



LEP002/03 1905 and 1913 Bells Line of Road

PLANNING PROPOSAL

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1. INTRODUCTION

1.1 Overview

The Planning Proposal seeks the reclassification of the land known as 1913 and 1905 Bells Line of Road, legal Description Lot 2 and 3 DP 582878 from 'Community' to 'Operational Land'. This reclassification amends Hawkesbury Local Environmental Plan 2012, Schedule 4 Classifications and Reclassifications of Public Lands.

1913 and 1905 Bells Line of Road is council owned land adjacent to 1917 Bells line of Road which the Tutti Fruitti Café is situated upon. This facility has a history of operating without formal consent and encroaches upon the Council owned subject site, utilising it for parking and vehicle access. The reclassification of the land from 'Community' to 'Operational' land provides an avenue to attaining formal consent for the premise through the selling or leasing of the site. It is not assumed that 1917 Bells Line of Road will hold exclusive interest in either purchasing or leasing the land, with the adjacent 1897 Bells Line of Road also potentially expressing interest in obtaining a portion of the land. The nature of the dealing of the two properties will be subject to Council consideration after finalising the Planning Proposal.

The Planning Proposal has been prepared in accordance with Section 3.33 of the Environmental Planning and Assessment Act 1979 and guidelines published by the NSW Department of Planning, Industry and Environment, "A guide to preparing Planning Proposals".

1.2 Background

Lot 2 and 3 DP 582878 were created in 1976 with the intention to be used for future road purposes under the Main Roads Act Section 27E (6) Registered dealing L758309. These lots were transferred to Council in 1983. In 2010 verbal advice was received from the then Roads and Traffic Authority that there were no immediate intentions to acquire the land for road widening. As a result, the owners of the 1917 Bells Line of Road expressed interest in purchasing the subject site.

In 2008 a development application was received for the Tutti Fruitti Café, seeking to regularise the use of the facility. This development application was unable to proceed due to unresolved access rights of the council owned subject site, and finally withdrawn in 2021 due to relying upon structures destroyed in the summer bushfires of 2019-2020.

In response to the property being severely impacted by the bushfires, 1917 Bells Line of Road was benefited from a new clause to the Hawkesbury Local Environment Plan 2012, Clause 6.14 *Temporary use of structures for "Tutti Fruitti Café" on certain land at Kurrajong Heights*. The clause permits the installation of temporary structures as exempt development to be used for the café, on condition that these structures are removed 2 years after installation. These structures were installed on the 02 December 2020 and are required to be removed by the 02 December 2022.

A Pre-lodgement meeting was held in July of 2021 whereby the owners of Tutti Fruitti Café intend to construct a permanent structure for use as the Café. The advice from this meeting was that the development will be required to be located entirely within the Lot 1 DP 582878 and the owner's intention to use Lot 2 DP 582878 for parking and access will be dependent on the reclassification of the land to 'Operational Land'.



Figure 1 Previous Structure of Tutti Fruitti Cafe - 2015

The timeline for this history is as follows

- On 18 March 1970 plans of acquisition were registered under the Main Roads Act Section 27E (6), Registered dealing L758309.
- DP 582878 was registered on 19 March 1976 with a notation that 'Lots 2 and 3 are intended to be used for future road purposes and there is no objection to their being shown as a road after acquisition by Dept. Main Roads'.
- On 23 March 1983, the properties (Lots 2 and 3 in DP 582878) were transferred to Hawkesbury City Council through dealing T387144.
- In 2008, A development application (DA0660/08) was lodged for 1917 Bells Line of Road seeking to regularise the use of the Cafe. This was unable to proceed due to unresolved access rights of the subject site due to being Council owned and classified as 'Community Land'
- In 2010, a verbal advice was received from the then named Roads and Traffic Authority that they had no immediate intentions to acquire the land for road widening purposes. The owner of the land adjoining Lots 2 and 3 has expressed an interest in purchasing these lots. As Council has no future intentions to utilise the land for community purposes, reclassifying the land and selling it would be a viable option as it will also relieve Council of any ongoing maintenance issues of these properties.
- In the summer of 2019 – 2020, the structure of Tutti Fruitti Café was destroyed in a bushfire.
- On 22 October 2020, the Hawkesbury Local Environment Plan 2012 was amended to include Clause 6.14 *Temporary use of structures for "Tutti Fruitti Café" on certain land at Kurrajong Heights*
- On 2nd December 2020, temporary structures were installed on 1917 Bells Line of Road to be used for the Tutti Fruitti Café
- On 28 July 2021, DA0660/08 was withdrawn.
- On 22 December 2022, Clause 6.14 of the Hawkesbury Local Environment Plan 2012 expired.

1.3 Purpose of the Planning Proposal

The purpose of the Planning Proposal is to reclassify 1913 and 1905 (Lot 2 and 3 DP 582879) as operational land under the Hawkesbury Local Environment Plan 2012, Schedule 4 *Classifications and Reclassifications of Public Lands*. This reclassification of land will provide an avenue to enable the consideration of future development application for 1917 Bells Line of Road seeking to regularise the use of the café and resolve access and parking issues of the subject site.

1.4 Reclassification of Land

The *Local Government Act 1993* requires that all Council-owned land be classified as either 'Community' or 'Operational' land. Under the provisions of the *Local Government Act 1993*, Community Land cannot be sold, exchanged or otherwise disposed. Once the land is reclassified to Operational, it will no longer be

protected under the *Local Government Act 1993* from potential future sale or development. The change in classification from Community to Operational land will remove this restriction and allow Council to deal in the land on a commercial basis. This may include development, leasing or disposal of this land. The reclassification does not commit Council to the sale or development of the land, nor does it remove the land from Council's ownership or prevent the current use of the land from continuing.

The reclassification of Council land must be undertaken in accordance with the *Local Government Act 1993*, *Environmental Planning and Assessment Act 1979*. The mechanism to reclassify land by way of a Planning Proposal is to amend Schedule 4 of the *Hawkesbury Local Environmental Plan 2012* to identify the land as reclassified to Operational Land. An independently facilitated public hearing is required to be held as part of the community consultation process for any Planning Proposal seeking to reclassify land from 'Community' to 'Operational'.

The Local Environmental Plan Making Guidelines (September 2022) released by the Department of Planning and Environment provides specific requirement for planning proposals seeking the reclassification of public land. In accordance with the guidelines, planning proposals that seek reclassification of public land are to be consistent with the requirements of the LEP Practice Note – Classification and reclassification of public land through a local environment plan (PN 16-001). The assessment of the Planning Proposal against these requirements is contained within Part 2 – Explanation of Provisions.

1.5 Site Context

The Planning Proposal applies to 1913 and 1905 Bells Line of Road (Lot 2 and 3 DP 582879). The subject site is used for vehicular access and parking for the Tutti Fruitti Café, which is situated over the boundary of 1917 Bells line of Road and the subject site, without formal development consent. The current café utilises temporary structures as permitted through Clause 6.14 of the Hawkesbury Local Environment Plan 2012 until 2 December 2022.

The subject site is zoned RU2 Rural Landscape, and SP2 Infrastructure due to allocation of the front of the lot for road widening, with no immediate intentions to engage in this road upgrade. The use of RU2 land for the purposes of restaurants and cafes is permissible under the Hawkesbury Local Environment Plan 2012 Land Use Table.

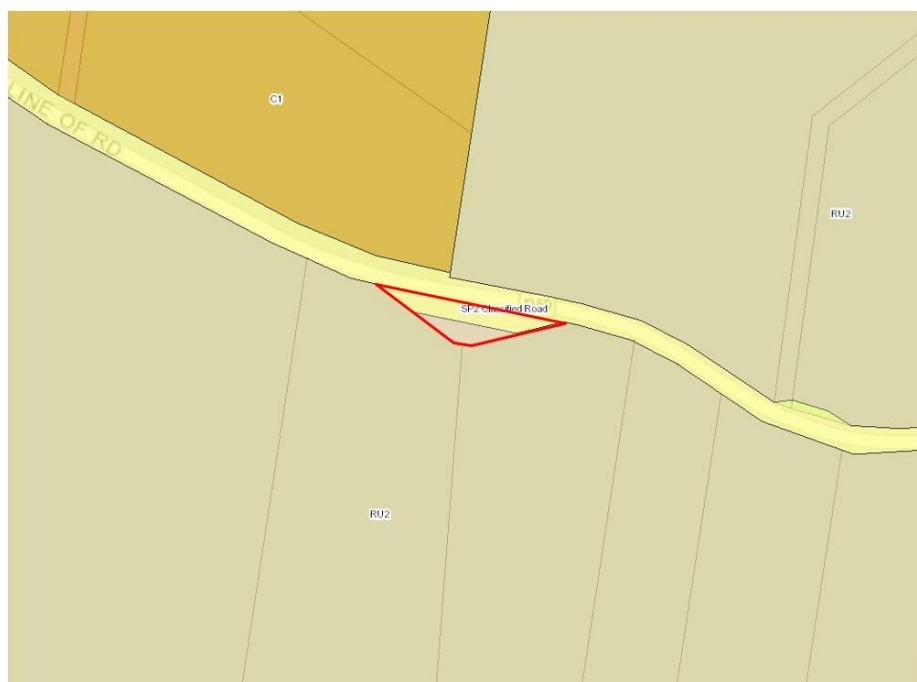


Figure 2 Hawkesbury Local Environmental Plan 2012 Land Zoning Map
(NSW Planning Portal – Digital EPI Viewer)

The subject site contains few constraints. It is located above the Flood Planning Level and is not subject to flood considerations. Additionally, the site and the surrounding area contain no items of local or state heritage listing. Bushfire affectation is the most notable constraint, as the site is entirely bushfire prone, containing vegetation buffer of bush fire prone vegetation (Figure 3). Additionally, the site is identified on the on the Hawkesbury Local Environmental Plan 2012 – Terrestrial Biodiversity map as being connectivity between remnant vegetation (Figure 4).

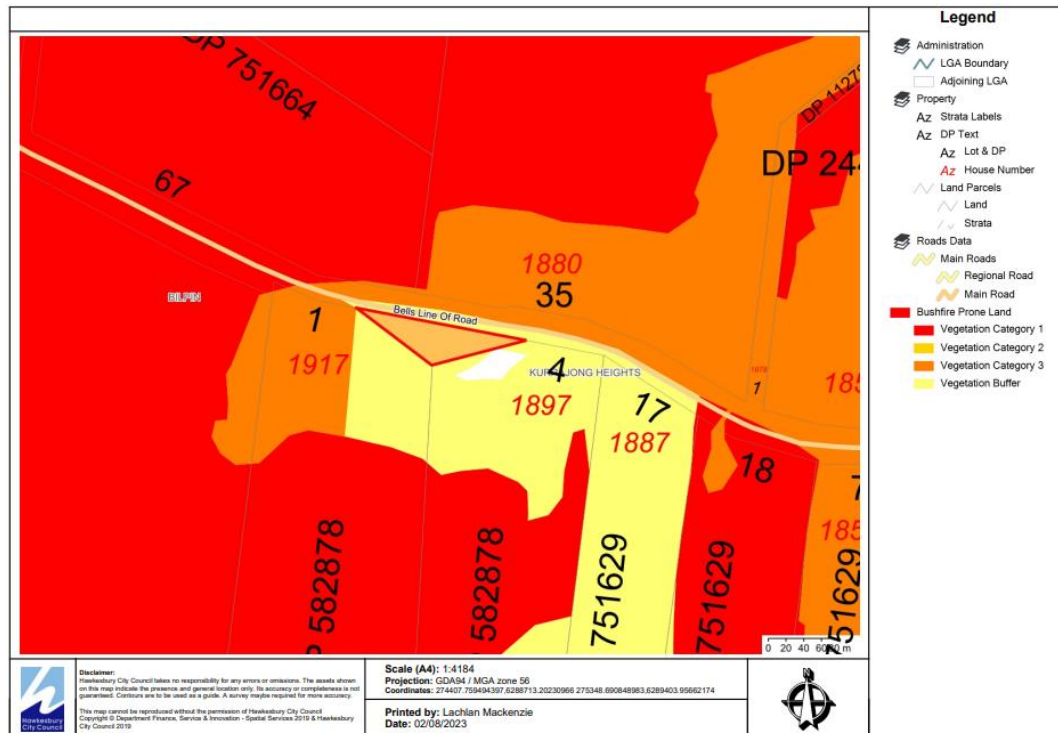


Figure 3 Bushfire Prone Land Map

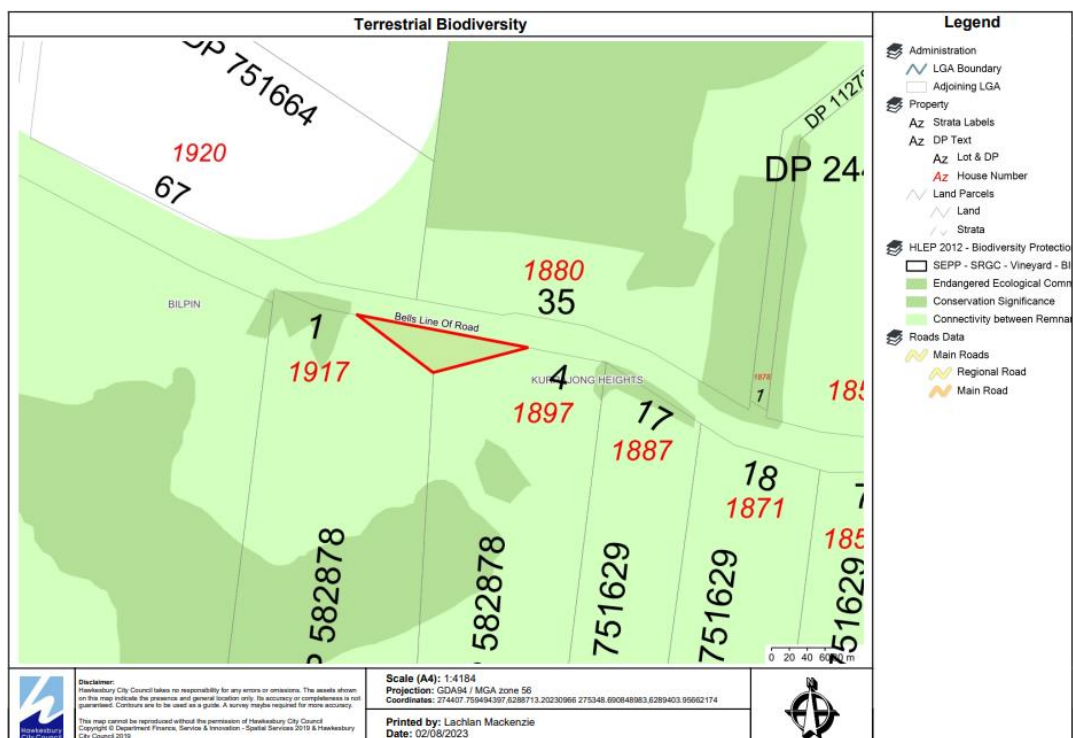


Figure 4 Hawkesbury Local Environmental Plan 2012 Terrestrial Biodiversity Map



The surrounding area features extensive rural uses including commercial orchards, small scale agriculture and complimentary agri-tourism businesses on RU2 zoned land. Immediate uses around the subject site include the Bilpin Blossom farm; an agri-tourism facility, Madison's Mountain Retreat, Pie in the Sky Roadhouse, and rural-residential dwellings.

2. PART 1 - Objectives and Intended Outcomes

The objective of the Planning Proposal is to amend the Hawkesbury Local Environment Plan 2012, Schedule 4 *Classifications and Reclassifications of Public Lands* to include the subject site, 1913 and 1905 Bells Line of Road, Kurrajong Heights as 'Operational Land'.

The intended outcomes of this proposal are as follows:

- Provide flexibility to the management of this land.
- Resolve issues regarding access rights and use of land with Tutti Fruitti Café.
- To facilitate the process of regularising the existing use of the site.

3. PART 2 – Explanation of Provisions

The Planning Proposal is seeking to reclassify 1913 and 1905 Bells Line of Road (Lot 2 and Lot 3 DP 582878) to 'Operation Land' under *Schedule 4 Classification and reclassification of public land* of the Hawkesbury Local Environment Plan 2012. The reclassification of public land to 'operation land' removes restriction to the management of the land and allow for Council to deal in the land on a commercial basis including development, leasing or disposal.

Accordingly, the following item will be inserted alphabetically into Schedule 4 Classification and reclassification of public land – Part 1 land classified or reclassified, as operational land – no interest changed.

Column 1	Column 2
Locality	Description
Kurrajong Heights, 1913 Bells line of Road	Lot 2 DP 582878
Kurrajong Heights, 1905 Bells line of Road	Lot 3 DP 582878

This reclassification of land gives flexibility to Council in providing options in the dealing of the owners in Tutti Fruitti Café in seeking to regularise the use of the site. This flexibility includes the ability to lease the whole or part of the subject site to the owners, or to dispose the asset entirely. Any future development that should occur as facilitated through this Planning Proposal is to comply with planning controls associated with the SP2 Zoned land to preserve the integrity of the existing land reserved for road widening.

3.1 LEP Making Requirements for the Reclassification of Land

The Local Environmental Plan making guidelines requires the assessment of the Planning Proposal against the following requirements of the planning secretary, in accordance with LEP Practice Note PN 16-001.

Is the planning proposal the result of a strategic study or report?

The Planning Proposal is not as a result of a strategic study or report.

Is the planning proposal consistent with the council's community plan, or other local strategic plan?



The Planning Proposal is consistent with the Council's Community Strategic Plan, Local Strategic Plan and other adopted strategies. The assessment against these documents are detailed within Part 3 Justification of Strategic and Site-Specific Merits.

If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished should be provided

There is no interest in the land that will be extinguished.

The concurrence of the landowner must be obtained, where the land is not owned by the PPA

As Hawkesbury City Council is the applicant and the landowner for the Planning Proposal, no concurrence is required.

The effect of the reclassification, including loss of open space, any discharge of interests, and/or removal of public reserve status

The site while classified as community land, is not used for public purposes as it has primarily been used for parking and access for Tutti Fruitti Café since being dedicated to Council. Accordingly, there is no loss of publicly used open space as result of the Planning Proposal.

In respect to the front portion of the subject site being zoned SP2 Infrastructure, and reserved for road widening purposes, this interest remains and will not be impacted by the reclassification.

The strategic and site-specific merits of the reclassification and evidence to support this

The Planning Proposal has strategic and site-specific merit. The assessment of its merit is detailed within Part 3 Justification of Strategic and Site-Specific Merits.

Does the planning proposal deliver a public benefit?

The Planning Proposal delivers a public benefit through supporting local business and industry, specifically the agritourism industry. The premise is a key asset to the local community, and the avenue that the Planning Proposal provides to attaining formal development consent, is in the public's benefit. The merit and impacts of the Planning Proposal further discussed in Part 3 Justification of Strategic and Site-Specific Merits.

Have the implications for open space in the LGA in relation to current and future open space needs been considered and will there be a net gain to open space?

The Planning Proposal is not anticipated to have an impact on availability of open space as the subject site is not used for that purpose. As such, the implications of open space in relation to current and future needs in respect to the Planning Proposal is not relevant.

How funds obtained from any future sale of the land will be used

Money received from the disposal or any dealings of the land will either go into the property reserve or towards the asset type that the land was held for. The decision on how the funds will be used will be impacted by whether the land is sold or leased, which is subject to council resolution, and how Council will need to account the disposal or dealings with the land.

How council will ensure funds remain available to fund proposed open space sites or improvement referred to in justifying the reclassification, if relevant.

Whether through disposal or leasing of the land, part of the subject site is anticipated to be used for Tutti Fruitti Café and funding for open space and improvements are not required.



4. PART 3 – Justifications

Section A - Need for the Planning Proposal

Is the planning proposal a result of any strategic study or report?

The Planning Proposal is not a result of an endorsed Local Strategic Planning Statement, strategic study or report.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

As the Hawkesbury Local Environmental Plan is the principal planning instrument, the classification of the subject site to 'Operational Land' through the Planning Proposal is the most appropriate method of achieving the objectives and intended outcomes, and ensure consistency with local, regional, and state planning frameworks and strategies.

Section B - Relationship to Strategic Planning Framework

Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The Planning Proposal will give effect to the following regional and district plans.

Greater Sydney Region Plan - Metropolis of Three Cities:

The Greater Sydney Region Plan, established by the Greater Sydney Commission, is the key strategic plan governing the direction and objectives of the future of Sydney. The plan envisions a 'City of Three Cities', a multicentred future for Sydney that facilitates and co-ordinates the growth of Greater Sydney. The strategy outlines 10 directions, and 42 objectives guiding the future of Sydney

Relevant to this Planning Proposal is *Objective 24 – Economic sectors are targeted for success*. This objective emphasises the need to nurture and promote local industries, especially through supporting small business locally defining industries. The provisions of the Planning Proposal meet this objective as it enables the proceeding of the regularisation of the existing use of the site within the context of the local agri-tourism industry.

The Planning Proposal additionally is consistent with the *Objective 22 – Investment in business activity in centres*. This objective identifies the need to maintain the character of rural towns and villages as centres of rural industries, tourism and businesses. Accordingly, business activity that maintains this character is supported. As the Planning Proposal seeks to reclassify the public land as operational land to support the existing business, it is consistent with this objective.

Through Hawkesbury's classification as Metropolitan Rural Area within the greater Sydney Region Plan, *Objective 29 – Environmental, Social and economic values in rural areas are protected and enhanced* is of relevance to the Planning Proposal. This objective ensures the preservation of the character and identity of the Metropolitan Rural Areas. The Planning Proposal is consistent with this objective as it seeks to support existing local business that is congruent with the local character as an agribusiness due to being a restaurant that supports and serves local tourism, and also retails local produce. Additionally, the proposal does not support or enable any develop that will detract from the environmental, social and economic values in the area.



The Western City District Plan:

The Western Sydney District Plan provides planning priorities and objectives targeted and in consideration of the unique context of Western Sydney. The Planning Proposal is consistent with *Planning Priority W8 – Leveraging industry opportunities from the Western Sydney Airport* and Badgerys Creek Aerotropolis, whereby tourism industries in the Western City District are to be supported to maximise the benefits of the Western City Airport. As part of the agri-tourism industry in the Hawkesbury, the regularisation of the use as facilitated through this Planning Proposal, supports local industry that is catered towards the visitor economy as maximised through the Western Sydney Airport.

The Planning Proposal is consistent with *Planning Priority W17 - Better management of rural areas*. This priority gives effect to Objective 29 of the Greater Sydney Region Plan. This priority emphasises the need of improved management of the character defining and productive rural areas of the Western City District. The Planning Proposal is consistent with this objective as it seeks to maintain the existing economic activity and character of the area through supporting local business.

Is the planning proposal consistent with a council Local Strategic Planning Statement that has been endorsed by the Planning secretary or Greater Sydney Commission, or another endorsed local strategy or strategic plan?

Hawkesbury Local Strategic Planning Statement 2040:

The Hawkesbury Local Strategic Planning Statement 2040 responds to objectives put forth in the Western City District Plan, to localise the strategic vision. Relevant to the Planning Proposal is *Planning Priority 7 Promote and support all sectors of industry and business to meet current and future demands and trends*. This Planning Proposal through supporting and enabling the regularisation of a local hospitality business complimentary to the surrounding land uses is consistent with this planning priority.

Hawkesbury Community Strategic Plan 2022 - 2042:

The Hawkesbury Community Strategic Plan 2022-2042 is the central strategic plan for Council, outlining the key aspirations and sets the direction for future Council activities and decision making. The Planning Proposal is assessed to be consistent with the following objectives of the community strategic plan.

3.2 Increase the range of local industry opportunities and provide effective support to continued growth.

3.3 Promote our community as the place to visit, work and invest.

Hawkesbury Rural Lands Strategy:

The Hawkesbury Rural Lands strategy identifies the importance of tourist and commercial uses, specifically agri-tourism and agribusiness in the Hawkesbury area. The strategy acknowledges the importance of these uses, which are complimentary to the land use patterns and landscape of the area. Accordingly, this Planning Proposal is consistent with the strategy as it supports and regularises the use of the site which is a key contributor to the Kurrajong – Bilpin tourist and commercial industry.

Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPP)?

The Planning Proposal is assessed to be consistent with relevant State Environmental Planning Policies as detailed in Appendix A. The following State Environmental Planning Policies are of particular importance to the Planning Proposal.



State Environmental Planning Policy (Biodiversity and Conservation) 2021***Chapter 4: Koala habitat Protection 2021***

The subject site is less than 1 ha and not within an area with a koala plan of management, accordingly the Planning Proposal is not subject to clause 4.2 development controls for koala habitats.

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

The Planning Proposal does not have any adverse impacts on the Hawkesbury-Nepean River or its sub catchments.

State Environmental Planning policy (Resource and Energy)***Chapter 3: Extractive Industries in Sydney***

The Planning Proposal is for the reclassification of the land to enable the regularisation of the subject site. The proposal is not impacted by or impedes extractive industries

The following State Environmental Planning Policies are not relevant to the Planning Proposal at this stage, however, will be relevant to any ensuing development should the proposal proceed.

SEPP (Building Sustainability Index: BASIX) 2004.

SEPP (Exempt and Complying Development Codes) 2008.

SEPP (Sustainable Buildings) 2022 (in force from 01 October 2023).

Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 Directions)?

The Planning Proposal is assessed to be consistent with relevant Ministerial Directions as detailed in Appendix B. The following is of particular relevance to the Planning Proposal.

4.3 Planning for Bushfire Protection

This direction aims to protect life, property, and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bushfire prone areas and encourage sound management of bush fire prone area.

Consistency with this direction is presently outstanding, as the Planning Proposal relates to bushfire prone land. To ensure consistency with this direction, consultation will be undertaken with the NSW Rural Fire Service during the public agency consultation stage.

9.2 Rural Lands

This direction aims to protect the agricultural productivity and character of rural areas in New South Wales. Specifically, objective b of this direction is to '*facilitate the orderly and economic use and development of rural lands to promote for rural and related purposes*'. The Planning Proposal is consistent with this direction as it does not impede the productivity of surrounding land uses and supports the local agri-tourism industry.

Section C - Environmental, Social and Economic Impact***Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?***

The Planning Proposal is only for the reclassification of public land and in context of the current site use, will not result in additional development which will not result in adverse effects on critical habitat or threatened species, populations, or ecological communities.



Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are no likely environmental effects identified as resulting from this Planning Proposal.

Has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal will not have any adverse social or environmental effects. Due to the Planning Proposal of reclassifying public land from 'Community Land' to 'Operational Land' it is supporting existing small business which has been adversely impacted by recent natural disasters, resulting in positive local social and economic outcomes.

Section D - Infrastructure (Local, State and Commonwealth)

Is there adequate public infrastructure for the planning proposal?

The Planning Proposal does not propose any intensification of use on the site. Nevertheless, the front portion of the subject site is zoned SP2 Infrastructure and reserved for potential road widening which would expand the road infrastructure servicing the subject site.

Section E - State and Commonwealth Interests

What are the views of State and Federal public authorities and government agencies consulted in order to inform the Gateway Determination.

The Planning Proposal does not require any consultation with any State and Commonwealth public authorities except for the Department of Planning and Environment at this stage. Consultation with relevant government agencies, including the NSW Rural Fire Service will be conducted during the public agency consultation stage.

Site and Strategic Merit

The site is located on a key arterial road and contains a high degree of merit in regard to supporting a hospitality food and drink venue in the broader context of the areas land use and industry mix which features significant agri-tourism facilities.

The Planning Proposal contains a sound level of strategic merit as it seeks to facilitate the regularisation an existing use which contributes to the local agribusiness and agri-tourism economy and does not permit development that will hinder the local character and productivity. With this consideration, the Planning Proposal is consistent with the Metropolitan Rural Area objectives of the Greater Sydney Region Plan and Western City District Plan and support local planning objectives and strategies that seek to promote and support local rural areas.

5. PART 4 – Mapping

No maps of the Hawkesbury Local environmental Plan 2012 are required to be amended by this Planning Proposal.

6. PART 5 – Community Consultation

This Planning Proposal is the product of engagement with the owner of Tutti Fruitti Café and of 1917 Bells Line of Road. The reclassification of land to operational land is the owners desired method of resolving parking and vehicular access disputes in seeking to regularise the use of the site, as stated in the pre-lodgement advice given on the 09/07/2021. This preferred option remains as per correspondence since this date. A public hearing as part of the community consultation will be required for this Planning Proposal as standard for any reclassification of public land to operational land.



7. PART 6 – Project Timeline

Stage	Timeframe and Dates
Consideration by Hawkesbury Local Planning Panel	January 2023
Consideration and Decision by Council	February 2023
Submission to DPE for Gateway Determination	March 2023
Gateway Determination	July 2023 ²
Completion of Technical Requirements	July 2023
Public Agency Consultation	August 2023
Public Exhibition Period	September 2023
Consideration of Submissions	October 2023
Public Hearing	October 2023
Report back to Council	December 2023
Submission of Planning Proposal to DPE for Finalisation	January 2024



Appendix A – State Environmental Planning Policies

State Environmental Planning Policy (Biodiversity and Conservation) 2021		
Chapter	Aims	Comment
Vegetation in Non-Rural Areas	<p>The aims of this Chapter are—</p> <ul style="list-style-type: none"> a. to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and b. to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation. 	<p>Consistent</p> <p>The Planning Proposal does not apply to applicable zones of this chapter.</p>
Koala habitat Protection 2020	<p>This Chapter aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline—</p> <ul style="list-style-type: none"> a. by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and b. by encouraging the identification of areas of core koala habitat, and c. by encouraging the inclusion of areas of core koala habitat in environment protection zones. 	Does not Apply to Hawkesbury LGA
Koala habitat Protection 2021	<p>This Chapter aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.</p>	<p>Consistent</p> <p>The subject site is less than 1 ha and not within an area with a koala plan of management, accordingly it is not subject to clause 4.2 development controls for koala habitats.</p>
River Murray Lands	<p>The aims of this Chapter are to conserve and enhance the riverine environment of the River Murray for the benefit of all users.</p>	Does not Apply to Hawkesbury LGA
Water Catchments	<p>This Chapter applies to land in the following catchments—</p> <ul style="list-style-type: none"> a. the Sydney Drinking Water Catchment, b. the Sydney Harbour Catchment, c. the Georges River Catchment, d. the Hawkesbury-Nepean Catchment. 	<p>Consistent</p> <p>The Planning Proposal does not have any adverse impacts on the Hawkesbury-Nepean River or its sub catchments.</p>
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004		
Building Sustainability Index: BASIX	<p>Regulations under the Act have established a scheme to encourage sustainable residential development (<i>the BASIX scheme</i>) under which:</p> <ul style="list-style-type: none"> a. application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and b. the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled. 	Consistent
State Environmental Planning Policy (Exempt and Complying Development) 2008		
Exempt and Complying development Codes	<p>This Policy aims to provide streamlined assessment processes for development that complies with specified development standards.</p>	Consistent



State Environmental Planning Policy (Housing) 2021		
Affordable Housing	<ul style="list-style-type: none"> a. enabling the development of diverse housing types, including purpose-built rental housing, b. encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability, c. ensuring new housing development provides residents with a reasonable level of amenity, d. promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services, e. minimising adverse climate and environmental impacts of new housing development, f. reinforcing the importance of designing housing in a way that reflects and enhances its locality, g. supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use, h. mitigating the loss of existing affordable rental housing. 	Consistent
Diverse Housing	<ul style="list-style-type: none"> a. enabling the development of diverse housing types, including purpose-built rental housing, b. encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability, c. ensuring new housing development provides residents with a reasonable level of amenity, d. promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services, e. minimising adverse climate and environmental impacts of new housing development, f. reinforcing the importance of designing housing in a way that reflects and enhances its locality, g. supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use, h. mitigating the loss of existing affordable rental housing. 	Consistent
State Environmental Planning Policy (Industry and Employment) 2021		
Western Sydney Employment Area	This Chapter aims to protect and enhance the land to which this Chapter applies (the Western Sydney Employment Area) for employment purposes.	Does not Apply to Hawkesbury LGA
	<p>This Chapter aims—</p> <ul style="list-style-type: none"> a. to ensure that signage (including advertising)— i) is compatible with the desired amenity and visual character of an area, and ii) provides effective communication in suitable locations, and iii) is of high quality design and finish, and b. to regulate signage (but not content) under Part 4 of the Act, and c. to provide time-limited consents for the display of certain advertisements, and d. to regulate the display of advertisements in transport corridors, and e. to ensure that public benefits may be derived from advertising in and adjacent to transport corridors. 	Consistent
State Environmental Planning Policy No 65 (Design Quality of Residential Apartment Development) 2002		
Design Quality of Residential Apartment Development	This Policy aims to improve the design quality of residential apartment development in New South Wales.	Consistent



State Environmental Planning Policy (Planning Systems) 2021		
State and Regional Development	The aims of this Chapter are as follows— <ul style="list-style-type: none"> a. to identify development that is State significant development, b. to identify development that is State significant infrastructure and critical State significant infrastructure, c. to identify development that is regionally significant development 	NA
Aboriginal Land	The aims of this Chapter are— <ul style="list-style-type: none"> a. to provide for development delivery plans for areas of land owned by Local Aboriginal Land Councils to be considered when development applications are considered, and b. to declare specified development carried out on land owned by Local Aboriginal Land Councils to be regionally significant development. 	NA
Concurrences and Consents	Provide overview of when the Planning Secretary may act as concurrence authority	Consistent
State Environmental Planning Policy (Precincts – Central River City) 2021		
Central River City	Provide planning policies for the Central River City	Does not apply to Hawkesbury LGA
State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021		
Eastern Harbour City	Provides planning policies for the Eastern Harbour City	Does not apply to Hawkesbury LGA
State Environmental Planning Policy (Precincts – Regional) 2021		
Regional	Provides planning policies for the Regional NSW	Does not apply to Hawkesbury LGA
State Environmental Planning Policy (Precincts – Western Parkland City) 2021		
State Significant Precincts	The aims of this Chapter are as follows— <ul style="list-style-type: none"> a. to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State so as to facilitate the orderly use, development or conservation of those State significant precincts for the benefit of the State, b. to facilitate service delivery outcomes for a range of public services and to provide for the development of major sites for a public purpose or redevelopment of major sites no longer appropriate or suitable for public purposes. 	Does not apply to Hawkesbury LGA
Sydney Region Growth Centres	The aims of this Chapter are (in conjunction with amendments to the regulations under the Act relating to precinct planning) as follows— <ul style="list-style-type: none"> a. to co-ordinate the release of land for residential, employment and other urban development in the North West Growth Centre, the South West Growth Centre, the Wilton Growth Area and the Greater Macarthur Growth Area, b. to enable the Minister from time to time to designate land in growth centres as ready for release for development, c. to provide for comprehensive planning for growth centres, d. to enable the establishment of vibrant, sustainable and liveable neighbourhoods that provide for community well-being and high quality local amenity, e. to provide controls for the sustainability of land in growth centres that has conservation value, f. to provide for the orderly and economic provision of infrastructure in and to growth centres, g. to provide development controls in order to protect the health of the waterways in growth centres, h. to protect and enhance land with natural and cultural heritage value, i. to provide land use and development controls that will contribute to the conservation of biodiversity. 	Consistent The Planning Proposal is not within and Sydney Region Growth Centres



Western Sydney Aerotropolis	The aims of this Chapter are as follows— <ul style="list-style-type: none"> i. to facilitate development in the Western Sydney Aerotropolis in accordance with the objectives and principles of the Western Sydney Aerotropolis Plan 	Does not apply to Hawkesbury LGA
Penrith Lakes Scheme	The aims of this Chapter are as follows— <ul style="list-style-type: none"> i. to provide a development control process that ensures that environmental and technical matters are considered in the implementation of the Penrith Lakes Scheme, ii. to identify and protect items of the environmental heritage, iii. to identify certain land that may be rezoned for employment, environmental, parkland, residential, tourism and waterway purposes and land that will be rezoned as unzoned land, iv. to permit interim development that will not detrimentally impact on the implementation of the Penrith Lakes Scheme, v. to ensure that the implementation of the Penrith Lakes Scheme does not detrimentally impact on the ongoing operation and use of olympic legacy infrastructure, including the Sydney International Regatta Centre and the Penrith Whitewater Stadium. 	Does not apply to Hawkesbury LGA
St Marys	The aims of this Chapter are to— <ul style="list-style-type: none"> a. support the <i>St Marys Environmental Planning Strategy, 2000</i> of the Department of Urban Affairs and Planning by providing a framework for the sustainable development and management of the land to which this Chapter applies 	Does not apply to Hawkesbury LGA
Western Sydney Parklands	The aim of this Chapter is to put in place planning controls that will enable the Western Sydney Parklands Trust to develop the Western Parklands into a multi-use urban parkland for the region of western Sydney	Does not apply to Hawkesbury LGA
State Environmental Planning Policy (Primary Production) 2021		
Primary production and Rural Development	The aims of this Chapter are as follows— <ul style="list-style-type: none"> i. to facilitate the orderly economic use and development of lands for primary production, ii. to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources, iii. to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations, iv. to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts, v. to encourage sustainable agriculture, including sustainable aquaculture, vi. to require consideration of the effects of all proposed development in the State on oyster aquaculture, vii. to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors. 	Consistent The Planning Proposal does not impact the productivity and character of surrounding rural lands.
Central Coast Plateau Areas	The general aims of this Chapter are— <ul style="list-style-type: none"> a. to provide for the environmental protection of the Central Coast plateau areas and to provide a basis for evaluating competing land uses 	Does not apply to Hawkesbury LGA



State Environmental Planning Policy (Resilience and Hazard) 2021		
Coastal Management	The aim of this Chapter is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the <i>Coastal Management Act 2016</i> , including the management objectives for each coastal management area	Consistent
Hazardous and offensive Development	This Chapter aims— <ul style="list-style-type: none"> a. to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and b. to render ineffective a provision of any environmental planning instrument that prohibits development for the purpose of a storage facility on the ground that the facility is hazardous or offensive if it is not a hazardous or offensive storage establishment as defined in this Chapter 	Consistent
Remediation of Land	This Chapter aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment— <ul style="list-style-type: none"> a. by specifying when consent is required, and when it is not required, for a remediation work, and b. by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and c. by requiring that a remediation work meet certain standards and notification requirements. 	Consistent
State Environmental Planning Policy (Resource and Energy) 2021		
Mining, petroleum, and Extractive Industries	The aims of this Chapter are, in recognition of the importance to New South Wales of mining, petroleum production and extractive industries— <ul style="list-style-type: none"> a. to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and b. to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and c. to promote the development of significant mineral resources, and d. to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources, and e. to establish a gateway assessment process for certain mining and petroleum (oil and gas) development— <ul style="list-style-type: none"> i) to recognise the importance of agricultural resources, and ii) to ensure protection of strategic agricultural land and water resources, and iii) to ensure a balanced use of land by potentially competing industries, and f) to provide for the sustainable growth of mining, petroleum and agricultural industries 	Consistent The Planning Proposal does not impede existing of the establishment of future extractive industries.
Extractive industries in Greater Sydney	This Chapter aims— <ul style="list-style-type: none"> a. to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of regional significance 	Consistent The Planning Proposal does not impede existing of the establishment of future extractive industries.



State Environmental Planning Policy (Transport and Infrastructure) 2021		
Infrastructure	The aim of this Chapter is to facilitate the effective delivery of infrastructure across the State	Consistent
Educational establishments and child care facilities	The aim of this Chapter is to facilitate the effective delivery of educational establishments and early education and care facilities across the State	Consistent
Major Infrastructure Corridors	<p>The aims of this Chapter are as follows—</p> <ul style="list-style-type: none"> a. to identify land that is intended to be used in the future as an infrastructure corridor, b. to establish appropriate planning controls for the land for the following purposes— <ul style="list-style-type: none"> i) to allow the ongoing use and development of the land until it is needed for the future infrastructure corridor, ii) to protect the land from development that would adversely impact on or prevent the land from being used as an infrastructure corridor in the future. 	Consistent
Three ports – Port Botany, Port Kembla and port of Newcastle	<p>The aims of this Chapter are as follows—</p> <ul style="list-style-type: none"> a. to provide a consistent planning regime for the development and delivery of infrastructure on land in Port Botany, Port Kembla and the Port of Newcastle, b. to allow the efficient development, re-development and protection of land at Port Botany, Port Kembla and the Port of Newcastle for port purposes 	Does not apply to Hawkesbury LGA

Appendix B – Ministerial Directions



Planning Systems		
Implementation of Regional Plans	The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	Consistent Planning Proposal is assessed to be consist with relevant regional plans
Development of Aboriginal land council	The objective of this direction is to provide for the consideration of development delivery plans prepared under chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021 when planning proposals are prepared by a planning proposal authority.	NA
Approval and referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent: The Planning Proposal does not require concurrence with the minister of planning or another public authority
Site Specific provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Consistent The Planning Proposal does not propose any site specific provisions.
Planning Systems Place Based		
1.5-1.20	Site specific direction not relevant to the Hawkesbury LGA	Not Applicable to the Hawkesbury LGA
Biodiversity and Conservation		
Conservation Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	Consistent The Planning Proposal does not impact environmentally sensitive areas
Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Consistent
Sydney Drinking Water Catchments	The objective of this direction is to protect water quality in the Sydney drinking water catchment.	Not Applicable to the Hawkesbury LGA
Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	The objective of this direction is to ensure that a balanced and consistent approach is taken when applying conservation zones and overlays to land on the NSW Far North Coast.	Not Applicable to the Hawkesbury LGA
Recreation Vehicle Areas	The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles	Consistent
Strategic Conservation Planning	The objective of this direction is to protect, conserve or enhance areas with high biodiversity value.	Consistent
Resilience and Hazards		
Flooding	<p>The objectives of this direction are to:</p> <p>(a) ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and</p> <p>(b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.</p>	Consistent The Planning Proposal is above the flood planning level.



Coastal Management	The objective of this direction is to protect and manage coastal areas of NSW.	Consistent
Planning for Bushfire Protection	<p>The objectives of this direction are to:</p> <p>(a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</p> <p>(b) encourage sound management of bush fire prone areas</p>	<p>Outstanding</p> <p>To ensure constancy with this direction, the NSW RFS will be consulted during the Public Agency Consultation stage of the Planning Proposal.</p>
Remediation of Contaminated Land	The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by Planning Proposal authorities.	Consistent
Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils	Consistent
Mine Substance and Unstable Land	The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Consistent
Transport and Infrastructure		
Integrating land Use and Transport	<p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p>	Consistent
Reserving Land for Public Purposes	<p>The objectives of this direction are to:</p> <p>(a) facilitate the provision of public services and facilities by reserving land for public purposes, and</p> <p>(b) facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.</p>	Consistent
Development Near Regulated Airports and defence Airfields	<p>The objectives of this direction are to:</p> <p>(a) ensure the effective and safe operation of regulated airports and defence airfields;</p> <p>(b) ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and</p>	Consistent



	(c) ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.	
Shooting Ranges	<p>The objectives are to:</p> <p>(a) maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,</p> <p>(b) reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,</p> <p>(c) identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.</p>	Consistent
Housing		
Residential Zones	<p>The objectives of this direction are to:</p> <p>(a) encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p> <p>(c) minimise the impact of residential development on the environment and resource lands.</p>	Consistent
Caravan Parks and Manufactured Home Estates	<p>The objectives of this direction are to:</p> <p>(a) provide for a variety of housing types, and</p> <p>(b) provide opportunities for caravan parks and manufactured home estates.</p>	Consistent
Business and Industrial Zones	<p>The objectives of this direction are to:</p> <p>(a) encourage employment growth in suitable locations,</p> <p>(b) protect employment land in business and industrial zones, and</p> <p>(c) support the viability of identified centres</p>	Consistent
Reduction in non-hosted short-term rental accommodation period	<p>The objectives of this direction are to:</p> <p>(a) mitigate significant impacts of short-term rental accommodation where non-hosted short-term rental accommodation period are to be reduced, and</p> <p>(b) ensure the impacts of short-term rental accommodation and views of the community are considered.</p>	Consistent
Commercial and Retail Development along Pacific Highway, North coast	<p>The objectives for managing commercial and retail development along the Pacific Highway are to:</p> <p>(a) protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route,</p> <p>(b) prevent inappropriate development fronting the highway,</p> <p>(c) protect public expenditure invested in the Pacific Highway,</p>	Not Applicable to the Hawkesbury LGA



	<p>(d) protect and improve highway safety and highway efficiency,</p> <p>(e) provide for the food, vehicle service and rest needs of travellers on the highway, and</p> <p>(f) reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.</p>	
Resources and Energy		
Mining, Petroleum production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	<p>Consistent</p> <p>The Planning Proposal will not result in conflict with existing or future extractive industries</p>
Primary Production		
Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	<p>Consistent</p> <p>The Planning Proposal is consistent with this direction as it does not impede the productivity of surrounding land uses and supports the local agri-tourism industry.</p>
Rural Lands	<p>The objectives of this direction are to:</p> <p>(a) protect the agricultural production value of rural land,</p> <p>(b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,</p> <p>(c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,</p> <p>(d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,</p> <p>(e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land,</p> <p>(f) support the delivery of the actions outlined in the NSW Right to Farm Policy.</p>	Consistent
Oyster Aquaculture	<p>The objectives of this direction are to:</p> <p>(a) ensure that 'Priority Oyster Aquaculture Areas' and oyster aquaculture outside such an area are adequately considered when preparing a Planning Proposal, and</p> <p>(b) protect 'Priority Oyster Aquaculture Areas' and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.</p>	<p>Consistent</p> <p>The Planning Proposal is consistent with this direction as it does not impede the productivity of surrounding land uses and supports the local agri-tourism industry.</p>
Farmland of State and regional Significance on the NSW Far North Coast	The objectives of this direction are to: (a) ensure that the best agricultural land will be available for current and future generations to grow food and fibre, (b) provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and (c) reduce land use conflict	Not Applicable to the Hawkesbury LGA



	arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas	
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