

ORDINARY MEETING
4. REPORTS FOR DETERMINATION
Meeting Date: 12 September 2023

4.1.2. CP - LEP004/23 - 172 Commercial Road, Vineyard Amendment to Schedule 1 Additional Permitted Uses of Hawkesbury Local Environmental Plan 2012 - (95498, 124414)

Directorate: City Planning

PLANNING PROPOSAL INFORMATION

File Number:	LEP004/23
Property Address:	172 Commercial Road, Vineyard
Applicant:	Mecone Group Pty Ltd
Owner:	EG Capital Finance Pty Limited
Date Received:	28/06/2023
Current Zone:	RU4 Primary Production Small Lots
Site Area:	4.8Ha

Key Issues:	Depot, light industry and warehouse or distribution centre
	Vineyard Stage 2
	Proposed additional permitted use clause

PURPOSE OF THE REPORT

The purpose of this report is to present to Council a Planning Proposal for 172 Commercial Road, Vineyard (subject site). The Planning Proposal seeks to amend the Hawkesbury Local Environmental Plan (LEP) 2012 to enable a depot, light industry and warehouse or distribution centre as additional permitted uses with consent on the subject site. The report includes the advice regarding the Planning Proposal that has been provided by the Hawkesbury Local Planning Panel and recommends that Council submit the Planning Proposal to the Department of Planning and Environment for a Gateway Determination.

EXECUTIVE SUMMARY

Council is in receipt of a Planning Proposal from Mecone Group Pty Ltd for land legally described as Lots 2 and 3 DP 229135 at 172 Commercial Road, Vineyard (subject site). The Planning Proposal seeks to amend the Hawkesbury Local Environmental Plan (LEP) 2012 to enable a depot, light industry and warehouse or distribution centre as additional permitted uses with consent on the subject site.

The Planning Proposal seeks to achieve the above intended outcome by inserting a new local clause in Schedule 1 'Additional permitted uses' of the Hawkesbury LEP 2012 to include a depot, light industry and warehouse or distribution centre on the subject site.

At its Meeting on 17 August 2023, the Hawkesbury Local Planning Panel considered a report on the Planning Proposal, and advised that the Planning Proposal has potential strategic and site-specific merit. The Panel advised that Council request the applicant to update the Planning Proposal as per the Panel's advice prior to Council endorsing the Planning Proposal to the Gateway phase.

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An assessment of the updated Planning Proposal as outlined in this report identifies that the Planning Proposal is considered to be generally consistent with the relevant NSW State and local planning framework and the Hawkesbury Local Planning Panel's advice. Based on an assessment of the Planning Proposal for 172 Commercial Road, Vineyard, and the advice of the Hawkesbury Local Planning Panel, it is recommended that Council support the Planning Proposal and submit the Proposal to the Department of Planning and Environment for a Gateway Determination.

RECOMMENDATION

That Council:

1. Support the Planning Proposal LEP004/23 for 172 Commercial Road, Vineyard.
2. Forward the Planning Proposal LEP004/23 to the Department of Planning and Environment for a Gateway Determination.

BACKGROUND

Background

Subject Site and Surround

The subject is located within the Vineyard Precinct Stage 2 Area in the North West Growth Area, and directly opposite the Vineyard Precinct Development - Stage 1 and approximately 800m from the Riverstone West Residential Precinct which forms part of the North-West Growth Centre within the Blacktown Local Government Area as shown in Figures 1 and 2 respectively:

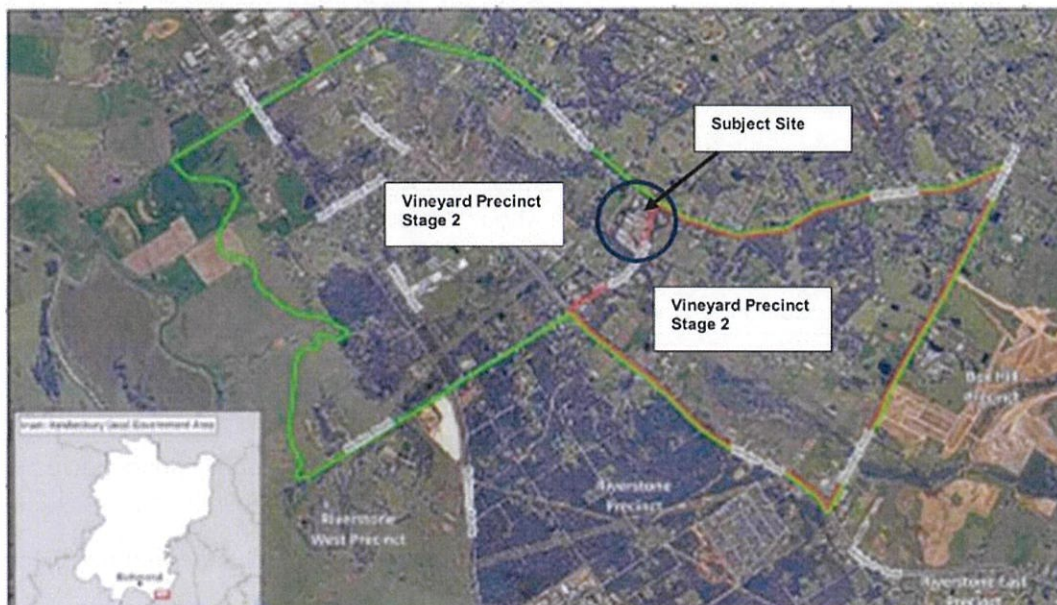


Figure 1: Location of Subject Site within the Vineyard Release Area - Stage 2

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Figure 2: Subject Site in Relation to Vineyard

The subject site is located within the future 'Urban Employment' area within the Vineyard Release Area Stage 2 as shown in Figure 3.

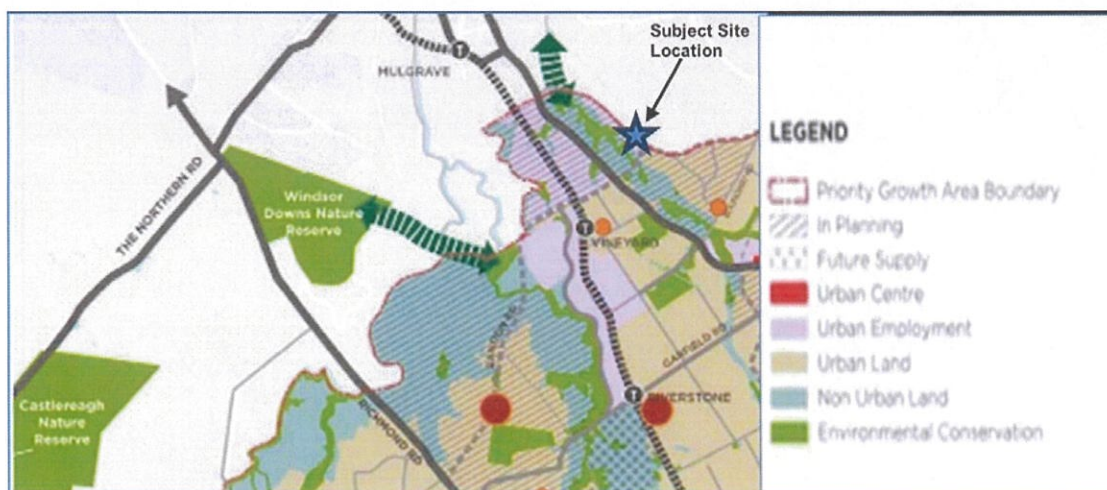


Figure 3: Subject Site Shown as Employment Land within Vineyard Release Area - Stage 2

The subject site comprising of the two properties shown in Table 1 is irregular on shape, and has a total area of 4.80Ha.

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Table 1: Subject Properties

Legal Description	Property Address	Land Area
Lot 2 DP 229135	172 Commercial Road, Vineyard	2.21 Ha
Lot 3 DP 229135	178 Commercial Road, Vineyard	2.59 Ha
	Total	4.80Ha

For Council's rating purposes, the subject site comprising of the above two properties is identified as 172 Commercial, Road Vineyard. The subject site is located at the intersection of Commercial Road and Chapman Road, north-east of Windsor Road, Vineyard. The subject is bounded by Commercial Road to the northeast, Chapman Road to the southeast and large rural residential properties to the southwest and northwest as shown in Figure 4.

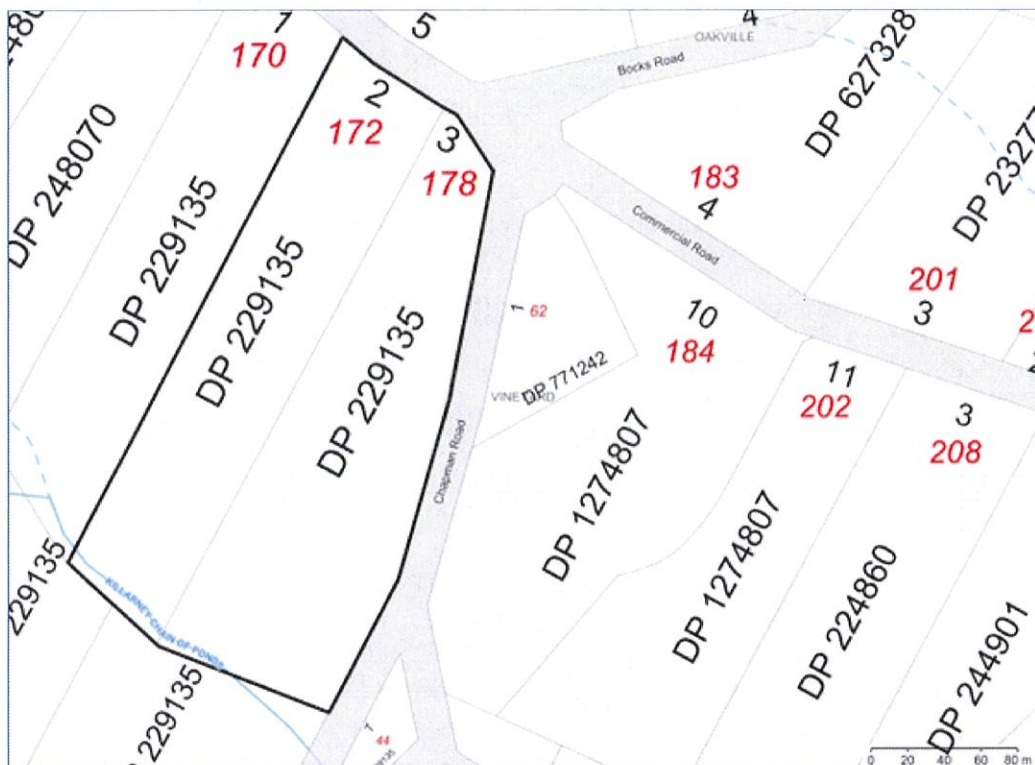


Figure 4: Subject Site

The Planning Proposal states that the subject site is currently used by various tenants, with a key tenant specialising in the supply of geotechnical equipment. The subject site contains an office and three warehouse buildings, several outbuildings and open storage areas with gravel and concrete hardstand as shown in Figure 5 below:

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Figure 5: Aerial View of the Subject Site

Past Approvals and Existing Use Rights

The subject site has a history of development approvals over the past few years including the following key developments shown in Table 2.

Table 2: Past Development Approvals

Approved Development/Work	Development Application (DA)	Date of Approval
Establishment and operation of a sawmill	DA2/1966	10/02/1966
Continuation of the operation of a sawmill and timberyard and erection of additional buildings	DA 1/1972	11/01/1972
Resiting existing buildings and construct new building	38/1972	10/10/1972
Establishment of a timber yard building	30/1974	15/10/1974
Extensions to sawmill and timber yard	10/1975	18/03/1975
Use of the existing premises as a road transport terminal	DA38/1976	10/08/1976
Extension of the existing road transport terminal	DA0593/85	14/02/1986

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Approved Development/Work	Development Application (DA)	Date of Approval
Extension to the existing road transport terminal to allow for the erection of two grain storage buildings	DA59/1986	11/04/1986
Conversion of the lower floor existing office building to provide additional office space associated with the existing road transport terminal	DA365/89	20/12/1989
Landfill Works	MA0595/01	20/05/2002

The Planning Proposal includes the following information to establish the existing use rights on the subject site:

Council's assessment report for DA365/89 seeking approval for conversion of the lower floor existing office building to provide additional office space associated with the existing road transport terminal mentioned that the subject site is benefiting from existing use rights for the purposes of a depot storage and the like.

There has been continual use and no evidence or even suggestion of abandonment. Accordingly, the current depot/road transport terminal use on the Site would constitute an 'existing use' as the subject site was being used lawfully for this purpose before the use became prohibited. The Planning Proposal seeking to list the existing depot as an additional permitted use via an amendment to Schedule 1 Additional permitted uses of the Hawkesbury LEP 2012 is to recognise that the subject site benefits from this existing use rights.

Planning Proposal

The intended outcome of the Planning Proposal is to allow a 'depot', 'light industry' and 'warehouse or distribution centre as additional permitted uses on the middle section of the subject site which has no significant vegetation as shown in Figure 6 – Development Concept Plan.

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Figure 6: Development Concept Plan

The Planning Proposal states that the Development Concept Plan identifies and has regard to:

- The electrical easements in the northwestern corner of the subject site.
- Areas of significant vegetation along the Chapman Road and Commercial Road frontage, within a 15 m building setback.
- A 30 m wide riparian zone from the Killarney Chain of Ponds riparian corridor at the rear of the subject site.
- Access to the subject site from Chapman Road and Commercial Road, connected by an internal driveway.
- An indicative building footprint of 5,500m² to accommodate the additional permitted uses, located above the 1 in 100 flood planning level at 17.3 AHD.

The Planning Proposal also states that the Development Concept Plan demonstrates that the subject site is capable of being developed for the proposed additional permitted uses. It is indicative only and the detailed site layout, footprint/s and design of future buildings will be subject to future development applications.

The Planning Proposal seeks to achieve this intended outcome as follows:

- Insert a new local clause in Schedule 1 'Additional permitted uses' of the Hawkesbury LEP 2012 to include a 'depot', 'light industry' and 'warehouse or distribution centre as additional permitted uses on the subject site; and
- Amend Additional Permitted Use Map of the Hawkesbury Local Environmental Plan 2012 to identify the subject site to which the proposed additional permitted use clause applies as item "8".

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The subject site with an approximate frontage to Commercial Road of 133m, and approximately 313m frontage to Chapman Road, and is currently accessed via a loop access road with two separate entry and access points from Chapman Road. The Planning Proposal states that the subject site was accessed via Commercial Road in the past, however this access is now closed. A 132KV electricity transmission line traverses the north-western corner of the subject site and therefore it is affected by an electricity 30m wide transmission easement.

A telecommunications tower and associated kiosk is located at the north-eastern corner of the Site.

The Planning Proposal states that the subject site is currently used for the storage of large equipment by a number of tenants, which is confirmed by machinery and other objects stored in several sheds and open yard storage within the subject site.

The subject site is surrounded by large residential and primary production/rural agricultural land uses such as market farms, poultry industries, mushroom growing businesses, rural industries and associated commercial uses, and east of the subject site is predominantly urban residential uses within the Vineyard Residential Precinct Stage 1. Further south of the subject site, there are industrial uses fronting Windsor Road and Chapman Road.

Current Planning Controls

The subject site is currently zoned RU4 Primary Production Small Lots under the Hawkesbury Local Environmental Plan 2012. A 2Ha minimum Lot Size and 10M maximum height of building provisions are applying to the subject site.

The subject site is identified as being a flood prone land, and Killarney Chain of Ponds and associated riparian corridor traverses the southern boundary.

The subject site is identified as being Bushfire Prone land and is mapped as containing Agriculture Land Classification 3 in the maps prepared by the former NSW Department of Agriculture.

The subject site is affected by Class 5 Acid Sulfate Soils on the Acid Sulphate Soils Planning Maps contained within the Hawkesbury Local Environmental Plan 2012.

The Terrestrial Biodiversity Map of the Hawkesbury Local Environmental Plan 2012 identifies some areas/patches of land along the boundaries of the subject site as 'endangered ecological community' and a land area closer the southern boundary of the subject site as 'connectivity between remnant vegetation'.

The subject site falls within the Hawkesbury-Nepean conservation area sub-catchment of Part 6.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021.

Justification for the Planning Proposal

The applicant has provided the following justification for the Planning Proposal:

The Planning Proposal has site-specific and strategic merit to enable the proposed amendment to the Hawkesbury Local Environmental Plan 2012 as:

- The subject site already benefits from existing use rights as a depot storage and related industrial uses are lawfully operating on the subject site since their approval by Council.
- Past planning studies designate the site and surrounding RU4 lands as future 'urban employment land'.
- There is an unknown timeframe for rezoning of Vineyard Precinct Stage 2.

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- The subject site is close to other employment activities, commercial uses and the Vineyard Residential Precinct - Stage 1.
- The proposed approach is consistent with many other Additional Permitted Uses listed in Schedule 1 of the Hawkesbury Local Environmental Plan 2012.
- The Planning Proposal will enable improved visual amenity and environmental management operations on the subject site.

A copy of the Planning Proposal is attached as Attachment 1 to this report.

Hawkesbury Local Planning Panel Advice

At its Meeting on 17 August 2023, the Hawkesbury Local Planning Panel considered the Planning Proposal and the supporting documentation received from the applicant. The Panel advised Council that the Planning Proposal has potential strategic and site-specific merit, and the applicant needs to be advised to update the Planning Proposal reflecting the Panel's advice prior to Council endorsing the Planning Proposal to the Gateway phase. The minutes of the Hawkesbury Local Planning Panel Meeting on 17 August 2023, included:

"The Panel unanimously provided the following advice:

1. *The panel notes the long history of various landuses on the site operating under existing consents, potentially with existing use rights, and the intention of the Planning Proposal to regularise the existing uses and enable external storage of machinery, equipment, and materials to occur within future warehouse structures. The Panel also notes that the Planning Proposal would enable a development application to be lodged over the site for the operations currently being undertaken, and that process would enable contemporary environmental standards to be conditioned as part of a consent process. The Panel also notes that the site is located within the Vineyard Precinct Stage 2 of the North West Growth Area, and that the site is part of an area identified for future employment uses. On that basis the Panel considers that the Planning Proposal has potential strategic and site-specific merit.*
2. *Prior to Council endorsing the Planning Proposal to the Gateway phase, the proponent should be requested to address the following items in a revised Planning Proposal:*
 - a) *The Planning Proposal has been considered in the context of additional permitted uses rather than a rezoning and currently proposes to enable 'depot, light industry and warehouse or distribution centre' on the site. This would facilitate a broad range of landuses and needs further refining to restrict the additional permitted uses to those specifically required to regularise the existing uses.*
 - b) *The Planning Proposal be amended to include a specific maximum GFA for the site so the quantum of the site's future development potential is clearly understood.*
 - c) *The Planning Proposal be updated to address the findings of the 2022 NSW Flood Inquiry which highlights the importance of taking a proactive, risk-based approach to flooding and planning decisions about land use.*
 - d) *The Planning Proposal be amended to include reference to the relevant development controls relating to the site and development, and whether Chapter 2 Part D of the Hawkesbury DCP applies to the site. If it does not, a mechanism for those provisions to apply to any future development application enabled by the Planning Proposal should be outlined.*

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- e) *The Planning Proposal be amended to ensure the protection of the landscaped setback / buffer around the perimeter of the site to protect the visual setting, amenity and transition to the adjoining low density residential areas to the east and semi-rural to the north and west of the site.*
 - f) *The Planning Proposal be updated to include commentary on the applicability of State Environmental Planning Policy (Precincts—Central River City) 2021 to the site and commentary of the consistency of the Planning Proposal with this State Environment Planning Policy.*
3. *Council give consideration as to whether they should enter into a VPA with the proponent."*

Updated Planning Proposal

An updated Planning Proposal addressing the Panel's advice was received from the applicant. The issues raised by the Panel and how these issues are addressed in the updated Planning Proposal are shown in Table 3 below:

Table 3: How Updated Planning Proposal Addresses the Panel Advice

Issue Raised by the Panel	Updated Planning Proposal
The Planning Proposal seeks to enable 'depot, light industry and warehouse or distribution centre' as additional permitted uses on the subject site rather than a rezoning of the subject site. This would facilitate a broad range of land uses and therefore needs further refinement of the proposed uses to restrict uses that regularise the existing uses.	<p>The updated Planning Proposal provides the following information in response this issue raised by the Panel :</p> <p><i>"The intent of the proposed 'light industry' land use is to provide flexibility in enabling a non-offensive light industrial activity, but associated with the existing depot and warehouse type uses on-site. it is believed that light industry is an appropriate associated use to the existing uses on the site and the future intended employment use of the land.</i></p> <p><i>The definition of light industry requires the carrying out of an 'industrial activity', with an important requirement that it does not interfere with the amenity of the neighbourhood. The definition of light industry is reproduced below:</i></p> <p><i>a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following—</i></p> <ul style="list-style-type: none"><i>(a) high technology industry,</i><i>(b) home industry,</i><i>(c) artisan food and drink industry,</i><i>(d) creative industry.</i> <p><i>It is difficult to single-out a specific use/s for the site under the 'light industry' definition as this will depend on the nature of the industrial activity</i></p>

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Issue Raised by the Panel	Updated Planning Proposal
	<p><i>being conducted. Industrial activity is broadly defined as:</i></p> <p><i>the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.</i></p> <p><i>The associated light industrial use on the site could entail for example the assembly, dismantling, and repairing of existing machinery and/or related stored goods and products on the site or the cleaning, washing and servicing of that machinery. The industrial activity is intended to be conducted within the confines of a new building to eliminate amenity impacts.</i></p> <p>However in line with the Panel advice, the updated Planning Proposal includes the following additional subclause to clarify the intent of the proposed light industry use:</p> <p><i>"(5) Development consent for the purposes of a light industry must not be granted unless the consent authority is satisfied that the use is associated with a depot or warehouse or distribution centre".</i></p>
<p>The Planning Proposal needs to be amended to include a specific maximum gross floor area (GFA) for the site so the quantum of the site's future development potential is clearly understood.</p>	<p>The updated Planning Proposal includes the following statement in response to the Panel advice:</p> <p><i>"The Planning Proposal includes an indicative future concept plan that demonstrates how existing uses and proposed additional permitted uses could be developed on the site. The concept plan shows existing buildings and a potential future building of 5,500-6000 sqm, equating to a total GFA on the site of approximately 8,000 sqm of GFA.</i></p> <p><i>A new 5,500-6,000 sqm building is needed for warehousing including the accommodation of existing items that are currently stored outdoors across the site and for any future light industrial activity to also be internalised. The intent is to improve the visual amenity, environmental management of the site and mitigate potential impacts with sufficient internal floorspace. A</i></p>

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	<p><i>smaller floorspace could potentially result in continued outdoor storage.</i></p> <p><i>A maximum GFA of 8,000 sqm would represent a floor space ratio (FSR) of 0.17:1, which is significantly less than the common 1:1 floor space ratio that is generally associated with industrial zones/ development. The maximum floorspace reflects both the existing natural constraints on the site due to flooding and electricity easements, whilst ensuring that site access and on-site parking and manoeuvring is maintained and improved. This floorspace has been assessed as acceptable as part of the traffic impact study as acceptable."</i></p>
<p>Address the findings of the 2022 NSW Flood Inquiry which highlights the importance of taking a proactive, risk-based approach to flooding and planning decisions about land use.</p>	<p>The updated Planning Proposal includes the following information regarding the findings of the 2022 NSW Flood Inquiry:</p> <p><i>"The 2022 NSW Flood Inquiry was established to examine and report on the causes of, planning and preparedness for, response to and recovery from the 2022 catastrophic flood events. The Inquiry made 28 recommendations for change. The recommendations are intended to provide practical, proactive and sustained mechanisms to ensure readiness for and resilience to flood (and by extension, other disasters).</i></p> <p><i>These mechanisms include enabling governance structures, administrative tools, new or enhanced systems, and better technology and processes to improve the ways in which decision-makers at all levels (state and local government, community and within families and households), plan and prepare for, respond to and recover from flood. There were no findings in the Inquiry that would prevent the industrial use on the site.</i></p> <p><i>For planning purposes, the 1:100 year ARI flood extent has been used as the flood planning level, particularly across the North West Growth Area precincts, including the planning of the adjoining residential zoned land to the east in the Vineyard Precinct. The site is impacted by the 1:100 year ARI flood extent at its western end. The indicative concept plan demonstrates how future buildings on the site could be developed above the 1:100 year flood extent.</i></p> <p><i>Further, the proposed industrial use does not have the same land use sensitivity as the adjoining residential use. It is a low risk land use</i></p>

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	<p><i>in terms of flood affection on individuals. The flood evacuation route for individuals on the site will follow the same flood evacuation as the higher risk, more sensitive adjoining residential uses. It is noted a detailed site-specific flood management and evacuation plan would be prepared and submitted for assessment at the Development Application stage".</i></p>
<p>Outline the relevant Hawkesbury Development Control Plan 2002 provisions applying to the proposed development, and if not such provisions applies, discuss a mechanism to apply those provisions for any future development facilitated by the Planning Proposal.</p>	<p>The updated Planning Proposal states that Chapter 2 Part D of the Hawkesbury Development Control Plan states that it applies to all land zoned for industrial purposes. The site at 172 Commercial Road, Vineyard is zoned RU4 Primary Production Small Lots under Hawkesbury LEP 2012. As such, this part of the DCP does not apply to the subject site. Notwithstanding, it is not opposed to the DCP being amended to ensure that it applies to the subject site.</p> <p>Council is currently developing a new performance based development control plan to replace the Hawkesbury Development Control Plan 2002, and a new Industrial Development Chapter covering any future development for industrial purposes within the Hawkesbury Local Government Area will be developed as part of this new development control plan. However, any future development applications for the subject site are received prior to the adoption of the new Industrial DCP Chapter by Council, the proposed development will be assessed on its merit.</p>
<p>Amend the Planning Proposal to ensure the protection of the landscaped setback/buffer around the perimeter of the site to protect the visual setting, amenity and transition to the adjoining low density residential areas to the east and semi-rural to the north and west of the site.</p>	<p>The updated Planning Proposal provides the following information in response to the Panel advice:</p> <p><i>"The Planning Proposal includes an indicative future concept plan that demonstrates how existing uses and proposed additional permitted uses could be developed on the site. The concept plan shows an indicative 15 m landscaped setback from Commercial Road and Chapman Road in recognition of existing vegetation around the perimeter of the site. it is not opposed to a development control that requires a 15 m landscaped building setback to Commercial Road and Chapman Road frontages."</i></p> <p>The current Chapter 2 Industrial Development, Part D of the Hawkesbury Development Control</p>

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	<p>Plan 2002 specifies that any building fronting an arterial or sub-arterial road needs to be setback 15m from the property boundary. According to future Vineyard Vineyard Stage 1 road upgrades programs, both Chapman Road and Commercial Road will be upgraded as sub-arterial roads. However, as outlined above, the current Chapter 2 - Industrial Development does not apply to the subject site, and therefore any future development applications for the subject site are received prior to the adoption of the new Industrial DCP Chapter by Council, the proposed development will be assessed on its merit.</p>
<p>Include information to demonstrate how the Planning Proposal is consistent with the State Environmental Planning Policy (Precincts—Central River City) 2021.</p>	<p>The updated Planning Proposal states that State Environmental Planning Policy (Precincts – Central River City) 2021 (SEPP) is not applicable, as it does not apply to the site.</p> <p>Clause 1.3 of Appendix 12 Hawkesbury Growth Centres Precinct Plan of the SEPP outlines the land to which the Precinct Plan applies. Clause 1.3 states:</p> <p><i>"This Precinct Plan applies to land within the Vineyard Precinct as shown on the Land Application Map. However, the Land Application Map differs from the Vineyard Precinct Boundary Map. It shows that the Hawkesbury Growth Centres Precinct Plan does not apply to all the land within the Vineyard Precinct (as shown on the Vineyard Precinct Boundary Map). This confirms that the Central River City SEPP does not apply to the site. The Planning Proposal will be updated to confirm that it does not apply".</i></p>
<p>Give consideration as to whether Council should enter into a VPA with the proponent.</p>	<p>Generally, Council enters into a voluntary planning agreement with a developer who seeks a development approval for increased housing density or additional residential lots on a land which is located outside the Pitt Town Residential Precinct and no Council's developer contribution plan applies to that land. The current Section 7.12 (previously 94A) Contributions Plan applies to all land within the Hawkesbury Local Government Area which enables Council to levy a monetary contribution for an approved development based on the estimated cost of the development. Therefore, Council will be able to levy a monetary contribution for any approval of future development which is in industrial nature on the subject site. Also the given nature and scale of the proposed development it is not considered to be necessary to enter into a voluntary planning agreement with the developer of the subject site.</p>

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As outlined in Table 3 above, the updated Planning Proposal includes appropriate and adequate information in line with the Panel advice.

DISCUSSION

Relationship to State and Local Strategic Planning Framework

The following section discusses the consistency of the Planning Proposal with the relevant State and Local planning framework, strategic merits, and site-specific merits and subject site's suitability and capability to achieve the intended outcomes of the Planning Proposal.

Greater Sydney Region Plan

On 18 March 2018, the NSW Government released A 'Metropolis of Three Cities' – the Greater Sydney Region Plan. The Greater Sydney Region Plan, along with Transport for NSW's Future Transport 2056, and Infrastructure NSW's State Infrastructure Strategy 2018-36 provide a vision for Greater Sydney as a Metropolis of Three Cities- the Western Parkland City, the Central River City and the Eastern Harbour City where most residents live within 30 minutes of their jobs, education and health facilities, services and great places. The strategy outlines 38 objectives, 10 directions, and 42 objectives guiding the future of Sydney.

The Planning Proposal states:

"The Site is located within the Western Parkland City, which is expected to grow from 740,000 in 2016 to 1.1 million residents by 2036 and 1.5 million in 2056. The vision for the Western Parkland City is a polycentric city harnessing the potential of the Western Sydney International

Airport and Aerotropolis, Liverpool, Greater Penrith and Campbelltown-Macarthur. These centres will establish the Western Economic Corridor, complemented by city shaping transport links such as the North South Rail Link, airport, east-west mass transit corridor and a potential Outer Sydney Orbital in the long term.

Hawkesbury LGA is in the Western City District. Directions for productivity include developing a well-connected city that supports shorter, localised connections to jobs, schools and services through integrated land use, transport and infrastructure planning, and enhancing productivity through strategic planning that enables jobs and skills growth and investment for LGAs. The Region Plan contains a number of objectives that will impact employment in Hawkesbury LGA.

The key objectives are outlined below:

The Planning Proposal provides the information in Table 4 to demonstrate that it is consistent with relevant Objectives and Strategies of the Greater Sydney Region Plan, 'A Metropolis of Three Cities':

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Table 4: Consistency with Greater Sydney Region Plan

Objective and Strategy	How the Planning Proposal is consistent with
Objective 16: <i>Freight and logistics network is competitive and efficient.</i>	The Objective seeks to manage the interface of industrial areas by providing buffers to nearby activities such as residential uses and optimise the efficiency and effectiveness of the freight and logistics network.
Strategy 16.1: Manage the interfaces of industrial area, trade gateways and intermodal facilities. Strategy 16.2: Optimise the efficiency and effectiveness of the freight handling and logistics network.	<p>The Planning Proposal seeks to support the Objective by providing opportunities for warehouse or distributions centres to be located on the subject site, which is in close proximity to Windsor Road that connects to the future Sydney Orbital Road network.</p> <p>Chapman Road forms the eastern boundary of the subject site. It is planned as a sub-arterial road that provides direct access to Windsor Road and provides adequate separation to future residential uses in the Vineyard Precinct - Stage 1.</p> <p>Future redevelopment of the subject site as facilitated by this Planning Proposal is capable of being adequately managed, given the nature of the uses, to ensure the residential interface is protected.</p> <p>The subject site also forms part of a future larger employment area as part of the Vineyard Precinct – Stage 2.</p>
	<p>Objective 23: <i>Industrial and urban services land is planned retained and managed.</i></p> <p>The Objective identifies principles to 'retain and manage' industrial and urban services lands. In particular, it states that in land release areas, there is a need for additional industrial and urban services land in response to long term projected population and development growth.</p> <p>This objective recognises the value of industrial lands, where it is not necessarily the number of jobs provided, but the operational role and function industrial lands play that is of importance. Industrial lands in the Hawkesbury can support the economy of the Local Government Area and the wider region, including a range of activities from major freight and logistics, heavy manufacturing, light industry, to urban services and creative uses.</p>

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Objective and Strategy	How the Planning Proposal is consistent with
Strategy 23.1: Retain, review and plan industrial and urban services land in accordance with the principles for managing industrial and urban services land.	A key principle for managing industrial and urban services land is to 'retain and manage' industrial and urban services (including future employment lands). This directly relates to the subject site as it benefits from existing use rights as a depot and as a land release area identified for employment uses in the Vineyard Precinct – Stage 2 of the North West Growth Area. The subject site is mapped in the Region Plan as 'retain and manage' in its approach to managing industrial and urban services lands. Its principle is to safeguard it from competing pressures such as mixed use or residential. The Planning Proposal is consistent with this principle by expanding the range of permissible employment uses on the subject site."

The Planning Proposal is considered to be generally consistent with the Greater Sydney Region Plan.

Western City District Plan

The Western City District Plan sets out planning priorities and actions for improving the quality of life for residents of the Western City District as the District grows and changes.

The Western City District covers the Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, Liverpool, Penrith and Wollondilly Local Government Areas. This 20-year Plan is to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision for Greater Sydney.

The Planning Proposal provides the information in Table 4 to demonstrate that it is consistent with Planning Priority W10 of the Western City District Plan:

Table 5: Consistency with Western City District Plan

Planning Priority W10	How the Planning Proposal is consistent with
<p>Planning Priority W10: <i>Maximise freight and logistics Opportunities and planning and managing industrial and urban services land.</i></p> <p>The Planning Priority identifies that urban services require access to industrial land across the District.</p> <ul style="list-style-type: none"> • Demand for this land increases with population growth. • Local access to these services also reduces travel times and minimises traffic congestion. • Future employment growth across all industries and urban services will require 	<p>Similar to the Region Plan, the Planning Priority in the District Plan outlines principles to 'retain and manage' industrial and urban services land.</p> <p>The subject site is identified for future employment lands in the North West Growth Area structure plan. The District Plan maps the Site as 'retain and manage' in its approach to managing industrial and urban services lands. Its principle is it safeguard it from competing pressures such as mixed use or residential.</p> <p>Further, the District Plan states that in land release areas, there is a need for additional industrial and urban services land in response to long-term projected population and development growth.</p> <p>The Planning Proposal seeks to support this</p>

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Planning Priority W10	How the Planning Proposal is consistent with
<p>additional floor space, additional land or both.</p> <ul style="list-style-type: none">Owing to the substantial long-term population growth and development in land release areas, there may be a need for additional industrial and urban services land.	<p>priority and principle by expanding the range of permissible employment uses on the Site through an amendment to Schedule 1. This would enable the subject site to be developed in accordance with its intended future use as employment lands.</p>

The Planning Proposal is considered to be generally consistent with the Western City District Plan.

Metropolitan Rural Area

The Greater Sydney Region Plan and the Western City District Plan identify the whole Hawkesbury Local Government Area (except the Vineyard Precinct in the North West Growth Area) as a Metropolitan Rural Area. Objective 29 of The Greater Sydney Region Plan is to protect and enhance the environmental, social and economic values in rural areas.

The Planning Proposal provides the following information to demonstrate how it is consistent with the objectives of the Metropolitan Rural Area.

“Further, the District Plan includes the following planning priority and action relating to the Metropolitan Rural Area, which is relevant due to the current rural zoning on the subject site.

- Planning Priority W17 Better managing rural lands.*

Action 78 Maintain or enhance the values of the Metropolitan Rural Area using place-based planning to deliver targeted environmental, social and economic outcomes.

The District Plan states that urban development in the Metropolitan Rural Area will only be considered in the urban investigation areas identified in the Region Plan. The Region Plan identifies the Site as a land release area, as part of the Vineyard Precinct in the North West Growth Area. The proposed additional permitted uses are consistent with the future intentions of the Site as an employment area and as such does not need to be maintained as valuable rural land.”

The Planning Proposal is considered to be generally consistent with the planning priorities identified in the Western City District Plan relevant to Metropolitan Rural Area.

State Environmental Planning Policies (SEPPs)

The Planning Proposal's consistency with the relevant SEPPs is outlined below.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 6: Water Catchment (6.13 Hawkesbury-Nepean conservation area sub-catchments)

Chapter 6 requires Council to consider the following matters when determining a development application for a land within the Hawkesbury-Nepean conservation area sub-catchments:

- Whether the development will minimise human interference with the condition of the sub-catchment,
- Whether the development will maintain and enhance the structure and floristics of native vegetation in the sub-catchment,
- Whether the development will maintain or enhance the scenic quality of the locality,

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(d) Whether development has previously been carried out on the development site.

It is considered that the future use of the subject site for the purposes of a depot, light industry and warehouse or distribution centre would be able to satisfy the above development provisions or be able to appropriately minimise any impacts. Should the plan be made to give effect to the Planning Proposal, the above matters can be further considered at the development application stage.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of land

Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021 requires the consent authority to consider whether land is contaminated prior to granting consent to carrying out any development on that land and, if the land is contaminated, be satisfied that the land is suitable in its current state or will be after remediation for the purpose for which the development is proposed to be carried out.

According to Council's records, the subject site has not been used for agriculture purposes or any other purpose referred to in Table 1 to the contaminated land planning guidelines. Therefore, development of the subject site is considered to be suitable for the proposed uses. The Planning Proposal is not accompanied by a Preliminary Site Investigation Report confirming that the subject site is not contaminated and is suitable for the proposed uses. Should Council resolve to proceed with the Planning Proposal, this is a matter for consideration by the Department of Planning and Environment at the Gateway Determination stage.

State Environmental Planning Policy (Resources and Energy) 2021

Chapter 3: Extractive Industries in Sydney

The subject site is not within the vicinity of land described in Schedules 1, 2 and 5 of the State Environmental Planning Policy (Resources and Energy) 2021. The Planning Proposal is therefore consistent with this SEPP. Regardless of the above comments, should the Planning Proposal proceed and receive a Gateway Determination, the NSW Department of Industry will be consulted in accordance with Direction 8.1, during the relevant government agency consultation period.

Local Planning Directions (Ministerial Directions)

Relevant to the Planning Proposal are the following ministerial directions:

Direction 1.1 Implementation of Regional Plans

As outlined in the early part of this report, the Planning Proposal is considered to be generally consistent with the relevant regional plans.

Direction 1.3 Approval and Referral Requirements

The Planning Proposal does not require concurrence, consultation or referral of development application to a minister or public authority therefore the Planning Proposal is consistent with this direction.

Direction 1.4 Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls. The Planning Proposal is consistent with Direction 1.4 as the proposal seeks an amendment to Schedule 1 Additional Permitted Uses of the Hawkesbury Local Environmental Plan 2012 only and does not propose any site-specific development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

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Direction 4.1 Flooding

This Direction applies to flood prone land, which means “land susceptible to flooding by the Probable Maximum Flood (PMF) event. Clause 6.3 – Flood Planning of the Hawkesbury Local Environmental Plan 2012 and Council’s Flood Policy 2020 will apply to future development of the subject site.

This Direction requires that a Planning Proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Employment, Mixed Use, W4 Working Waterfront or Special Purpose Zones. Also, a Planning Proposal must include provisions that give effect to and are consistent with the NSW Flood prone Land Policy and the principles of the Floodplain Development Manual 2023, and ensure that the provisions of a Local Environmental Plan on flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject site.

The Planning Proposal is accompanied by a Flood Analysis & Report prepared by Infrastructure & Development Consulting. This report states that existing buildings are retained on the subject site and the proposed additional hardstand areas between the 1 in 20-year and 1 in 100-year flood levels and building areas above the 1 in 100-year flood level.

The report concludes that:

“The site is affected by mainstream flooding from both the upstream catchment and regional backwater flooding from the Hawkesbury-Nepean floodplain. The regional backwater flooding is more severe than the localised flooding and exhibits high depths, with little to no velocity.

The proposed site design has taken Council’s flooding requirements for other commercial and industrial land into account including:

- *Citing new buildings above the 100-year flood level.*
- *Avoiding earthworks, structures, etc. within the 100-year flood extents to eliminate affectation to any neighbouring properties.*
- *Providing a continuously rising driveway to Commercial Road and access to PMF flood free regional evacuation routes.*

The above analysis is sufficient to demonstrate that compliance is readily achievable to support the proposed LEP amendments, while future Development Applications for the built form will need to be supported with additional detail including a Site-Specific Flood Management and Evacuation Plan.”

The Planning Proposal does not seek to rezone the subject site other than seeking an amendment to Schedule 1 Additional permitted uses of the Hawkesbury Local Environmental Plan 2012 to include the proposed uses as additional permitted uses on the land.

In accordance with this Direction, the Planning Proposal will not change the existing flooding provisions of the Hawkesbury Local Environmental Plan 2012, which give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2023. In addition, no new provisions are proposed which would permit or intensify development in floodway or high hazard areas, increase flood impacts on other properties or result in increased demand for government spending on flood mitigation measures infrastructure or services.

Table 2 – Compatibility of Land Uses with Hazard Categories of the Council’s Development of Flood Liable Land Policy 2020 incorporates six hazard vulnerability categories (H1 – H6) consistent with Australian Disaster Resilience Handbook Collection, Guideline 7-3 Flood Hazards. The hazard categories used in Table 2 relate to the 1:100 ARI flood event. This Table includes different land use

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categories (eg. Critical Uses Facilities, Sensitive Uses and Facilities) and identifies the compatibility and incompatibility of land uses within those six hazard categories.

The proposed land uses a depot, light industry and warehouse or distribution centre on the subject site are compatible within the H1, H2, H3 and H4 hazard vulnerability categories. Given the proposed additional hardstand areas located between the 1 in 20-year and 1 in 100-year flood levels and building areas above the 1 in 100-year flood level, the proposed uses can be accommodated subject to relevant development controls specified in the Council's Development of Flood Policy 2020. Should the Plan be made to give effect to the Planning Proposal, any flood impacts of the proposed development can be taken into consideration at the development application stage.

Should Council resolve to proceed with the Planning Proposal, and a Gateway Determination advising to proceed is received from the Department of Planning and Environment, the Hawkesbury-Nepean Valley Flood Risk Management Directorate which includes Infrastructure NSW, Transport for NSW and the NSW State Emergency Service will be consulted on the Planning Proposal.

Direction 4.3 Planning for Bushfire Protection

The subject site is identified as being bushfire prone containing Category 1 Vegetation on the NSW Rural Fire Service's Bushfire Prone Land Map.

The Planning Proposal is accompanied by a Bushfire Assessment Report prepared by Peterson Bushfire Expert Consulting Services. The report concludes that the Planning Proposal together with the recommended bushfire protection measures satisfies the specifications and requirements of Ministerial Direction No. 4.3 and Planning for Bush Fire Protection.

Irrespective of the recommendations of the Bushfire Assessment Report, consultation will be undertaken with the NSW Rural Fire Service following receipt of a Gateway Determination and take into account any comments made on the Planning Proposal prior to commencement of community consultation in accordance with this Direction.

Direction 4.4 Remediation of Contaminated Land

The subject site is not within an investigation area within the meaning of the Contaminated Land Management Act 1997. According to Council's records, the subject site has not been used for agricultural purposes or any other purpose referred to in Table 1 to the contaminated land planning guidelines.

The Planning Proposal is not accompanied by a preliminary Site Investigation Assessment. However, should the Planning Proposal proceed, the Department of Planning and Environment will consider this as part of the Gateway Determination, and if required will request further information/consideration of this matter. The Planning Proposal is considered to be generally consistent with this Direction.

Direction 4.5 Acid Sulfate Soils

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.

The subject site is identified as containing Class 5 acid sulfate soils on the Acid Sulphate Soils Planning Maps, and as such any future development on the land will be subject to Clause 6.1 Acid Sulfate Soils of the Local Environmental Plan 2012 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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Direction 8.1 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.

The Planning Proposal is consistent with this direction as the subject site is not located within an Identified Resource Area, Potential Resource Area or the Transition Area which is adjacent to Identified Resource Areas as identified by mineral resource maps provided by the NSW Resource & Energy Division of NSW Trade & Investment.

Additionally, the subject site is not located within or in the vicinity of land described in Schedule 1, 2 and 5 of the State Environmental Planning Policy (Resources and Energy) 2021.

Direction 9.1 Rural Zones

The objective of this direction is to protect the agricultural production value of rural land. This Direction requires that planning proposals must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone and must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

The Planning Proposal seeks to amend Schedule 1 Additional Permitted Uses of the Hawkesbury Local Environmental Plan 2012, and does not propose to rezone the subject site to a different zone to permit the proposed development on the subject site.

As the Planning Proposal does not rezone land from a rural zone to a residential, business, industrial, village or tourist zone and does not contain provisions that will increase the permissible density of land within a rural zone, it is considered to be consistent with this Direction.

Direction 9.2 Rural Lands

This direction applies when a relevant planning authority prepares a planning proposal that:

- (a) will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or
- (b) changes the existing minimum lot size on land within a rural or environment protection zone.

The Planning Proposal is only to amend Schedule 1 Additional Permitted Uses of the Hawkesbury Local Environmental Plan 2012, and does not propose to amend the minimum lot size provision applying to the subject site.

The land has not previously been used for agricultural purposes other than for warehouse or distribution purposes. However, should the Planning Proposal proceed and receive a Gateway Determination to proceed, the NSW Department of Industry – Agriculture will be consulted on the Planning Proposal.

Local Planning Framework

The following section describes the Planning Proposal's consistency with the relevant Local Planning framework:

Hawkesbury Community Strategic Plan 2022-2042

The Hawkesbury Community Strategic Plan 2022-2042 is the core document underpinning Council's future planning, and determines its strategies. The Plan reflects the Hawkesbury community's

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priorities and aspirations for the future and focuses on four key Outcome areas - Great Place to Live, Protected Environment and Valued History, Strong Economy and Reliable Council. Under each Outcome area, Long-term Objectives and Success Indicators are identified in order to meet the Community's expectations and aspirations.

The Planning Proposal provides the following information to demonstrate that it is consistent with the Plan:

"The Hawkesbury Community Strategic Plan is a high-level plan that outlines the key aspirations for the Hawkesbury Local Government Area and sets the essential direction for future Council activities and decision making."

The Plan is divided into four Community Outcomes:

- Great place to live
- Protected environment and valued history
- Strong economy
- Reliable Council.

The planning proposal is consistent with the Community Outcome of a strong economy by satisfying the following long-term objectives of the Plan:

- 3.2 Increase the range of local industry opportunities and provide effective support to continue growth
- 3.3 Promote our community as the place to visit, work and invest.

The Plan states that the success of these objectives relates to the employment opportunities in the city through increased businesses and industries. Whilst the planning proposal seeks to regularise the existing use, the additional permitted uses provides opportunities for industry to invest and enable employment opportunities locally, which is consistent with the Community Strategic Plan.

The Planning Proposal is considered to be generally consistent with the Hawkesbury Community Strategic Plan 2022-2042.

Hawkesbury Local Strategic Planning Statement 2040

Council adopted the Hawkesbury Local Strategic Planning Statement 2040 in January 2021 which identifies the Hawkesbury Community's economic, social and environmental land use needs over the next 20 years and sets out clear planning priorities about what will be needed in terms of jobs, homes, services and recreational needs. The Hawkesbury Local Strategic Planning Statement identifies short medium, and long-term actions to deliver the priorities for the Hawkesbury Community's future vision, and is a key document to guide Local Strategic Planning in the Hawkesbury Local Government Area.

The Planning Proposal includes the following statement to demonstrate that it is consistent with the Hawkesbury Local Strategic Planning Statement 2040:

"The Hawkesbury Local Strategic Planning Statement 2040 (LSPS) sets out a 20-year land use vision for the Hawkesbury Local Government Area. The LSPS aims to promote sustainable growth and development in the Hawkesbury by guiding decision-making around land use and development. The LSPS is structured around six themes: Liveability, Employment, Environment, Infrastructure, Housing, and Character. These themes are underpinned by a range of objectives and strategies aimed at achieving sustainable outcomes for the Hawkesbury community. The LSPS structure plan identifies the Site in the North West Growth Area, which will be subject to future rezonings for urban development. The relevant Planning Priorities applying to the Planning Proposal request are:

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- *Planning Priority 7 – Promote and support all sectors of industry and businesses in the Hawkesbury to meet current and future demands and trends*

The proposed additional permitted uses on the Site is consistent with the priorities of the LSPS, particularly in relation to promoting employment growth and supporting the development of diverse industries within employment lands."

The Planning Proposal is considered to be generally consistent with the Hawkesbury Local Strategic Planning Statement 2040.

Hawkesbury Rural Lands Strategy

The Planning Proposal provides the following information to justify that it is consistent with the Hawkesbury Rural Lands Strategy:

"The Hawkesbury Rural Lands Strategy analyses the quantity and quality of rural lands and identifies the needs of the local community and their aspirations for the future of rural lands. It includes an objective relating to the future planning, development and management of rural lands.

Whilst the Site is zoned rural, the Planning Proposal request seeks to align with the current and future planning and development of the Site for employment uses as identified in the Northwest Growth Area Structure Plan. It is no inconsistent with the objectives of the Rural Lands Strategy".

Council adopted the Hawkesbury Rural Lands Strategy in March 2021 which identified five broad land use units - Agriculture Production, Rural Landscape, Native Vegetation, Rural Residential and Towns and Villages within the Hawkesbury Local Government Area as shown in Figure 8 of the Strategy. These broad land use units have been designated using a sieve methodology which is generally a soil and land capability assessment, and findings of a recent land use survey undertaken as part of the Hawkesbury Rural Lands Strategy. The Strategy states that these land units can be translated into land use designations, and recommends two broad designations of Agriculture Production and Rural Landscape for rural land within the Hawkesbury Local Government Area.

The Strategy designates lands that are zoned RU4 Primary Production Small Lots within Vineyard, Oakville, Maraylya, Pitt Town, Cattai, and McGraths Hill as Rural Landscape. The Strategy states that RU4 Primary Production Small Lots zoning was not considered necessary because its objectives are not as robust as the RU1 Primary Production zone. However, the Strategy is a guiding document for better management and protection of Hawkesbury's rural land, and does not rezone or transform RU4 Primary Production Small Lots zoned lands to RU2 Rural Landscape zone which is a matter for Council's consideration during a major review of the Hawkesbury Local Environmental Plan 2012.

Given all agricultural land uses are permitted with consent within the RU4 Primary Production Small Lots zone, should Council resolve to proceed with the Planning Proposal and receive a Gateway Determination advising to proceed with the Planning Proposal from the Department of Planning and Environment, the Department of Primary Industries - Agriculture will be consulted seeking feedback on the Planning Proposal irrespective of the identification of the subject site as 'Future Urban Employment Land' and its location within the Future Employment Land Area within the Vineyard Precinct Stage 2 Release Area as shown in Figure 3 above.

Hawkesbury Employment Lands Strategy

The Planning Proposal includes the following information to demonstrate that it is consistent with the Hawkesbury Employment Lands Strategy:

"The Hawkesbury Employment Lands Strategy analyses the quality and quantity of employment lands within the Hawkesbury LGA and provides guidance for land use planning

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Proposed Amendments

A depot, light industry and warehouse or distribution centre are prohibited land uses within the RU4 Primary Production Small Lots.

Rezoning of the subject site to a business or an industrial zone to allow the proposed development on the subject site is not considered to be an appropriate alternative as the immediate vicinity is predominantly zoned RU4 Primary Production Small Lots and would create a zoning anomaly at the locality. Also, a business or an industrial zone allows a range of land uses that are not considered to be appropriate at this location.

There are no other appropriate alternatives available under the provisions of the Hawkesbury Local Environmental Plan 2012 to allow the proposed development on the subject site. Therefore, the proposed amendment to Schedule 1 Additional Permitted Uses of the Hawkesbury Local Environmental Plan 2012 is considered to be the most appropriate option available to allow development of the subject site for the proposed purposes.

Therefore, the Planning Proposal seeks to amend the Hawkesbury Local Environmental Plan 2012 to allow a depot, light industry and warehouse or distribution centre as additional permitted uses on the subject site as follows:

(a) Amendment to Schedule 1 Additional Permitted Uses

The Planning Proposal proposes to amend Schedule 1 Additional permitted uses as follows:

Insert the following clause after Clause 20 of Schedule 1:

"Use of certain land at 172 Commercial Road, Vineyard

- (1) *This clause applies to land at 172 Commercial Road, Vineyard, being Lot 2 and 3 DP 229135 identified as "X" on the Additional Permitted Uses Map.*
- (2) *Development for the purposes of a depot, light industry or warehouse or distribution centre is permitted with consent.*
- (3) *Subclause (2) does not apply to a development application lodged more than 2 years after the commencement of the Hawkesbury Local Environmental Plan 2012 (Amendment No X)."*
- (4) *Development consent under sub-clause (2) must not be granted if the total gross floor area of a depot, light industry or warehouse or distribution centre within the site is greater than X,XXXm².*

A Planning Proposal seeking amendments to local environmental plans to allow certain land uses as additional permitted uses on land are not generally supported by the Department of Planning and Environment unless otherwise the Planning Proposal has clear merits, and the subject site has environmental capability to accommodate the proposed development on land. Therefore, it is suggested to include sub-clause specifying a maximum gross floor area cap for the proposed development on the subject site. This approach will enable the Department of Planning and Environment to determine the appropriateness of the extent of the development on the subject site as additional permitted uses and whether the sufficient setbacks or buffers are there to ensure that the residential interface is not adversely impacted. It will also avoid any ambiguity or speculations among the adjoining neighbours and the local community.

The Hawkesbury Local Planning Panel advice is in line with the above approach and stated that the Planning Proposal needs to be amended to include a specific maximum GFA for the site so the quantum of the subject site's future development potential is clearly understood. In response.

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The updated Planning Proposal includes the following information:

"The Planning Proposal includes an indicative future concept plan that demonstrates how existing uses and proposed additional permitted uses could be developed on the site. The concept plan shows existing buildings and a potential future building of 5,500-6000 sqm, equating to a total GFA on the site of approximately 8,000 sqm of GFA.

A new 5,500-6,000 sqm building is needed for warehousing including the accommodation of existing items that are currently stored outdoors across the site and for any future light industrial activity to also be internalised. The intent is to improve the visual amenity, environmental management of the site and mitigate potential impacts with sufficient internal floorspace. A smaller floorspace could potentially result in continued outdoor storage.

A maximum GFA of 8,000 sqm would represent a floor space ratio (FSR) of 0.17:1, which is significantly less than the common 1:1 floor space ratio that is generally associated with industrial zones/development. The maximum floorspace reflects both the existing natural constraints on the site due to flooding and electricity easements, whilst ensuring that site access and on-site parking and manoeuvring is maintained and improved. This floorspace has been assessed as acceptable as part of the traffic impact study as acceptable."

As shown in Figure 6 - Concept Development Plan, the above proposed 5,500-6,000 additional gross floor area can be accommodated within the subject site with sufficient setbacks to maintain the amenity of the locality. In order to improve the visual amenity and environmental management of the site the proposed additional area is considered to be warranted.

Further, the Panel advised that the Planning Proposal would facilitate a broad range of land uses and therefore needs further refining to restrict the additional permitted uses to those specifically required to regularise the existing uses. The Planning Proposal provides the following information in response to the Panel advice:

"The intent of the proposed 'light industry' land use is to provide flexibility in enabling a non-offensive light industrial activity, but associated with the existing depot and warehouse type uses on-site. We believe light industry is an appropriate associated use to the existing uses on the site and the future intended employment use of the land.

The definition of light industry requires the carrying out of an 'industrial activity', with an important requirement that it does not interfere with the amenity of the neighbourhood. The definition of light industry is reproduced below:

a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following—

- (a) high technology industry,*
- (b) home industry,*
- (c) artisan food and drink industry,*
- (d) creative industry.*

It is difficult to single-out a specific use/s for the site under the 'light industry' definition as this will depend on the nature of the industrial activity being conducted. Industrial activity is broadly defined as:

the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food,

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products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.

The associated light industrial use on the site could entail for example the assembly, dismantling, and repairing of existing machinery and/or related stored goods and products on the site or the cleaning, washing and servicing of that machinery. The industrial activity is intended to be conducted within the confines of a new building to eliminate amenity impacts.

However in line with the Panel advice, the updated Planning Proposal includes the following additional subclause to clarify the intent of the proposed light industry use:

"(5) Development consent for the purposes of a light industry must not be granted unless the consent authority is satisfied that the use is associated with a depot or warehouse or distribution centre".

The inclusion of the above information and the proposed sub-clause in the proposed additional permitted use clause is considered to be appropriate as it provides a sufficient justification and clear intent to refine the nature of the light industrial activity to being associated with depot or warehouse type uses that exist on-site.

Should the Plan be made to give effect to the Planning Proposal, the above matters can be further considered at the development application stage.

Given the above proposed additional sub-clause, it is proposed to include an amended additional permitted use clause amalgamating sub-clauses 3, 4 and 5 as follows:

Use of certain land at 172 Commercial Road, Vineyard

(1) This clause applies to land at 172 Commercial Road, Vineyard, being Lot 2 and 3 DP 229135 identified as "X" on the Additional Permitted Uses Map.

(2) Development for the purposes of a depot, light industry or warehouse or distribution centre is permitted with consent.

(3) Development consent under subclause (2) must not be granted unless:

(a) a development application is lodged within 2 years after the commencement of the Hawkesbury Local Environmental Plan 2012 (Amendment No X).

(b) the total gross floor area of a buildings used for the purposes of a depot, light industry or warehouse or distribution centre within the site is less than 8,000 sqm.

(c) the light industry use is associated with a depot or warehouse or distribution centre on the site.

(b) Proposed Amendment to Additional permitted use Map

The Planning Proposal seeks to make an amendment to the Additional Permitted Use Map of the Hawkesbury Local Environmental Plan 2012 to identify the south-eastern part of the subject site to which the proposed additional permitted use clause 21 applies as item "8" on the Additional permitted uses Map.

In addition to the above proposed amendments, the current Clause 2.5 of the Hawkesbury Local Environmental Plan 2012 will apply to the subject site:

2.5 Additional permitted uses for particular land

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(1) Development on particular land that is described or referred to in Schedule 1 may be carried out—

(a) with development consent, or

(b) if the Schedule so provides—without development consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development."

(2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

Suitability of the Subject Site

The following section discusses the suitability of the subject site for the proposed development.

Topography

The subject site varies in elevation from approximately 34.5m AHD at Commercial Road to 13m AHD at the rear. The subject site is relatively flat with a gentle slope towards the Killarney Chain of Ponds at rear. This means, the topography of the subject site is not unfavourable to the proposed development.

Public Infrastructure and Services

The subject site has access to all the required infrastructure services including electricity, telephone and reticulated water other than access to a reticulated sewerage system. Should the Plan be made, the capability of any existing onsite sewerage system on the subject site to accommodate the proposed development could be considered at the development application stage.

However, if the Planning Proposal is to proceed and receive a Gateway Determination, relevant public agencies such as Sydney Water, Energy Australia, AGL and Telstra Corporation would need to be consulted about the Planning Proposal. This will be to receive advice on the adequacy and any need for augmentation of the existing infrastructure to support future development on the subject site.

Flora and Fauna

The Terrestrial Biodiversity Map of the Hawkesbury Local Environmental Plan 2012 identifies some areas of land mainly along the boundaries of the subject site as 'endangered ecological community' and an area of land closer to the southern boundary of the subject site as 'connectivity between remnant vegetation' as illustrated in Figure 8 below.

Council vegetation mapping shows the subject site as containing Shale Plains Woodland mainly along the site boundaries and free of any vegetation at the middle of the subject site as shown in Figure 8. Shale/ Plains Woodland is listed as a Critically Endangered Ecological Community (CEEC) under the NSW Threatened Species Conservation Act 1995 and under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The proposed development area is mainly located within the area free of any vegetation and the 'connectivity between remnant vegetation' area.

However, Figure 5 - Aerial view of the subject site above shows otherwise. According to the aerial view, existing vegetation is mainly accommodated within the riparian corridor of the Killarney Chain of Ponds along the southwestern boundary, southeastern boundary along Chapman Road and northeastern boundary along Commercial Road. In addition, some patches of vegetation is closer to the northeastern boundary and closer to the rear of the subject site.

The Planning Proposal states that:

"The Terrestrial Biodiversity Map in the Hawkesbury LEP 2012 identifies that parts of the Site are mapped as 'Significant Vegetation' and 'Connectivity Between Significant Vegetation'. This

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is mainly at the western end of the Site, in the riparian corridor below the 1:100 year flood extent. Vegetation on this portion of the Site will be protected from future development as the land is not developable."

It further states that the northeastern corner of the subject site towards Commercial Road is also mapped as containing vegetation. However, this portion of the subject site is highly disturbed as it is currently used by various tenants, with a key tenant specialising in the supply of geotechnical equipment. It contains an office and three warehouse buildings, with gravel and concrete hardstand. Given the nature of the current uses, it is unlikely that any critical habitat or threatened species, populations or ecological communities or habitat present on the subject site would be affected by future development. Nevertheless, the proposed additional permitted uses will not increase the level of impact that already occurs based on historic and current development. Further the majority of the existing vegetation on the southeastern boundary can be protected as a setback to Chapman Road.

The Planning Proposal is not accompanied by a Flora and Fauna Assessment to demonstrate that the proposed development can be accommodated on the subject site with no adverse impacts on the existing vegetation. However, should the Planning Proposal proceed, the Department of Planning and Environment will consider the necessity of a flora and fauna assessment as part of the Gateway Determination.

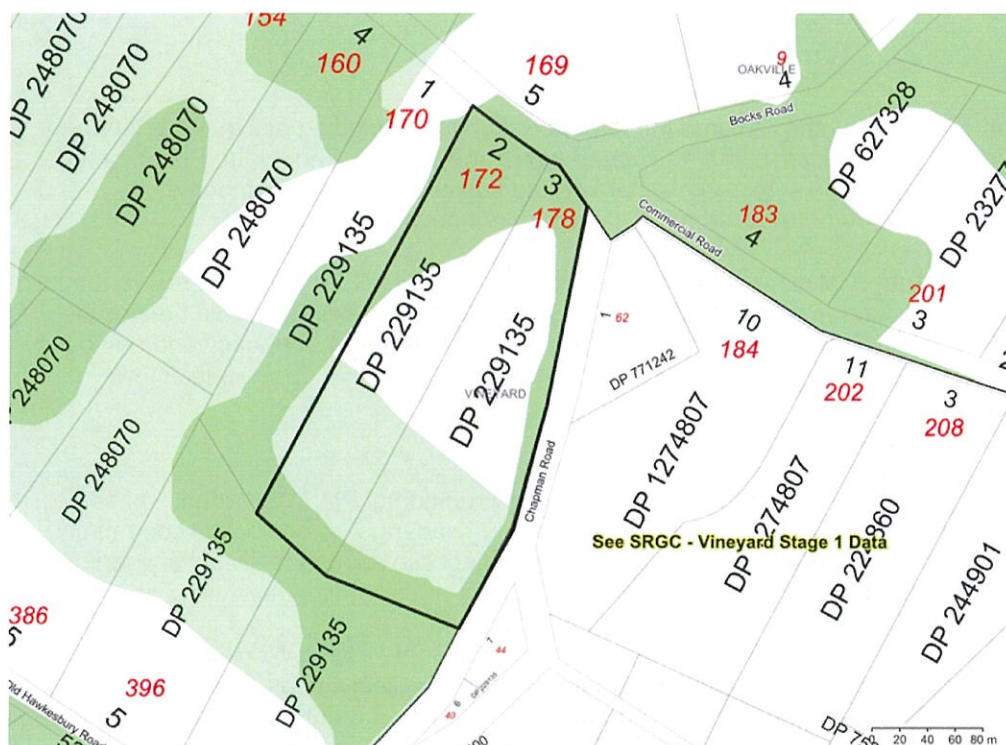


Figure 8: Extract of Terrestrial Biodiversity Map

Site Access and Traffic Generation

Whilst the subject site is a corner block with frontages to Chapman Road and Commercial Road, the current vehicular access to the subject site is from Chapman Road. The Planning Proposal states that the subject site was accessed via Commercial Road in the past, however this access is now closed.

The subject site is currently accessed via a loop access road with two access points from Chapman Road, with no direct vehicular access currently available from Commercial Road. The Planning Proposal states that heavy vehicles enter the subject site via the southern access point and exit the via the northern access point back onto Chapman Road.

ORDINARY MEETING

4. REPORTS FOR DETERMINATION

Meeting Date: 12 September 2023

A Transport Assessment prepared by JMT Consulting in support of the Planning Proposal introduces a revised access arrangement to the subject site by re-establishing the access point from Commercial Road and connecting this through to the existing southern access point from Chapman Road through an internal loop road as shown in Figure 6 above. The existing Chapman Road northern access point would be closed off under this concept. The Traffic Assessment states that the final access arrangements, including details of new/modified driveway crossovers, will be detailed as part of a future Development Application for the subject site.

The Traffic Assessment has used the Transport for NSW Guide to Traffic Generating Developments (TDT 2013/04a) for business parks and industrial estates to forecast traffic generation and revealed that the proposed development accommodating an additional 5,000m² floor space generate 29 vehicles generated in the morning peak hour and 31 vehicles in the afternoon peak hour as summarised in Table 5 below. Further it states that this level of traffic generation is equivalent to approximately one vehicle every two minutes and would not have a significant impact on the surrounding road network.

Table 5: Forecasted traffic generation

Peak Hour	Additional Gross Floor Area	Traffic Generation Rate	Vehicles into Site	Vehicles out of Site	Total Vehicles
AM peak hour	5,500m ²	0.52 trips /100m ²	20	9	29
PM peak hour	5,500m ²	0.56 trips /100m ²	9	22	31

The Traffic Assessment states that Traffic modelling has been undertaken using the Transport for NSW approved SIDRA modelling software package to consider the impacts of a potential redevelopment of the subject site at the intersections Windsor Road/Chapman Road and Chapman Road/Commercial Road. The Assessment states that:

"The traffic modelling demonstrates that the relatively small increase in traffic flows associated with a potential redevelopment of the site will not result in adverse impacts on the surrounding road network. The two key intersections in the vicinity of the site retain their Level of Service when compared to a 'future base' scenario. This demonstrates that the proposal can be supported by the existing road network with no additional measures required to accommodate future traffic demands."

Further, the Assessment states that:

"Traffic modelling undertaken in accordance with Transport for NSW guidelines demonstrates that the operation of key intersections in the vicinity of the site will not be impacted by the small number of additional vehicle movements associated with a future DA for the site. A sensitivity assessment was conducted which considered both a low and high case development scenario. This sensitivity assessment showed the level of service of key intersections remained unchanged under the scenarios modelled - confirming that any future development arising from the Planning Proposal will not unduly impact the performance of the surrounding road network. In the above context the traffic and transport impacts of the Planning Proposal are considered acceptable".

Irrespective of the above findings, if the Planning Proposal is to proceed and receive a Gateway Determination, Transport for NSW will be consulted about the Planning Proposal to receive any feedback on the proposed development on the subject site.

ORDINARY MEETING

4. REPORTS FOR DETERMINATION

Meeting Date: 12 September 2023

The Planning Proposal states that:

"Notwithstanding this classification, the Site has been highly disturbed. It is currently used by various tenants, with a key tenant specialising in the supply of geotechnical equipment. It contains an office and three warehouse buildings, with gravel and concrete hardstand. The existing use is in accordance with historical approvals on the Site for a 'road transport terminal' now defined as a 'depot' under Hawkesbury LEP 2012.

The Agricultural Land Classification does not align with the nature of the current uses on the Site. Current and historical development on the Site suggest that it has very low agricultural value. The Planning Proposal does not change the permissibility of agriculture on the Site."

Agricultural land classification and development history showing a rural residential use and not showing as prime agricultural land as well as the subject site's proximity to the Vineyard Residential Precinct Stage 1 and the immediate surrounding is predominantly rural residential site, it is considered that it is unlikely the subject site could sustain a commercially sustainable agricultural business.

However, should Council resolve to proceed with the Planning Proposal and receive a Gateway Determination advising to proceed with the Planning Proposal from the Department of Planning and Environment, the NSW Department of Industry – Agriculture will be consulted on the Planning Proposal as part of the relevant government agency consultation.

Heritage

The subject site is not listed as a heritage item under Schedule 5 Environmental Heritage of the Hawkesbury Local Environmental Plan 2012 and not located within the vicinity of any heritage listed items where future development of part of the subject site may have an impact on the significance of these items. In addition, the subject site is not within or adjoining a heritage conservation area and not identified as an archaeological site.

Conclusion

The Hawkesbury Local Planning Panel advised Council that the Planning Proposal has potential strategic and site-specific merit. Further, an assessment of the updated Planning Proposal contained in this report reveals that the subject site has strategic and site-specific merits, and potential to accommodate the planned development with no adverse impacts on amenity of the locality and the road network.

The Planning Proposal is consistent with the State and Local Planning frameworks. It will enable an orderly development, and improved amenity of the subject site and potential increase of the percentage of people who live and work within the Hawkesbury Local Government Area.

Therefore, It is recommended that Council proceed with the Planning Proposal by submitting the proposal to the department of Planning and Environment for a Gateway Determination.

COMMUNITY ENGAGEMENT

Should Council resolve to proceed the Planning Proposal to the Department of Planning and Environment for a Gateway Determination and the proposal proceeds, consultation with the community and relevant government agencies will be undertaken in accordance with relevant Gateway Determination and statutory requirements.

ORDINARY MEETING

4. REPORTS FOR DETERMINATION

Meeting Date: 12 September 2023

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2022-2042

The Planning Proposal is consistent with the Community Outcome of a strong economy by satisfying the following long-term objectives set out within the CSP.

Strong Economy

- 3.2 Increase the range of local industry opportunities and provide effective support to continue growth
- 3.3 Promote our community as the place to visit, work and invest.

FINANCIAL IMPACT

There are no financial implications applicable to this report.

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.

ATTACHMENTS

- AT - 1 Planning Proposal - 172 Commercial Road, Vineyard - *(Distributed under separate cover)*.

oooO END OF REPORT Oooo

ORDINARY MEETING

4. REPORTS FOR DETERMINATION

Minutes: 12 September 2023

- 4.1.2. CP - LEP004/23 - 172 Commercial Road, Vineyard Amendment to Schedule 1 Additional Permitted Uses of Hawkesbury Local Environmental Plan 2012 - (95498, 124414)

Directorate: City Planning

Mr Chris Shannon addressed Council, speaking for the recommendation in the business paper.

MOTION:

RESOLVED on the motion of Councillor Zamprogno, seconded by Councillor Veigel.

Refer to RESOLUTION

150 RESOLUTION:

RESOLVED on the motion of Councillor Zamprogno, seconded by Councillor Veigel.

That Council:

1. Support the Planning Proposal LEP004/23 for 172 Commercial Road, Vineyard.
2. Forward the Planning Proposal LEP004/23 to the Department of Planning and Environment for a Gateway Determination.

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: Councillors McMahon, Calvert, Conolly, Djuric, Dogramaci, Kotlash, Lyons-Buckett, Reardon, Sheather, Veigel, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

