

Draft Amendment to Hawkesbury LEP 1989 - To allow additional uses on Rural living Zone at Vineyard

Proposal Title :	Draft Amendment to Hawkesbury LEP 1989 - To allow additional uses on Rural living Zone at Vineyard		
Proposal Summary :	To allow a range of additional uses - small scale light industrial, ancillary retail, repair and service business activities on the land at Vineyard.		
PP Number :	PP_2012_HAWKE_004_00	Dop File No :	12/12589-1

Proposal Details

Date Planning Proposal Received :	01-Aug-2012	LGA covered :	Hawkesbury
Region :	Sydney Region West	RPA :	Hawkesbury City Council
State Electorate :	HAWKESBURY	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	389 Old Hawkesbury Road		
Suburb :	Vineyard	City :	Hawkesbury
Land Parcel :	Lot 53 DP 593354	Postcode :	2756
Street :	541,545,547 Windsor Road		
Suburb :	Vineyard	City :	Hawkesbury
Land Parcel :	Lot 5 DP 536674, Lot 10 DP 1080426, Lot 11 DP 1080426	Postcode :	2756
Street :	7 Chapman Road		
Suburb :	Vineyard	City :	Hawkesbury
Land Parcel :	Lot 4 DP 536674	Postcode :	2756

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DoP Planning Officer Contact Details

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Land Release Data

Growth Centre :	Sydney North West	Release Area Name :	Other
Regional / Sub Regional Strategy :	Metro North West subregion	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	Both
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : Yes

If No, comment : To the best of the knowledge of the regional team, the Department's Code of Practice in relation to communications and meetings with Lobbyists has been complied with. Sydney Region West has not met with any lobbyist in relation to this proposal, nor has the Regional Director been advised of any meetings between other departmental officers and lobbyists concerning the proposal.

Have there been meetings or communications with registered lobbyists? : No

If Yes, comment : The Department's "Table of contacts with Registered Lobbyists" has been checked on 10 August, 2012, and there have been no records of contact with Lobbyist in relation to this proposal.

Supporting notes

Internal Supporting Notes : The planning proposal is of a minor nature and is to facilitate a future redevelopment of the site with the integration of new compatible land uses and assist in improving local economic and business activities. The plan provides an opportunity to formalise non-conforming land uses and provides a reasonable opportunity for these businesses to expand and redevelop.

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It is not likely to have any adverse environmental impacts resulting from future likely land uses permissible in the proposed RU4 Primary Production Small Lots Zone under Hawkesbury LEP 2012.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment : The application clearly states that the primary objective of the planning proposal is to specify certain land uses on the subject land as additional permitted development that may be carried out with development consent under Hawkesbury Local Environmental Plan (HLEP) 2012 (the draft SI Principal LEP).

The intended outcomes of the planning proposal are to formalise certain land uses that have been operating on the site for many years and to allow redevelopment of the site for a range of small scale industrial ancillary retail, repair and local service business purposes

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : Schedule 1 in conjunction with Clause 2.5 'Additional permitted uses for particular land' of HLEP 2012 makes provision for carrying out development on particular land with or without Council's consent. The planning proposal seeks to utilise this provision to list the proposed non-confirming land uses as additional permitted uses on the land with Council's consent.

In order to ensure that these uses will not impede the future Vineyard precinct planning process, conditions limiting land, gross floor areas and the life of consent are also included into Schedule 1 as described below.

For the property at 389 Old Hawkesbury Road, it is proposed to allow a saw mill, timber yard and associated parking on the condition that the total land area is not to exceed 10,000m².

For the property at 541 Windsor Road, it is proposed to allow saw manufacturing, repairs and sales, industrial retail premises, other compatible light industrial uses and associated parking. These uses are conditioned so that the total land area is not to exceed 3,000m² and the gross floor area of the industrial retail premises not to exceed 150m².

For the property at 541 – 547 Windsor Road, it is proposed to allow hardware and building supplies, trailer hire business and associated parking. These uses are conditioned so that the total land area not to exceed 5,000m², gross floor areas of the trailer hire premises and building hardware store are not to exceed 325m² and 250m² respectively.

There is an overall 'sun set' condition applying to all properties which requires development applications to be submitted within 2 years from the gazettal of the planning proposal, and states that consent for new development lapses upon the finalisation of the Vineyard precinct planning process.

These conditions are consistent with advice provided by the Land Release Branch of the Department in relation to concerns for the possible impact on the Vineyard Precinct planning process. This will be discussed further on in the report.

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Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? No

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

1.2 Rural Zones

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

7.1 Implementation of the Metropolitan Plan for Sydney 2036

Is the Director General's agreement required? Yes

c) Consistent with Standard Instrument (LEPs) Order 2006 : Yes

d) Which SEPPs have the RPA identified?

SEPP No 1—Development Standards

SEPP No 55—Remediation of Land

SEPP No 64—Advertising and Signage

SEPP (Exempt and Complying Development Codes) 2008

SREP No. 20 - Hawkesbury—Nepean River (No. 2 - 1997)

e) List any other matters that need to be considered :

SECTION 117 DIRECTIONS

The following lists the s117 Directions which are relevant to the proposal.

1.1 BUSINESS AND INDUSTRIAL ZONES

Council considers that the planning proposal will list certain land uses as additional permitted land uses on the subject land. This will enable an economic and orderly development on the subject land with future redevelopment of the land for a range of light industrial - manufacturing, ancillary retail services, repair and service businesses.

Council considers that the proposal is generally consistent with the direction, particularly the objective to encourage employment growth in suitable locations.

The Department's view:

The planning proposal is not inconsistent with the direction. The direction only strictly applies where land is within an existing or proposed business or industrial zones.

1.2 RURAL ZONES

The land is currently zoned Rural living, and is proposed to be zoned RU4 Primary Production Small Lots under Hawkesbury LEP 2012. The objective of this direction is:

'to protect the agricultural production value of existing rural land.'

The planning 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 rights since the 1950s) and the proposal is consistent with the Hawkesbury Employment Land Strategy (HELS), it is considered that the inconsistency with the Direction is acceptable.

The Department's view:

It is argued that the inconsistency with the Direction is of minor significance. The proposal is only legitimising existing uses on the site. Aspects of the proposed additional uses, such as saw manufacturing and repairs, hardware and building

supplies and trailer hire are supportive of agricultural production and rural industry.

3.4 INTEGRATING LAND USE AND TRANSPORT

The guidelines Integrated Landuse and Transport seeks to improve the integration of land use and transport planning. The planning proposal will enable the protection of the existing development and will provide additional employment opportunities close proximity to the proposed residential within the NWGC with future redevelopment of the site for a range of light industrial, ancillary retail and repair services. It is considered that the planning proposal is generally consistent with this Direction.

The Department's view:

The site has good access to Windsor Road, and public transport is available. The planning proposal is not inconsistent with this direction.

4.1 ACID SULFATE SOILS

This direction requires consideration of the Acid Sulfate Soils Planning Guidelines. The subject site is identified as "Class 5" (less constrained) on the Acid Sulphate Soils Map held by Council. Given many of the proposed additional uses in the planning proposal have occupied the site for many years, the provisions contained in HLEP 2012 relating to Class 5 land and the nature of the planning proposal it is considered that a detailed consideration of the Acid Sulfate Soils Planning Guidelines is not required at this stage.

The Department's view:

Given that the land is class 5 acid sulfate soil, this will trigger the preparation of an acid sulfate soils management plan at the development application stage on the land, under draft clause 6.1 Acid Sulfate Soils of the draft Hawkesbury LEP 2012. Accordingly, the proposed additional land uses are considered to be of a minor nature which can be dealt with in detail at the development approval stage, and therefore the planning proposal is justifiably inconsistent with the direction.

4.3 FLOOD PRONE LAND

The proposal is inconsistent with this Direction. The majority of the site proposed to be rezoned is below the 1:100 year flood level. In accordance with the Floodplain Development Manual 2005, Council engaged Bewsher Consulting Pty Ltd to prepare a Flood Risk Management Study and Plan for the Hawkesbury River within the Hawkesbury LGA in June 2010, and this project is expected to be completed in 2013. Council will be able to assess any future development on the land against the Hawkesbury Flood Risk Management Plan to ensure effective development and management of the land with minimal impact of flooding on individual owners and occupiers of flood prone property and reduction in private and public losses resulting from major floods.

The Department's view:

The planning proposal is not proposing any residential or high risk land use in the flood plain. The draft clause 6.3 Flood Planning of the draft Hawkesbury LEP 2012 requires detailed consideration of flood risk aspects of any developments that are proposed. Accordingly, the proposed additional land uses are considered to be of a minor nature which can be dealt with in detail at the development approval stage, and therefore the planning proposal is justifiably inconsistent with the direction.

4.4 PLANNING FOR BUSHFIRE PROTECTION

The planning proposal will affect land mapped as bushfire prone land. The subject land is identified as bush fire prone land with a mix of Vegetation Categories 1 and 2 and

Vegetation Buffer land. Accordingly, Council is required to consult with the Commissioner of the NSW Rural Fire Service (RFS).

The Department's view:

A planning proposal may be inconsistent with the terms of the direction only if the Council (RPA) can satisfy the Director General (or his delegate) that the Council has obtained written advice from the RFS, that the RFS does not object to the progression of the planning proposal. It is recommended that Council consult the Commissioner of NSW RFS prior to undertaking community consultation in satisfaction of section 57 of the Act.

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.

The planning proposal is consistent with the terms of this direction, as it does not include any provisions requiring the concurrence, consultation or referral of development applications to a Minister or public authority or referral of a Minister or public authority and also does not identify development as designated development.

The Department's view:

The planning proposal is not inconsistent with the direction.

6.3 SITE SPECIFIC PROVISIONS

The objective of this direction is to discourage unnecessary restrictive site specific planning controls. The proposal does contain specific site controls such as the proposed maximum land area limitations for particular land uses.

As per the advice provided by the Land Release Branch of the Department (letter dated 14/11/11) a condition requiring the cessation of the operation of the proposed additional uses on the land upon the finalisation of Vineyard precinct planning process has been included to ensure that the proposed uses do not impede the future Vineyard precinct planning process. A requirement specifying maximum permissible land areas and gross floor areas for certain additional uses has also been proposed to minimise any adverse impediments on the future precinct planning process. It is therefore considered that the inconsistency with this Direction is acceptable.

The Department's view:

The site specific directions have been included to minimise interference with the North West Growth Centres precinct planning process. It is considered that this inconsistency with the direction is justified and therefore of minor significance.

7.1 IMPLEMENTATION OF THE METROPOLITAN PLAN FOR SYDNEY 2036

The Planning Proposal is generally consistent with the objectives of the Metropolitan Plan for Sydney 2036. The planning proposal will allow additional land uses that will contribute to employment opportunities in the area.

The draft North West Subregional Strategy identifies the existing Mulgrave and Vineyard industrial area as being located, just outside of the North West Growth Centre but recognises that this area is well established, comprising a mix of industrial uses, such as manufacturing, automotive servicing and automotive sales as was bulky goods retailing.

The site is located within the NWGC and ultimately will form part of Vineyard Precinct.

Consequently it is considered that the use of the site in the manner proposed is not inconsistent with the aim of the strategy in terms of job creation.

The Department's view:

The planning proposal is not inconsistent with the direction.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS & DEEMED SEPPS)

SEPP 1 - DEVELOPMENT STANDARDS

The planning proposal does not include provisions that contradict or hinder the application of the SEPP.

The Department's view:

SEPP 1 is not being applied in this case.

SEPP 55 - REMEDIATION OF LAND

It is proposed that, where required contamination investigations will be undertaken in accordance with the provisions of SEPP 55 prior to any future development application being submitted.

The Department's view:

Agreed with Council's consideration that detailed investigation of contamination can be carried out at the DA stage. It is noted that the planning proposal does not propose any additional or intensification of residential uses.

SEPP 64 - ADVERTISING AND SIGNAGE

The planning proposal does not include provisions that contradict or hinder the application of the SEPP.

The Department's view:

SEPP 64 does not apply to the planning proposal.

SEPP - EXEMPT AND COMPLYING DEVELOPMENT CODES 2008

The planning proposal does not include provisions that contradict or hinder the application of the SEPP.

The Department's view:

The Codes SEPP does not apply to the planning proposal.

SREP NO. 20 HAWKESBURY - NEPEAN RIVER (NO 2 - 1997)

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 impacts of the development on the environment, the feasibility of alternatives and consideration of specific matters such as environmentally sensitive areas, water quality, water quantity, flora and fauna, riverine scenic quality, agriculture, and metropolitan strategy.

It is considered that the planning proposal achieves satisfactory compliance with the

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provisions of SREP No 20 (No. 2 – 1997).

The Department's view:

It is agreed with Council that the planning proposal will not have an adverse impact on environmentally sensitive areas, water quality, water quantity, flora and fauna, riverine scenic quality, agriculture, and metropolitan strategy. These are issues which are to be more appropriately considered at the DA stage.

In addition, the draft Hawkesbury LEP 2012 also contains model provisions on protection of natural resources and management (ie. wetlands, acid sulfate soils, flood planning, terrestrial biodiversity and bushfire) for consideration by Council at the DA stage.

SEPP SYDNEY REGION GROWTH CENTRES 2006

Although this SEPP is not mentioned in the planning proposal, it does recognise that the site is within the Vineyard Precinct of the North West Growth Centre.

The relevant aim of the SEPP is "to co-ordinate the release of land for residential, employment and other urban development in the North West and South West growth centres of the Sydney Region."

An additional provision of the SEPP requires consideration of development applications (DAs) prior to the finalisation of the Precinct Plans. Specifically cl.16(1)(a) requires the consent authority to consider "whether the proposed development will preclude the future urban and employment development land uses identified in the growth centre structure plan."

The Department's view:

Although we are not dealing with a DA the broad principle should still apply in regards to controlling land uses through the LEP so that these uses do not undermine the potential development of the future growth centre.

Consistent with this policy the Council consulted with the Land Release (Planning and Delivery) Branch of the Department. Initially Council proposed to rezone the site to part B1 Neighbourhood Centre and part IN2 Light Industrial. The Land release response (16/7/11) advised that any rezoning of land would not be supported ahead of precinct planning and until the Vineyard Precinct is released and rezoned.

Following this advice Council referred the alternative approach to the Department which proposed the inclusion of non-conforming land uses as additional permitted uses in Schedule 1. The Department advised (letter dated 14/11/11 - ATTACHED) that the use of Schedule 1 is considered the appropriate mechanism to legitimise the existing uses. The Department asked Council to include conditions to ensure that the proposed uses do not impede the future precinct planning process.

The submitted planning proposal also includes a condition requiring the cessation of the operation of the proposed additional land uses upon finalisation of the Vineyard precinct planning process. There is also a requirement specifying the maximum permissible land areas and gross floor areas for these additional land uses.

The limitation to specific land uses and these additional conditions will restrict the expansion of the businesses on the site so that they don't negatively impact on the planned Vineyard Precinct growth centre. These aspects of the proposal will ensure consistency with the Growth Centres SEPP, and they are consistent with the Land Release comments.

Have inconsistencies with items a), b) and d) being adequately justified? Yes

If No, explain :

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Mapping Provided - s55(2)(d)

Is mapping provided? No

Comment : This will be an amendment to Schedule 1 Additional Permitted Uses which will include property descriptions therefore a map is not required.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment : The planning proposal legitimises land uses that have existed on the site for some time. The provisions in the plan will limit the impact of any development so as not to interfere with precinct planning in the Vineyard Growth Centre. Given this, the regional team considers the proposal to be "low impact" and recommends a community consultation period of 14 days.

Additional Director General's requirements

Are there any additional Director General's requirements?

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : August 2012

Comments in relation to Principal LEP : The draft Hawkesbury LEP 2012 has been exhibited and reported to Council under the former section 68. The PC opinion was obtained for the plan on 14 August 2012, and the planning report and plan were submitted to the executive shortly thereafter.

The draft LEP zones the subject land to RU4 Primary Production Small lots, which is a translation of the existing Rural Living zone.

Assessment Criteria

Need for planning proposal :

The objective of the planning proposal is to specify certain land uses as additional permitted uses in Schedule 1 - Additional Permitted Uses of Hawkesbury LEP 2012 (yet to be notified) to allow a range of small light industrial, ancillary retail, repair and service business activities.

These businesses have been carried out on the site for some years, however there is some doubt as to whether 'existing use rights' can be established in all cases. The proposed LEP will enable these businesses to obtain a valid development consent and continue trading with limited expansion.

The future redevelopment of the site with the integration of new compatible land uses and the existing land uses will not only facilitate an orderly and economic development on the land but also assist in improving local economic and business activities. The plan will contribute towards achieving the employment target for Hawkesbury Local Government Area (LGA) (3000 jobs) identified by the draft North West Subregional Strategy (NWSS).

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Consistency with strategic planning framework :

Council has advised that the planning proposal is consistent with Council's Community Strategic Plan 2010 and the Hawkesbury Employment Land Strategy.

The planning proposal is considered to be consistent with the following objectives of the Metropolitan Plan for Sydney 2036:

- E.1 To ensure adequate land supply for economic activity, investment and jobs in the right locations; and
- E3. To provide employment lands to support the economy's freight and industry needs.

The planning proposal is considered to be consistent with the following action in the Draft North West Subregional Strategy:

- A.1.1.2 To provide suitable commercial sites and employment lands in strategic areas.

Environmental social economic impacts :

HERITAGE

The subject site contains no items listed in the Hawkesbury Local Environmental Plan 1989 or on the State Heritage Register.

FLORA AND FAUNA

The site contains areas of remnant vegetation,(Terrestrial Biodiversity Map of draft HLEP 2012) mainly along the north-western, north-eastern and south-western boundaries and middle of the site. However much of the site is free of any significant stand of vegetation.

Given the presence of significant trees on the site Council has recommended that any future development would require preparation of a flora and fauna report.

The provisions of the Terrestrial biodiversity clause (cl. 6.4) of the draft HLEP 2012 requires consideration of the impact of development on flora and fauna prior to determining a development application. Given this requirement it is considered that a more detailed flora and fauna report can be considered at the DA stage.

BUSHFIRE PRONE LAND

Issues in regard to bush fire prone land are discussed under S117 Direction 4.4 Planning for Bushfire Protection.

FLOODING

Issues involving flooding are discussed under S117 Direction 4.3 Flood Prone Land.

TRAFFIC AND ACCESS

The site is located on the signalised intersection of Windsor Road/Chapman road and has three street frontages therefore access to and from the site is not considered to be an issue.

Windsor Road is a classified Road with reasonable access to the M2 and M7 motorways. It is considered that the traffic generated by possible future redevelopment of the site will not generate significant traffic volumes. However potential traffic impact will require more detailed consideration at future DA stage.

SITE CONTAMINATION

Issues involving contamination are discussed under SEPP 55 Remediation of Land.

SOCIAL

The planning proposal would enable improved access to certain locally manufactured industrial retail products, repair services and jobs within a reasonable walking distance

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from the future residential precinct within the North West Growth Centre and the surrounding residential population.

ECONOMIC

The proposal will enable economical use of the land and increased local economic and business activities to sustain economic viability of the area.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	14 Days
Timeframe to make LEP :	9 Month	Delegation :	DG
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage - NSW National Parks and Wildlife Service NSW Rural Fire Service Transport for NSW - Roads and Maritime Services		

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
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Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 6.1 Approval and Referral Requirements

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6.3 Site Specific Provisions

7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information :

It is recommended that the proposal proceeds with the following conditions:

(1) The Director General agrees that any inconsistency with section 117 Directions:

- 1.2 Rural Zones; and
 - 4.1 Acid Sulfate Soils; and
 - 4.3 Flood Prone Land; and
 - 6.3 Site Specific Provisions;
- are justified as minor matters.

(2) Consultation with Commissioner of the NSW Rural Fire Service, in accordance with S.117 Direction 4.4 Planning for Bushfire Protection, prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.

(3) Community consultation under sections 56(2)(c) and 57 of the Environmental Planning and assessment Act 1979 ("EP&A Act") as follows:

- (a) the planning proposal must be made publicly available for 14 days; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of A Guide to Preparing LEPs (Department of Planning 2009).

(4) Consultation is Required with the following public authorities under section 56(2)(d) of the EP&A Act:

- Department of Environment and Heritage (NPWS);
- Roads and Maritime Services;
- Commissioner of NSW RFS.

(5) A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act.

(6) The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

Supporting Reasons :

The LEP enables the validation and limited expansion of existing businesses that have been carried out on the site for some time. This will contribute to economic development and job growth in the area.

The conditions that will be placed on the proposed landuses will ensure that development does not interfere with the future precinct planning and development of the Vineyard Growth Centre.

Signature:



Printed Name:

DERRYN JOHN

Date:

24/8/12