

ORDINARY MEETING

Meeting Date: 24 November 2015

Item: 197

CP - LEP005/15 - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 18 James Street, South Windsor - (95498, 124414)

File Number: LEP005/15
Property Address: 18 James Street, South Windsor
Applicant: Urban City Consulting
Owner: Tony Scopelliti
Date Received: 4 September 2015
Current zone: SP2 Infrastructure (Community Facility)
Proposed zone: R3 Medium Density Residential

Recommendation: Council support the preparation of a planning proposal

REPORT:

Executive Summary

This report discusses a planning proposal from Urban City Consulting (the applicant) which seeks to amend Hawkesbury Local Environmental Plan 2012 (the LEP) to rezone Lot 4 DP 503048, 18 James Street, South Windsor from SP2 Infrastructure (Community Facility) to R3 Medium Density Residential under the LEP.

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

Consultation

The planning proposal has not yet been exhibited as Council has not resolved to prepare the proposal and the Department of Planning and Environment have not agreed to the exhibition via the issue of a 'Gateway' determination. 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 seeks to rezone the subject site from SP2 Infrastructure (Community Facility) to R3 Medium Density Residential under the LEP to allow development of the site for residential purposes. The planning proposal aims to achieve this intended outcome by amending the Land Zoning Map of the LEP (Map Ref No - 3800_COM_LZN_008DA) to change the zoning of the site to R3 Medium Density Residential (see Attachment 1 to this Report).

Subject Site and Surrounds

The subject site is located on the north-western corner of James Street and Dickson Lane intersection and is in close proximity to the South Windsor Small Village Centre. It is located approximately 875m from the Windsor Railway Station and the Bus Interchange (see Figure 1 below).

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Figure 1: Site Location Map

The site is legally described as Lot 4 DP 503048, 18 James Street, South Windsor. It is rectangular shape with an area of approximately 670m² and is bounded by James Street to the northeast, Dickson Lane to the southeast, an approximately 6m wide lane to the southwest and existing residential development to the northwest. The site has a main frontage to James Street of approximately 15.5m (see Figure 2 below).



Figure 2: Subject Site

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The site is currently zoned SP2 Infrastructure (Community Facility) under the LEP.

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

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

The site is not affected by aircraft noise from Richmond RAAF base and its flight paths.

The subject site is not shown as being bushfire prone on the NSW Rural Fire Service's Bushfire Prone Land Map. Also the site is not flood prone land.

According to Council mapping information the natural elevation at the north-western corner of the site is approximately 23m AHD and along the south-eastern boundary is approximately 23.5m AHD. The site is relatively flat with a very gently fall in the north-westerly direction.

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

The site contains a large vacant building which has previously been used as a scouts hall. The existing land uses in the immediate vicinity of the site are low density and medium density residential development.

The surrounding area contains a mix of land uses including residential, retail and industrial development, public reserves/ open spaces, schools and community centres (see Figure 3 below).



Figure 3: The Site and Surrounds

Applicant's Justification of Proposal

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

- "a) The planning proposal will provide the opportunity for the site to be developed for a range of housing types located in a serviced area.*
- b) The site is suitable for medium density development as it is surrounded by R3 Medium Density Residential zone.*
- c) The planning proposal is consistent with both state and local planning framework.*
- d) The potential future development of the site for medium density housing will offer a choice of housing options that will be consistent with the existing urban area and residential development that surrounds the site.*
- e) The site has adequate access to utility and community services to accommodate a future residential development on the site.*
- f) The site is in close proximity to main transport routes linking Sydney and other regional areas*
- g) The future development of the site for residential purposes is unlikely to have any significant impact on the amenity of the current surrounding residential development."*

The site was used as a Scout hall for a number of years but that use has ceased and is no longer required. As a result the site was sold to the current owner, Mr Scopelliti.

Metropolitan Strategy, Draft North West Subregional Strategy and Hawkesbury Residential Land Strategy

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

This state planning framework aims to provide more housing, with a greater choice of dwelling types in well serviced locations to help meet changing household needs, lifestyle choices, population growth and different household budgets and accelerate new housing in established urban areas in general.

The planning proposal seeking rezoning of the site which is located within an established urban area with easy access to required infrastructure services and the existing regional road network and in close proximity to both the South Windsor Small Village Centre, Windsor Railway Station and Bus Interchange to a residential zoning enabling increased housing choice and opportunities is considered generally consistent with this State planning framework.

Section 117 Directions

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

- employment and resources
- environment and heritage
- housing, infrastructure and urban development
- hazard and risk
- regional planning

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- local plan making
- implementation of a plan for growing Sydney.

Section 117 Directions are issued by the Minister for Planning and Infrastructure and apply to planning proposals. Typically, the Section 117 Directions will require certain matters to be complied with and/or require consultation with government authorities during the preparation of the planning proposal. However all these Directions permit variations subject to meeting certain criteria (see the last part of this section of the report). The principal criterion for variation to a 117 Direction is consistency with an adopted Local or Regional Strategy.

A summary of the key Section 117 Directions applying to the planning proposal follows:

Direction 1.3 Mining, Petroleum Production and Extractive Industries

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

Direction 1.3 (3) states that:

"This Direction applies when a relevant planning authority prepares a planning proposal that would have the effect of:

- (a) Prohibiting the mining of coal or other minerals, production of petroleum, or wining or obtaining of extractive materials, or*
- (b) Restricting the potential development of resources of coal, other mineral, petroleum or extractive materials which are of State regional significance by permitting a land use that is likely to be incompatible with such development."*

The site is not located within the Identified Resource Area or the Potential Resource Area or the Transition Area - or adjacent to identified resource areas as defined by mineral resource mapping provided by the NSW Resource & Energy Division of NSW Trade & Investment. Also, the subject land is not located within or in the vicinity of land described in Schedule 1, 2 and 5 of the *Sydney Regional Environmental Plan No. 9 - Extractive Industry (No 2- 1995)* nor will the proposed development restrict the obtaining of deposits of extractive material from such land.

The planning proposal seeks amendments only to the Land Zoning Map of the LEP, and does not propose any provisions prohibiting the mining of coal or other minerals, production of petroleum, or wining or obtaining of extractive materials, or restricting the potential development of resources of coal, other mineral, petroleum or extractive materials which are of State regional significance by permitting a land use that is likely to be incompatible with such development.

However, given mining and extractive industries are prohibited land uses in the proposed R3 Medium Density Residential zone, consultation is required with the NSW Trade and Investment (NSW T&I) should Council resolve to proceed with the planning proposal and receive a gateway determination advising to proceed with the planning proposal from DP&E in accordance with this Direction.

Direction 3.1 Residential Zones

Planning proposals must include provisions that encourage the provision of housing that will:

- broaden the choice of building types and locations available in the housing market
- make more efficient use of existing infrastructure and services
- reduce the consumption of land for housing and associated urban development on the urban fringe
- be of good design.

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Furthermore a planning proposal must contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it).

The planning proposal will enable infill development of the site within an established urban residential area for residential purposes and provide the local community with increased housing choice and opportunities in close proximity to the South Windsor Small Village Centre. This will help reduce the consumption of land for housing and associated urban development on the urban fringe.

Clause 6.7 Essential services of the LEP, makes provisions for essential services. As this clause ensures that all essential services are in place to accommodate future development on the site the planning proposal does not propose a provision for essential services. Therefore, it is considered that the planning proposal is generally consistent with this Direction.

Direction 3.3 Home Occupations

The objective of this Direction is to encourage the carrying out of low-impact small businesses in dwelling houses. Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.

The planning proposal seeks to rezone the site to R3 Medium Density Residential which permits carrying out of home occupations in dwelling houses without development consent. The planning proposal is therefore consistent with this Direction.

Direction 3.4 Integrating Land Use and Transport

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

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

The planning proposal seeks to rezone the site to R3 Medium Density Residential to enable development of the site in proximity to the South Windsor Small Village Centre and Windsor Railway Station and Bus Interchange for residential purposes. 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 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 sulfate soils. This Direction requires consideration of the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of DP&E. The subject site is identified as containing "Class 5" (less constrained) on the Acid Sulfate Soils Planning Maps, and as such any future development on the site will be subject to Clause 6.1 Acid Sulfate Soils of the LEP which has been prepared in accordance with the Acid Sulfate Soils Model Local Environmental Plan provisions within the Acid Sulfate Soils Planning Guidelines adopted by the Director General.

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This Direction requires that a relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate 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 such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act.

An acid sulfate soils study has not been included in the planning proposal. The DP&E will consider this as part of their 'Gateway' determination and if required can request further information/consideration of this matter.

Direction 6.1 Approval and Referral Requirements

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

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

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

Direction 6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls. The planning proposal proposes an amendment to the Land Zoning Map of the LEP only and does not include any restrictive site specific planning controls. It is therefore considered that the proposed amendment is consistent with this Direction.

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Direction 7.1 Implementation of 'A Plan for Growing Sydney'

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

State Environmental Planning Policies

The State Environmental Planning Policies of most relevance are *State Environmental Planning Policy No. 55 Remediation of Land*, *Sydney Regional Environmental Plan No. 9 - Extractive Industry (No 2- 1995)* and *Sydney Regional Environmental Plan 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. SEPP 55 may require Council to obtain, and have regard to, a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

The applicant does not provide a detailed history of the use of the site other than stating that the site has been used as a scout hall for a number of years. Council's records also do not indicate any other use of the site. Given there are no records showing that the site has been used for any other purposes it is considered that the land would not be contaminated.

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 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*

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- *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*
- *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.*

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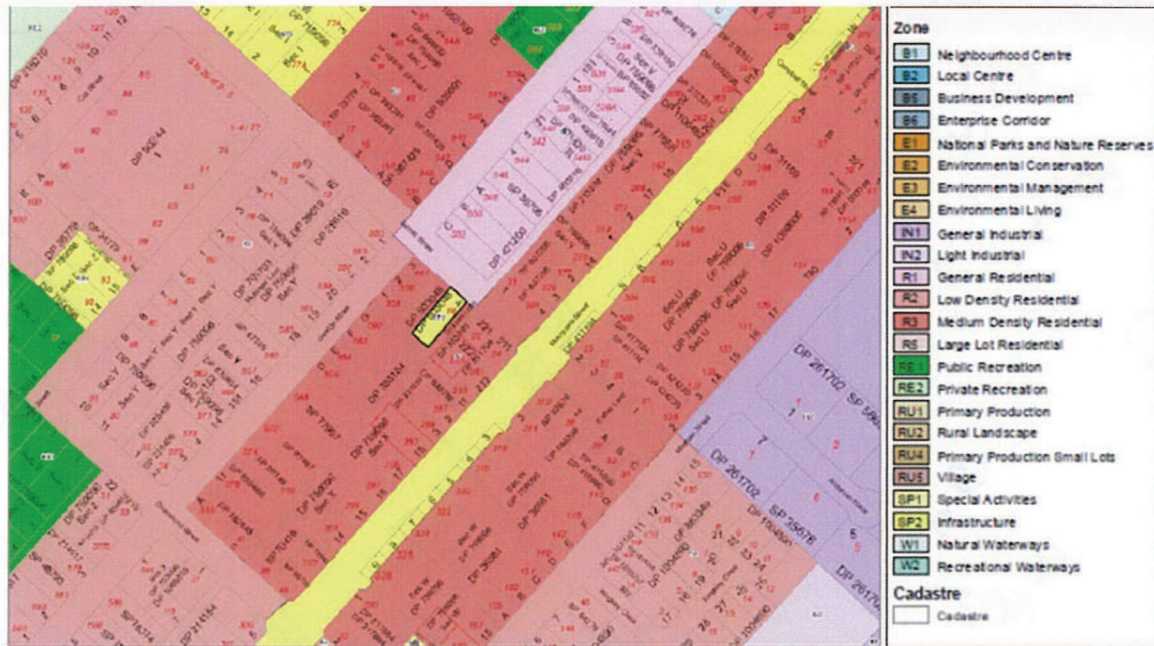


Figure 6: Surrounding Land Uses

Services

The applicant states that:

"The site has access currently to existing physical and community infrastructure which will be able to support the likely increase in population as a result of any future residential development on the land. The site has current access to public transport systems."

It is considered that the future development of the site would not create additional demand for infrastructure as the site has adequate access to electricity reticulated water and sewer, and telecommunication services to accommodate a suitable residential development on the site.

Public Transport, Accessibility and Traffic Generation

The planning proposal is not supported by a transport/traffic statement or traffic impact statement. However, given the site is located within a reasonable walking distance to both the Windsor Railway Station and the Bus Interchange the site has a reasonable access to public transport system.

The site has been accessed via James Street.

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

Ecology

The Terrestrial Biodiversity (TBV) Map of LEP 2012 does not identify the site contains significant vegetation. There are a few shrubs along the Dickson Lane frontage.

The planning proposal does not indicate the presence of any critical habitat on the site. Given the site's location, size, features and conditions it is considered that the presence of any critical habitat on the site is very unlikely.

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Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Looking after People and Place Directions statement.

- Offer residents a choice of housing options that meet their needs whilst being sympathetic to the qualities of the Hawkesbury.

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 urban 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 South Windsor Small Village Centre, Railway Station and Public Bus Interchange
- no significant development constraints to accommodate a residential development on the site.
- the planning proposal would enable orderly development and economic use and of the site
- 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 purposes.

Financial Implications

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

Planning Decision

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

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RECOMMENDATION:

That:

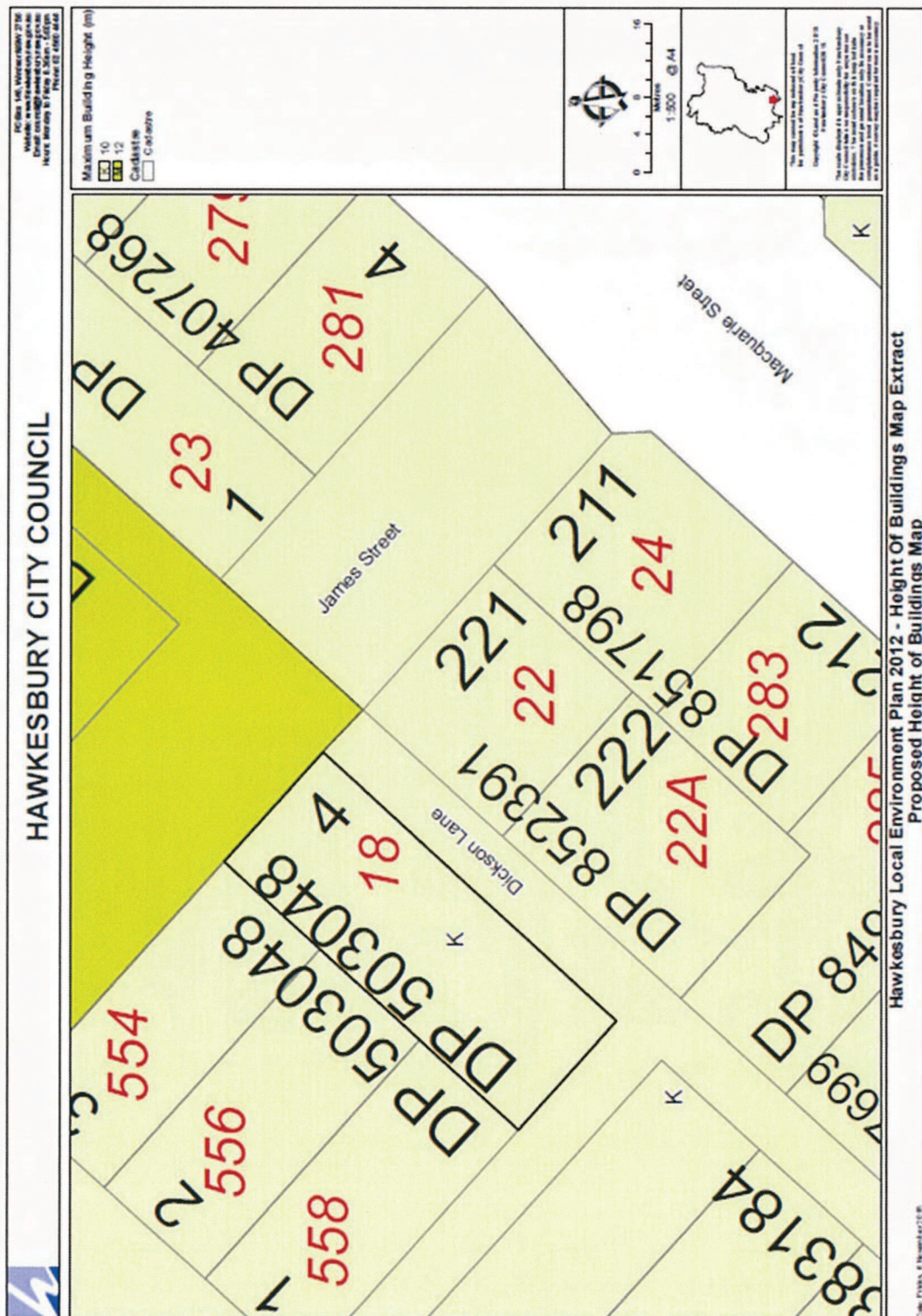
1. Council support the preparation of a planning proposal relating to Lot 4 DP 503048, 18 James Street, South Windsor to:
 - a) amend the Land Zoning Map of Hawkesbury Local Environmental Plan 2012 to change the current zoning of the site from SP2 Infrastructure to R3 Medium Density Residential as shown in Attachment 1 to this report
 - b) amend the Lot Size Map of the Hawkesbury Local Environmental Plan 2012 to specify 450m² minimum lot size for the site as shown in Attachment 2 to this report
 - c) amend the Height of Buildings Map of the Hawkesbury Local Environmental Plan 2012 to specify 10m maximum height of buildings for the site as shown in Attachment 3 to this report.
2. The planning proposal be forwarded to the Department of Planning and Environment with a request for a 'Gateway' determination.
3. The Department of Planning and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.

ATTACHMENTS:

- AT - 1** Proposed Land Zoning Map
- AT - 2** Proposed Minimum Lot Size Map
- AT - 3** Proposed Height of Buildings Map

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AT - 3 Proposed Height of Buildings Map



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ACTION ITEM

ADOPTED

At the ORDINARY Meeting held on 24 November 2015

User Instructions

To view the original Agenda Item, double-click on 'Agenda Report' blue hyperlink above.

Resolved Items Action Statement

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

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Mr Greg Hall addressed Council, speaking for the recommendation.

MOTION:

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

Refer to RESOLUTION

332 RESOLUTION:

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

That:

1. Council support the preparation of a planning proposal relating to Lot 4 DP 503048, 18 James Street, South Windsor to:
 - a) amend the Land Zoning Map of Hawkesbury Local Environmental Plan 2012 to change the current zoning of the site from SP2 Infrastructure to R3 Medium Density Residential as shown in Attachment 1 to this report
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2. The planning proposal be forwarded to the Department of Planning and Environment with a request for a 'Gateway' determination.

3. The Department of Planning and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.

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 Creed	
Councillor Ford	
Councillor Lyons-Buckett	
Councillor Mackay	
Councillor Paine	
Councillor Porter	
Councillor Rasmussen	
Councillor Reardon	
Councillor Tree	
Councillor Williams	