental planning policies?

Relevant SEPPs that are applicable to the site are:

State Environmental Planning Policy No 1—Development Standards
State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development
State Environmental Planning Policy No 6—Number of Storeys in a Building
State Environmental Planning Policy No 19—Bushland in Urban Areas
State Environmental Planning Policy No 21—Caravan Parks
State Environmental Planning Policy No 30—Intensive Agriculture
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)
State Environmental Planning Policy No 33—Hazardous and Offensive Development
State Environmental Planning Policy No 44—Koala Habitat Protection
State Environmental Planning Policy No 50—Canal Estate Development
State Environmental Planning Policy No 55—Remediation of Land
State Environmental Planning Policy No 62—Sustainable Aquaculture
State Environmental Planning Policy No 64—Advertising and Signage
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development
State Environmental Planning Policy (Affordable Rental Housing) 2009
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
State Environmental Planning Policy (Infrastructure) 2007
State Environmental Planning Policy (Major Development) 2005

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007
State Environmental Planning Policy (Temporary Structures) 2007
Sydney Regional Environmental Plan No 9—Extractive Industry (No 2—1995)
Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997)

It is considered that the planning proposal is consistent with the above mentioned SEPPs.

In terms of Clause 6 (1) of State Environmental Planning Policy No 55—Remediation of Land it is considered that:

- (a) given the current and past uses of the subject lands there is the potential that the land may be contaminated however, at present this has not been investigated in detail by the proponent or by Council; and,
- (b) if the land is contaminated, Council is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the 4(b) zone is permitted to be used; and,
- (c) if the land requires remediation to be made suitable for any purpose for which land in the 4(b) zone is permitted to be used, Council is satisfied that the land will be so remediated before the land is used for that purpose. This can be dealt with at Development Application stage for any subsequent development of the land.

Clause 6 (2) of State Environmental Planning Policy No 55—Remediation of Land is relevant to 126 Windsor Road, McGraths Hill given its current use as a service station. In preparing this planning proposal Council relies on “Environmental Site Assessment” report from Coffey Geosciences Pty Ltd dated 9 March 2009. This report was submitted in support of a development application for redevelopment of 126 Windsor Road, McGraths Hill. Whilst the report does not claim to have been prepared in accordance with *Managing Land Contamination Planning Guidelines SEPP 55—Remediation of Land*, the report concludes that “there is a low likelihood of widespread hydrocarbon contamination being present at the site” and “there is a low likelihood of widespread impact on the groundwater at the site”.

Council is satisfied that the land is suitable for any purpose for which the proposed zone will permit and is satisfied that the land will be remediated, if required, prior to such use.

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following information lists the Section 117 Directions that are considered of relevance to the proposed rezoning.

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.

As this Direction applies there are several matters relevant to Council, including giving effect

to the objectives of this Direction and to ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director General of the Department of Planning.

The Hawkesbury Employment Lands Strategy supports consideration of limited development of this site. It is considered that the proposed LEP is consistent with this Direction.

Direction 1.2 Rural Zones

The objective of this direction is to protect the agricultural production value of existing rural land

The proposal is inconsistent with part of this Direction. However, the Direction does permit an inconsistency under certain circumstances. Given that the land currently has no agricultural value (and is most unlikely that it will ever be used for agricultural purposes given the existing land uses) and the proposal is consistent with the Hawkesbury Employment Lands Strategy, it is considered that the inconsistency with the Direction is acceptable.

Direction 3.4 Integrated 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, and
- (b) increasing the choice of available transport and reducing dependence on cars, and
- (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
- (d) supporting the efficient and viable operation of public transport services, and
- (e) providing for the efficient movement of freight.

The Department of Planning's guidelines *Integrated Landuse and Transport* seeks to improve the integration of landuse and transport planning. The proposed LEP will cater for the protection of the existing development and may provide additional employment opportunities should the site be redeveloped. It is considered that the proposed LEP is 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.

The land is shown having a "Class 5" having a probability of containing acid sulfate soils, as shown on Acid Sulfate Soils Planning Maps held by the Department of Planning.

Subclause (4) of this Direction states:

The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.

Subclause 6 of this Direction states:

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 soils 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 any such study to the Director-General prior to undertaking community consultation in satisfaction of section 57 of the Act.

An acid sulphate soils study has not been prepared at this stage.

It is noted that a planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- (a) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or
- (b) of minor significance.

It is considered that given the existing uses of the subject land, the proposed rezoning of the land to 4(b) is a minor significance in the context of the potential for acid sulphate soils and hence an acid sulphate soils study is unnecessary at this stage.

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.

The proposal is inconsistent with this objective and this inconsistency is of minor significance. The impact that the proposed LEP will have in relation to flooding will be virtually nil when compared to the approved existing uses on the site. Given that there is not likely to be significant increase in the flood risks for the site as a result of this proposed LEP it is considered that the inconsistency is justified.

Direction 4.4 Planning for Bushfire Protection

The objectives of this direction are:

- (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- (b) to encourage sound management of bush fire prone areas.

All of 126 Windsor Road and part of 130 Windsor Road is mapped as “bush fire prone land”. Accordingly, Council is required to consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.

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 planning proposal is consistent with this direction as it does not require the concurrence, consultation or referral of development applications to a Minister or public authority, and does not identify development as designated development

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 Strategy.

This planning proposal is consistent with the NSW Government’s Metropolitan Strategy: *City of Cities, A Plan for Sydney’s Future*, published in December 2005 (‘the Metropolitan Strategy’) in so far as it will assist in achieving Actions A1.1 and A3.2

Section C - Environmental, social and economic impact.

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The site does not contain any critical habitat. Given the uses and previous disturbance of the site it is considered unlikely that the land contains any threatened species, populations or ecological communities or their habitats.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Rezoning of the site increases the potential for redevelopment of the site thus proving for an incentive to achieve a better urban design outcome than the open display of vehicles which currently present to Windsor Road from 130 Windsor Road.

The site is below the 1 in 100 year flood event level of 17.3m AHD. It is considered that the nature of the flood affectation (generally slower moving back-up flood waters) do not make the site unsuitable for redevelopment as per that which would be permitted under the 4(b) zone and flood related development controls in the Hawkesbury Local Environmental Plan 1989.

10. How has the planning proposal adequately addressed any social and economic effects?

Given the current uses of the land and the recommendations of Hawkesbury's Employment Land Strategy, it is considered that the current zoning of the land is unduly restrictive and is preventing the land from achieving optimum development, both in terms of employment potential and urban design outcomes. The planning proposal has the potential to provide greater economic certainty for the owners, opportunity for redevelopment of the site, as well as increased employment opportunity for the community.

No negative social effects are expected.

Section D - State and Commonwealth interests.

11. Is there adequate public infrastructure for the planning proposal?

126 Windsor Road has vehicular access to Windsor Road. 130 Windsor Road has vehicular access to Mulgrave Road.

130 Windsor Road is currently connected to the Windsor Sewerage Scheme. The owners of 126 Windsor Road are currently seeking approval to connect to the Windsor Sewerage Scheme. It is understood that the two sites are currently connected to all other relevant services.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Consultation to be undertaken.

4. Maps for proposed land use zones; heritage areas; flood prone land—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument,

Attached are the following maps:

Locality Map
Current Zoning Map
Proposed Zoning Map
Maps showing contours of land
Bush Fire Prone Land Map

5. Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

To be determined.

Attachments:

Attachment 1 – Maps

Attachment 2 – Council report dated 8 September 2009

Attachment 3 – Rezoning application from Montgomery Planning Solutions dated 6 June 2009

Dated: 22 February 2010

