

Item: CP - Proposed Amendment to the Hawkesbury Local Environmental Plan 2012 - (95498, 124414)

Previous Item: 101, Ordinary (9 May 2018)

Directorate: City Planning

PURPOSE OF THE REPORT:

The purpose of this report is to provide Council with the opportunity to re-consider a planning proposal to amend the Hawkesbury Local Environmental Plan 2012 and submit the planning proposal to the Department of Planning and Environment for a Gateway Determination.

Council considered this matter at its Ordinary Meeting on 8 May 2018, where it resolved to defer the matter for discussion at a Briefing Session before reporting the matter back to Council.

The planning proposal seeks an amendment to the Hawkesbury Local Environmental Plan 2012 that would permit with consent Recreation Facilities (Outdoor) but restricted to polo, showjumping and dressage uses only across the RU2 Rural Landscape zone in a defined area of Richmond Lowlands, Richmond, and Cornwallis. In preparing the planning proposal, the approach has involved careful consideration of proposing additional uses that are reflective of the rural and scenic characteristics of the Richmond Lowlands, reflects the high flood risk of the Hawkesbury Nepean Valley, avoids conflict between land uses, avoids impact on infrastructure and in particular the road network. Given these the approach has been to propose low intensity uses that are reflective of historic uses that have emerged on the Richmond Lowlands.

EXECUTIVE SUMMARY:

This report has been prepared to respond to a resolution of Council to provide a report concerning a possible planning proposal and associated amendment to the Hawkesbury Local Environmental Plan 2012 to allow properties within the Richmond Lowlands, Richmond, and Cornwallis area to be used for polo and equine related purposes.

Council considered the matter at its Ordinary Meeting on 8 May 2018, where it was resolved:

That:

1. *The matter be deferred to the next Councillor Briefing Session.*
2. *Following the Councillor Briefing Session, the matter be reported back to the first available Council Meeting.*

Following consideration of the matter at the Council Briefing Session, a planning proposal has been prepared to support permitting polo, showjumping and dressage related uses within the RU2 Rural Landscape zone for properties located within a defined area of the Richmond Lowlands, Richmond, and Cornwallis area.

The planning proposal has now been prepared and it is recommended that Council resolve to prepare a planning proposal as outlined in this Report and Attachment 1, that seeks an amendment to the Hawkesbury Local Environmental Plan 2012 to permit with consent Recreation Facilities (Outdoor) but restricted to polo, showjumping and dressage uses only across the RU2 Rural Landscape zone in a defined area of the Richmond Lowlands, Richmond, and Cornwallis. The resultant planning proposal is to be forwarded to the Department of Planning & Environment for a Gateway determination.

RECOMMENDATION SUMMARY:

It is recommended that Council resolve to prepare a planning proposal as outlined in this Report and Attachment 1, that seeks an amendment to the Hawkesbury Local Environmental Plan 2012 to permit with consent Recreation Facilities (Outdoor) but restricted to polo, showjumping and dressage uses only across the RU2 Rural Landscape zone in a defined area of the Richmond Lowlands, Richmond, Cornwallis. The resultant planning proposal is to be forwarded to the Department of Planning & Environment for a Gateway determination.

REPORT:

Proposed Amendments to LEP 2012

To give effect to the Planning Proposal the following amendments to the Hawkesbury Local Environmental Plan 2012 are sought and generally described as:

1. Insert the following after Clause 6.12 of Part 6 of the HLEP 2012 Additional Local Provisions:

6.13 Polo, Showjumping and Dressage Uses in Richmond Lowlands Richmond and Cornwallis

- (1) This clause applies to that part of the land that is within the Zone RU2 Rural Landscape identified in Figure 2
- (2) The objective of this clause is to facilitate development limited to polo and show jumping activities and uses.
- (3) Despite any other provision of this Plan, consent may be granted to development on land to which this clause applies for the purpose of recreation facilities (outdoor) limited to polo and show jumping activities and uses.
- (4) Development consent must not be granted under this clause unless the consent authority is satisfied that:
 - (a) The development retains or enhances the existing rural landscape values,
 - (b) The development does not detract from the existing rural character,
 - (c) The development minimises conflict between land uses in the zone and land uses in adjoining zones,
 - (d) The development is compatible with the flood hazard of the land and is not likely to significantly adversely affect flood behaviour, and
 - (e) The development does not create unreasonable demands for the provision or extension of public amenities and services.
- (5) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied development incorporates appropriate measures to manage risk to life from flood (and other hazards) including the preparation of a risk management and evacuation.

Context and Background

The planning proposal has been prepared to support permitting polo, showjumping and dressage related uses within the RU2 Rural Landscape zone of properties located within a defined area of the Richmond Lowlands, Richmond, and Cornwallis. The planning proposal accords with Council's commitment to reaffirm continued support of the emerging polo and related support industry uses in the Richmond Lowlands, Richmond, and Cornwallis area.

Specifically at Council's Ordinary Meeting on 3 February 2015, Council resolved the following Notice of Motion:

"That:

1. Council reaffirm its continued support of the emerging polo and related support industries in the Richmond Lowlands.
2. Council indicate to all stakeholders and the community its unambiguous willingness to work closely and cooperatively with all relevant property owners to resolve quickly and expeditiously current planning provisions and conflict issues, including commencement of a review of the rezoning provisions, relating to permissible land use activities associated with the industry."

In addition to the above, Council in their consideration of a planning proposal (LEP006/15) at Council's Ordinary Meeting on 28 February 2017 to amend the Hawkesbury Local Environmental Plan 2012 to permit with consent the necessary uses associated with the World Polo Championships 2017 resolved (in part) the following:

"That:

5. A report be provided to Council concerning a possible planning proposal and associated amendment to the LEP 2012 to allow properties within the Richmond Lowlands/Richmond/Cornwallis area to be used for polo and equine related purposes."

The preparation of a planning proposal for these purposes is considered to be consistent with the Hawkesbury Community Strategic Plan 2017-2036, and the Hawkesbury Tourism Strategy.

Detailed History, including previous Council decisions

Polo has been an emerging sport on the Richmond Lowlands since the 1970's with a number of polo fields and polo clubs already established. Figure 1 below highlights the existing polo fields on the Richmond Lowlands.

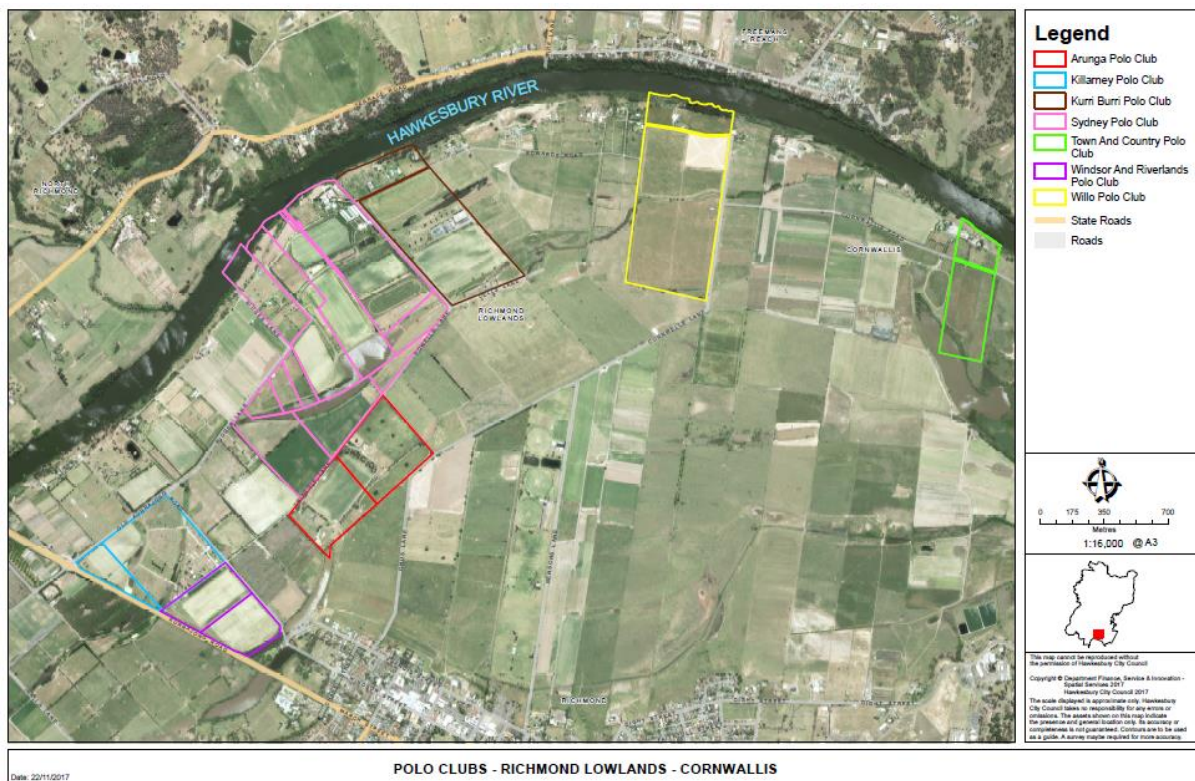


Figure 1 - Existing Polo Clubs Richmond Lowlands, Richmond and Cornwallis

Despite the emergence of polo on the Richmond Lowlands since the 1970's, the Hawkesbury Local Environmental Plan 2012, being a standard instrument local environmental plan does not currently permit polo uses within the RU2 Rural Landscape zone. As detailed above, Council has previously passed resolutions indicating support for the emerging polo and related support industries, and as such this planning proposal has been prepared to respond to that support from Council.

When considering this matter and the proposed uses, the zone objectives of the RU2 Rural Landscape zone which are prescribed and provided below need to be considered:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses in the zone and land uses in adjoining zones.
- To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.
- To ensure that development retains or enhances existing landscape values including a distinctive agricultural component.
- To preserve the river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other features of scenic quality.
- To ensure that development does not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services.

Additionally, it should be noted that the following land uses are currently permitted without consent in the RU2 Rural Landscape zone, with those uses that already permit a horse related use within the boundaries of each definition highlighted in bold:

*Bed and breakfast accommodation; Environmental protection works; **Extensive agriculture**; Home occupations.*

And the current permitted uses with Consent within the RU2 Rural Landscape zone includes:

***Agriculture; Animal boarding or training establishments**; Boat sheds; Building identification signs; Business identification signs; Cemeteries; Charter and tourism boating facilities; Crematoria; Dual occupancies (attached); Dwelling houses; Educational establishments; Entertainment facilities; Environmental facilities; **Farm buildings**; Farm stay accommodation; Flood mitigation works; Forestry; Funeral homes; Helipads; Home-based child care; Home industries; Jetties; Landscaping material supplies; Moorings; Places of public worship; Plant nurseries; Recreation areas; Restaurants or cafes; Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings; Water recreation structures; Water storage facilities*

It should also be noted that the Hawkesbury Local Environmental Plan 2012 currently allows for Temporary Uses which would include food vans for instance on the following basis:

- Maximum 28 days in a 12 month period
- Use must not prejudice the subsequent use of the land
- The use must not adversely impact upon adjoining land or the amenity of the neighbourhood
- The use must not impact on the environmental attributes of the land

A further key consideration in preparing a planning proposal across the Richmond Lowlands is consideration of the high flood risk that exists in the Hawkesbury Nepean Valley, which the NSW Governments Hawkesbury Nepean Valley Flood Risk Management Strategy released in May 2017 highlights:

The Insurance Council of Australia considers this Valley to have the highest single flood exposure in New South Wales, if not Australia.

Policy considerations

The proposal is to amend the Hawkesbury Local Environment Plan 2012 based on the planning proposal included as Attachment 1.

Consultation

Should the planning proposal proceed and receive a favourable Gateway Determination, consultation with relevant public agencies and the community will be required as part of the process.

Conformance to the Hawkesbury Community Strategic Plan 2017-2036

The proposal is consistent with the following Focus Areas, Directions and Strategies within the CSP.

Our Community

2.2 Participation in recreational and lifestyle activities is increased.

2.2.2 Encourage active participation in a range of sporting and recreational pursuits.

Our Future

5.4 Celebrating our Rivers

5.4.1 Celebrate and use our rivers for a range of recreation, leisure, tourism and event activities

5.4.3 Encourage agriculture production, vegetation conservation, tourism, recreation and leisure uses within our floodplains.

5.7 Tourism and Economic Development

5.7.1 Working in partnership we will actively market out City and our capabilities to existing and potential businesses, visitors and investors.

5.7.2 Develop Hawkesbury tourism to enhance and strengthen opportunities within our tourism sector.

5.8 Industry

5.8.1 Plan for a range of industries that build on the strengths of the Hawkesbury to stimulate investment and employment in the region.

Discussion

Council at its Ordinary Meeting on 28 February 2017 resolved (in part) the following:

"That:

5. *A report be provided to Council concerning a possible planning proposal and associated amendment to the LEP 2012 to allow properties within the Richmond Lowlands/Richmond/Cornwallis area to be used for polo and equine related purposes."*

The preparation of a planning proposal to respond to this resolution and other relevant resolutions of Council in this respect has considered the actual likely uses resulting from the terms polo and equine related purposes.

The term Polo, whilst not an existing definition in the Hawkesbury Local Environmental Plan 2012 is sufficiently defined in the Macquarie Dictionary as:

Polo – a game resembling hockey, played on horseback with long handled mallets and a wooden ball

However, Equine is similarly not defined in the Hawkesbury Local Environmental Plan 2012, with the Macquarie Dictionary definition being:

Equine – relating to, or belonging to the family which comprises horses, zebras and asses.

Likewise the term Equestrian was also considered. In the Macquarie Dictionary it is defined as follows:

Equestrian – relating to riders or riding on horseback

These definitions pose potential issues given their very broad nature, especially when considering the location of the planning proposal on RU2 Rural Landscape zoned land in the Richmond Lowlands, Richmond, and Cornwallis area. Concern is raised that such a broad definition could potentially allow uses such as Rodeo or Racecourses which would not be consistent with the zone objectives.

Discussion with Council's consultants who are preparing the planning proposal, and Council's legal representatives highlighted the need to be more specific about the uses that were being considered, particularly given the local context and RU2 Rural Landscape zone objectives. As such the following definitions from the Macquarie Dictionary was considered appropriate to the local context and zone objectives:

Showjumping – the riding of horses in competitions in order to display skill in riding over and between obstacles

Dressage – the art of training of a horse in obedience, deportment, and responses

It is also considered essential that the area to which the proposed amendment to the Hawkesbury Local Environmental Plan 2012 applies to is clearly defined. Figure 2 below highlights the RU2 Rural Landscape zoned land in Richmond Lowland, Richmond and Cornwallis to which the planning proposal will relate.

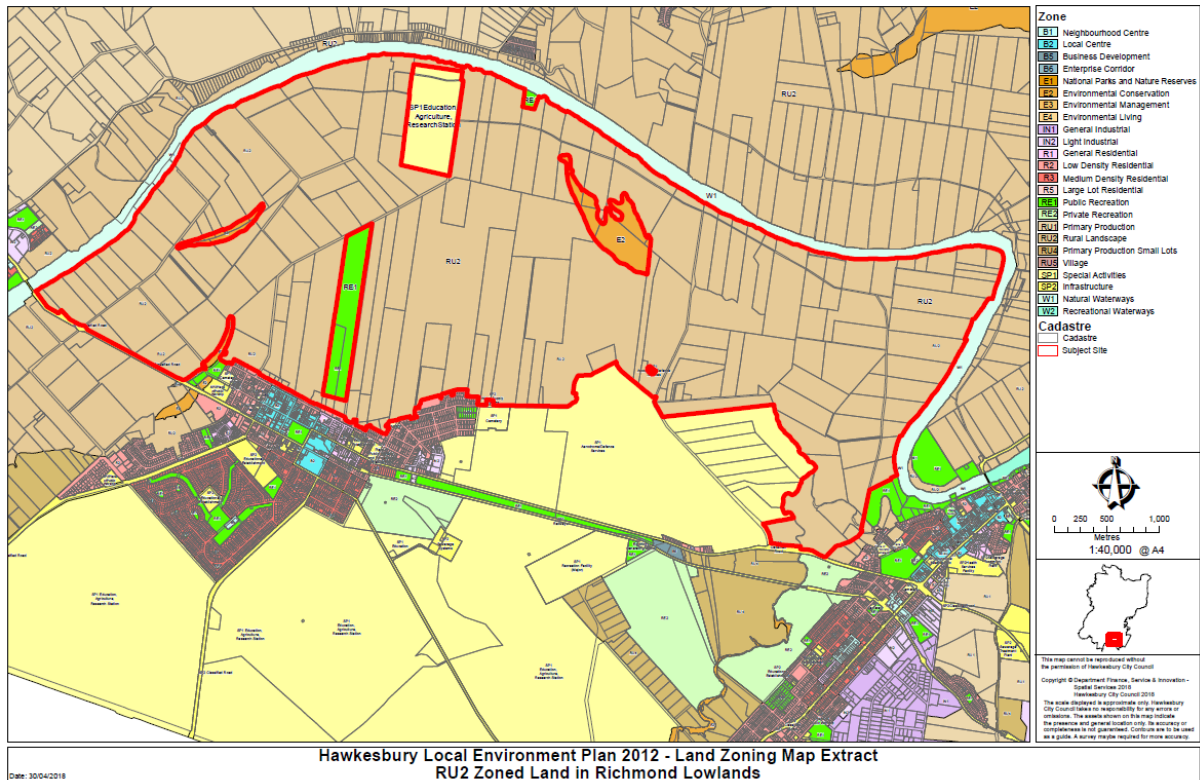


Figure 2 - Defined Area of Planning Proposal

Financial Implications

Preparation of the planning proposal is within the current Strategic Planning budget allocation.

Fit For The Future Strategy Considerations

The proposal is aligned with Council's Fit for the Future Strategies.

Conclusion

The amendments outlined in this report have been recommended to reflect various Council resolutions, and are consistent with the Hawkesbury Community Strategic Plan 2017-2036 and the Hawkesbury Tourism Strategy.

In preparing the planning proposal, the approach has involved careful consideration of proposing additional uses that are:

- reflective of the rural and scenic characteristics of the Richmond Lowlands
- reflects the high flood risk of the Hawkesbury Nepean Valley
- avoids conflict between land uses
- avoids impact on infrastructure and in particular the road network.

Given these the approach has been to propose low intensity uses that are reflective of historic uses that have emerged on the Richmond Lowlands.

Should the planning proposal proceed through the Gateway process, ultimately the proposed amendments to the Hawkesbury Local Environmental Plan 2012 will require approval by the Department of Planning and Environment and subsequently Parliamentary Counsel.

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 a planning proposal be prepared and forwarded to the Department of Planning and Environment seeking to amend the Hawkesbury Local Environmental Plan 2012 by permitting with consent Recreation Facilities (Outdoor) but restricted to polo, showjumping and dressage uses only across the RU2 Rural Landscape zoned land of the Richmond Lowlands, Richmond, and Cornwallis.

ATTACHMENTS:

AT - 1 Planning Proposal – Richmond Lowlands (*To be Distributed Under Separate Cover*)

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