

Proposal to rezone 2 - 8 Hawkesbury Valley Way and 393 - 395 George Street, Windsor from R2 Low Density Residential to B1 Neighbourhood Centre

Proposal Title :	Proposal to rezone 2 - 8 Hawkesbury Valley Way and 393 - 395 George Street, Windsor from R2 Low Density Residential to B1 Neighbourhood Centre		
Proposal Summary :	The proposal seeks to rezone the subject site from R2 Low Density Residential to B1 Neighbourhood Centre and to amend the Height of Buildings and Lot Size Maps.		
PP Number :	PP_2017_HAWKE_001_00	Dop File No :	17/01168

Proposal Details

Date Planning Proposal Received :	02-Mar-2017	LGA covered :	Hawkesbury
Region :	Metro(Parra)	RPA :	Hawkesbury City Council
State Electorate :	HAWKESBURY	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	2A Hawkesbury Valley Way		
Suburb :	Windsor	City :	Hawkesbury
Land Parcel :	Lot A DP108510		Postcode : 2756
Street :	4 Hawkesbury Valley Way		
Suburb :	Windsor	City :	Hawkesbury
Land Parcel :	Lot 13 DP16626		Postcode : 2756
Street :	6 Hawkesbury Valley Way		
Suburb :	Windsor	City :	Hawkesbury
Land Parcel :	Lot 12 DP16626		Postcode : 2756
Street :	8 Hawkesbury Valley Way		
Suburb :	Windsor	City :	Hawkesbury
Land Parcel :	Lot 11 DP16626		Postcode : 2756
Street :	385 - 395 George Street		
Suburb :	Windsor	City :	Hawkesbury
Land Parcel :	Lot 7 - 12 DP1093		Postcode : 2756
Street :	383 George Street		
Suburb :	Windsor	City :	Hawkesbury
Land Parcel :	Lot 13 DP1089172		Postcode : 2756

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DoP Planning Officer Contact Details

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Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :
MDP Number :	Date of Release :
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :
No. of Lots : 0	No. of Dwellings 11 (where relevant) :
Gross Floor Area : 0	No of Jobs Created : 0

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

If No, comment : The Department's Lobbyist Contact Register has been checked on 11 January 2017 and there are no records of contact with lobbyists in relation to this proposal.

Have there been
meetings or
communications with
registered lobbyists? :

No

If Yes, 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 (Parramatta) has not met with any lobbyists in relation to this proposal, nor has the Director been advised of any meetings between other departmental officers and lobbyists concerning this proposal.

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes : Council submitted additional information on Friday 3 February 2017, the date the proposal was received has been amended accordingly.

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Further information sought from Council on 24 February 2017.

Further information was received from Council on Thursday 2 March, the date the proposal was received has been amended accordingly.

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The objective of the planning proposal is to enable a range of commercial uses on the site by rezoning the subject site from R2 Low Density Development to B1 Neighbourhood Centre. The proposal also seeks to amend the Lot Size Map to remove the current lot size provision and to amend the Height of Buildings Map to change the permissible height of buildings from 10m to 12m.

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

Is an explanation of provisions provided? Yes

Comment : The planning proposal seeks to amend the Hawkesbury Local Environmental Plan 2012 to:

- rezone the subject site from R2 Low Density Residential to B1 Neighbourhood Centre;
- amend the Lot Size Map (Map Tile_LZN_008DA) to remove the current 450 square metre lots size provision applying to the site; and
- amend the Height of Building Map (Map Tile_HOB_008DA) to change the height of building provision applying to the site from 10 metres to 12 metres.

SITE DESCRIPTION

The site is legally described as lots 7-12 DP 1093, Lot 13 1089172, Lot A DP 108510 and Lots 11 - 13 DP 16626.

The subject site is approximately 0.53 hectares in size and consists of 11 lots. The subject site currently comprises three separate, single storey dwellings which front Hawkesbury Valley Way and a car sales yard, including an office and workshop/garage which covers the remainder of the site. Access to the car sales yard is via George Street.

The car sale yard site contains a local heritage item - I222 'Learholm' which is listed in Schedule 5 - Environmental Heritage of the Hawkesbury Local Environmental Plan 2012 (HLEP 2012).

The subject site is located on the south western corner of Hawkesbury Valley Way and George Street, which is a signalised intersection. The site is accessed by existing access driveways from both Hawkesbury Valley Road (residential dwelling houses) and George Street (car sales yard).

The site is located within close proximity (approximately 300 metres) of Windsor railway station and bus interchange and within walking distance to Windsor Town Centre.

The land to the south and west of the site is zoned R2 Low Density Residential and development in the vicinity includes one and two storey residential dwelling houses and a service station. A public park is located to the north of the site and a cemetery and some commercial shops are located to the east of the site.

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

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Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

2.3 Heritage Conservation

* May need the Director General's agreement

3.1 Residential Zones

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

7.1 Implementation of A Plan for Growing Sydney

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 55—Remediation of Land

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

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

SECTION 117 DIRECTIONS

This planning proposal is consistent with all the relevant s117 Directions except as follows:

1.1 BUSINESS AND INDUSTRIAL ZONES

This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business zone.

If this direction applies the relevant planning authority must:

(a) give effect to the objectives of this directive.

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.

The proposal has given effect to the objectives of this direction, as the proposal seeks to encourage employment growth in a suitable location. The proposed subject site is located within reasonable proximity to the Windsor Town Centre and is adjacent to other commercial uses. The future development of the subject land for commercial purposes will help to expand the established business precinct and help to facilitate connectivity between the Windsor Railway Station and the Windsor Town Centre.

The proposal is also not inconsistent with Hawkesbury Council's 'Hawkesbury Employment Lands Strategy 2008' which identifies Windsor Town Centre as one of the main commercial centres with additional capacity for commercial development within the Hawkesbury Local Government Area.

Further, the site is currently being used largely for commercial purposes and given the site is subject to flooding and aircraft noise the proposed B1 Neighbourhood Centre zoning is considered a more suitable use of this land.

It is considered that the proposal is consistent with this direction.

2.3 HERITAGE CONSERVATION

This direction applies as the subject site contains a local listed heritage item, Item 222 'Longholm'.

To ensure consistency with this direction a planning proposal must contain provisions that facilitate the conservation of items of historical value. The proposal does not contain provisions to conserve the historical significance of the 'Longholm', however, the item is listed in the HLEP 2012 which contains measures that seek to conserve the historical values of the heritage item.

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To ensure consistency with this Direction it is recommended that the proposal be forwarded to the Office of Environment and Heritage for consideration.

3.1 RESIDENTIAL ZONES

This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing residential zone.

The planning proposal satisfies items 4(a)(b)(c)(d) of the Direction.

Hawkesbury LEP 2012 contains an essential services clause that will apply to the land satisfying item 5(a).

In respect of item 5(b) i.e. a planning proposal must not contain provisions which will reduce the permissible residential density of the land. It is anticipated that the density will not be reduced through this proposal (refer to 3.5 development near licensed aerodromes).

3.5 DEVELOPMENT NEAR LICENSED AERODROMES

This direction does not apply as the Richmond RAAF Base is not a licensed aerodrome. However, the intention of this direction is to ensure development for residential purpose or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 - 25 is not adversely affected by aircraft noise.

The subject site is subject to aircraft noise. The sites proximity to the Richmond RAAF Base makes it subject to flight paths and aircraft noise. The Council Report (Figure 7, page 11) identifies the subject site as located within the ANEF 25 - 30 contour.

Table 2.1 'Building Site Acceptability Based on ANEF Zones' of Australian Standard 2021 - 2000 does not recommend the following building types - 'house, home unit, flat' in areas where noise exposure is expected to be 'greater than 25 ANEF' (Appendix 2 - Table 2.1 AS 2021-2000 of the planning proposal).

Clause 6.6 Development in areas subject to aircraft noise of the Hawkesbury Local Environmental Plan 2012 provides development controls for council to consider before permitting residential development.

To ensure consistency with the intention of this Direction, it is recommended that prior to public exhibition Council determines the number of dwelling houses currently permissible with consent on the subject site and uses this figure to determine a residential dwelling cap to prevent further intensification of residential development on land that is subject to both aircraft noise and flood affection (flooding is discussed under 4.3 Flood Prone Land further in this report).

4.1 ACID SULFATE SOILS

This direction applies as the subject site has been identified as containing acid sulfate soils.

A proposal may be inconsistent with this direction if the inconsistency is of minor significance.

The site is identified as containing 'Class 5 Acid Sulfate Soils' on the Acid Sulfate Soils Planning Maps contained within the HLEP 2012. However, Class 5 Acid Sulfate soils are considered the least constrained class of acid sulfate soil and clause 6.1 Acid Sulfate Soils in Hawkesbury LEP 2012 provides controls to ensure development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

It is recommended in the above circumstances that the delegate agrees, any inconsistency with this direction is of minor significance.

4.3 FLOOD PRONE LAND

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This direction applies when a planning proposal creates, removes or alters a zone or provision that affects flood prone land.

The subject site is identified as flood prone, as follows.

- the site is partly below the 1:100 year flood level of 17.3m AHD. The height of the subject site varies from 18.5m AHD to the southwest to approximately 16m to the northeast;
- the whole of the subject site is located below the Probable Maximum Flood level.

The objectives of this direction is to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential impacts both on and off the subject land (1(b)).

Clauses (4) - (8) set out particular requirements for planning proposals specifically clause (6) states 'A planning proposal must not contain provisions that apply to the flood planning area which.....(c) permit a significant increase in development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measure, infrastructure or services'.

No specific design has been prepared at this time but the proposal indicates that the 'site would be suited for a mixed development incorporating retail/commercial on the ground and upper levels together with some residential units provided on the upper levels'.

It would be reasonable to expect that the proposal is likely to result in some increase of development of that land and that this may result in an increased requirement for government spending on flood mitigation measures, infrastructure or other services.

Comment was sought from Infrastructure NSW's Hawkesbury-Nepean Valley Flood Management (INSW) Directorate (Directorate) in regard to the proposal and flooding and evacuation constraints.

The Directorate noted the following:

'The proposed rezoning to B4 Mixed Use allows for a range of development and it does allow some residential development. Residential development is the primary driver of flood risk to life in the Valley. However, without specification of the yield, location, timing and nature of the potential residential development and details in the change in commercial use within the site it is not possible to make an assessment of the flood risk of the proposed rezoning'.

The Directorate seeks ongoing engagement with the Department to assess the cumulative impacts on potential development in the Windsor/Richmond region on evacuation capacity and flood risk across the Valley.

The Directorate also recommended that any development permitted under this proposed rezoning should be supported by a detailed flood risk assessment including evacuation plans approved by the NSW State Emergency Service in consultation with Roads and Maritime Service and the Office of Environment and Heritage.

The proposal does not include any studies that address flooding or flood impacts.

The provision of a dwelling cap prior to public exhibition, as discussed under section 117 Direction 3.5 Development Near licensed Aerodromes, would allow for the same level of residential development that is permissible under current development controls and therefore, would not involve the intensification of residential development on flood prone land.

While this is the case, the proposal is likely to result in some increase of development

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on the site and therefore, it would be appropriate for a flood risk assessment, including evacuation plans approved by the NSW State Emergency Service and in consultation with Roads and Maritime Service and the Office of Environment and Heritage, to be prepared prior to public exhibition, and the proposal amended accordingly.

7.1 IMPLEMENTATION OF A PLAN FOR GROWING SYDNEY

A PLAN FOR GROWING SYDNEY

Section 75A1 (Implementation of strategic plans) of the Environmental Planning and Assessment Act 1979 states that, in preparing a planning proposal under section 55, the relevant planning authority is to give effect:

- (a) to any district plan applying to the local government area to which the planning proposal relates (including any adjoining local government area), or
- (b) if there is no district plan applying to the local government area - to any regional plan applying to the region in respect of which the local government area is part.

On 21 November 2016, the Greater Sydney Commission released draft District Plans for consultation purposes. Given that the plans are draft, pursuant to Section 75AE(3), A Plan for Growing Sydney is taken to be the regional plan for the Greater Sydney Region and will be considered in addition to the Draft West District Plan.

A Plan for Growing Sydney provides directions for Sydney's productivity, environmental management and livability; and for the location of housing, employment, infrastructure and open space.

The Planning Proposal is consistent with A Plan for Growing Sydney.

DRAFT WEST DISTRICT PLAN

The proposal is generally consistent with the vision for the West District, with Windsor complementing Greater Penrith, providing a mix of services and workplaces. However, the Draft West District Plan has not been addressed in the planning proposal.

It is recommended that prior to public exhibition the planning proposal be amended to address the proposal's consistency with the draft West District Plan.

STATE ENVIRONMENTAL PLANNING POLICIES

The proposal is generally consistent with all relevant SEPPs except:

SEPP NO. 55 REMEDIATION OF LAND

SEPP 55 requires the planning authority to consider whether the land is contaminated, and if so that the land is suitable for future permitted uses or if the land will require remediation to make it suitable for future permitted uses.

Council records indicate (pg 14, Council Report) that the site has been previously used as a car workshop and service area. This could be an activity which may cause contamination under Table 1. 'Some Activities that may Cause Contamination' of the Managing Land Contamination: Planning Guidelines.

As the site may potentially be contaminated owing to past activities, it is recommended that a preliminary contamination report be prepared to ensure compliance with clause 6 Contamination and remediation, to be considered in zoning or rezoning proposal. This report is to form part of the exhibition material and the planning proposal is to be amended accordingly prior to exhibition.

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

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Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The mapping provided is considered adequate for public exhibition.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **A community consultation period of 28 days is recommended and the planning proposal is to be amended prior to public exhibition to address the Gateway determination.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

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 : **September 2012**

Comments in relation to Principal LEP : **The Hawkesbury Local Environmental Plan 2012 came into effect when it was published to the NSW Legislation website on 21 September 2012.**

Assessment Criteria

Need for planning proposal : **A planning proposal is considered the best way to achieve the proposed rezoning and associated amendments to the lot size map and height of building map.**

Consistency with strategic planning framework : **A PLAN FOR GROWING SYDNEY**

A Plan for Growing Sydney provides an overarching strategic vision for development across the Sydney Metropolitan Region with a focus on livability, economic growth and environmental protection with a focus on the location of housing, infrastructure, employment and open space.

The proposed amendment is not considered inconsistent with A Plan for Growing Sydney and will not hinder the attainment of these goals.

DRAFT WEST DISTRICT PLAN

The planning proposal does not address the recently released Draft West District Plan. It is recommended that Council, as a condition of Gateway, addresses the Draft West District Plan prior to public exhibition.

Environmental social economic impacts : **ENVIRONMENTAL**

The subject site currently contains three single storey dwelling houses and a car sales yard. The car sales yard contains an item of local heritage significance "Learholm". The impacts to this item have been addressed under s117 Direction 2.3 Heritage Conservation and will be referred to the Office of Environment and Heritage as a condition of Gateway.

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The subject site is largely clear of vegetation and as a result the proposed development is unlikely to have any negative impacts on local flora or fauna.

SOCIAL AND ECONOMIC

The proposal is unlikely to have any negative social or economic impacts. The proposal is likely to result in improved social and economic outcomes for both the subject site and Windsor Town Centre precinct.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority : **Office of Environment and Heritage**
Consultation - 56(2)(d) : **Transport for NSW**
: **Transport for NSW - Roads and Maritime Services**
: **State Emergency Service**
: **Other**

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. :

Flooding

Other - provide details below

If Other, provide reasons :

Detailed Flood Risk Assessment that determines the number of occupants permitted by the proposal.

Preliminary Contamination Report to ensure compliance with State Environmental Planning Policy 55 - Remediation of Land.

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
01. Cover Letter.pdf	Proposal Covering Letter	Yes
02. Planning Proposal.pdf	Proposal	Yes
03. Council Report.pdf	Proposal	Yes
04. Council resolution.pdf	Proposal	Yes
05. Application Form.pdf	Proposal	Yes
06. Political Donations Statement.pdf	Proposal	Yes

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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**
 2.3 Heritage Conservation
 3.1 Residential Zones
 4.1 Acid Sulfate Soils
 4.3 Flood Prone Land
 7.1 Implementation of A Plan for Growing Sydney

Additional Information : **SECTION 117 DIRECTIONS**
It is considered that any inconsistency with section 117 direction 4.1 Acid Sulfate Soils is of minor significance.

It is recommended that the Secretary's delegate agree that any inconsistency is justified.

DELEGATION AND PLAN MAKING FUNCTION

Hawkesbury City Council has requested delegation of the plan making function in relation to this proposal. Given the minor nature of the planning proposal, it is considered appropriate for authorisation to be issued in this instance.

GATEWAY DETERMINATION

It is recommended that the Gateway Determination function be exercised by the Executive Director, Regions.

RECOMMENDATION AND GATEWAY CONDITIONS

It is recommended that the planning proposal proceeds, subject to the following conditions:

1. In relation to s117 Direction 4.3 Flood Prone Land, prior to public exhibition Council is required to:

- a. determine the number of dwelling houses permissible with consent under current development controls;
- b. amend the planning proposal to indicate that a cap will be applied limiting the number of residential dwellings permissible with consent on the site as determined above and specify dwelling yield under the cap;
- c. undertake a Flood Risk Assessment, including evacuation plans approved by the NSW State Emergency Service, in consultation with Roads and Maritime Services and the Office of Environment and Heritage, that demonstrates consistency with this Direction; and
- d. during exhibition provide a copy of the Flood Risk Assessment, including the proposed specified dwelling cap, to Infrastructure NSW's Hawkesbury-Nepean Valley Flood Management Directorate (Directorate) for consideration and comment.

2. Prior to public exhibition, Council must revise the planning proposal to include the flooding information and provide additional information regarding:

- a. consistency with the Draft West District Plan; and
- b. a preliminary contamination report.

The amended planning proposal is to be forwarded to the Department for endorsement prior to community consultation.

3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:

- (a) the planning proposal must be made publicly available for a minimum of 28 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 5.5.2 of A Guide to Preparing Local Environmental Plans (Department of Planning and Environment 2016).

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4. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:

- Office of Environment and Heritage
- Roads and Maritime Services
- Transport for NSW
- State Emergency Service
- Infrastructure NSW – Hawkesbury-Nepean Valley Flood Management Directorate
- Department of Defence

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

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 Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing.

6. The time frame for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons :

The proposal seeks to facilitate employment growth in suitable location.

Signature:



Printed Name:

T DORAN

Date:

21/3/17

