



Hawkesbury City Council

hawkesbury  
local  
planning  
panel  
meeting  
business  
paper -  
planning  
proposal  
advice

date of meeting: 25 June 2020

location: by audio-visual link

time: 10:00 a.m.



**HAWKESBURY LOCAL PLANNING PANEL MEETING**

**Table of Contents**

**Meeting Date:** 25 June 2020

**TABLE OF CONTENTS**

<b>ITEM</b>	<b>SUBJECT</b>	<b>PAGE</b>
<b>SECTION 3 – Reports for Determination</b>		<b>5</b>
Item: 003	CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 to Permit Residential Subdivision of Lots 1 and 3 DP 596558, and Lots 209 and 210 DP 260361, 16 William Cox Drive, Richmond - (95498, 144940)	5

**HAWKESBURY LOCAL PLANNING PANEL MEETING**

**Table of Contents**

**Meeting Date:** 25 June 2020

hawkesbury  
local  
planning  
panel

section **2**

reports  
for determination

**HAWKESBURY LOCAL PLANNING PANEL MEETING**

**SECTION 2 – Reports for Determination**

**Meeting Date:** 25 June 2020

**HAWKESBURY LOCAL PLANNING PANEL MEETING**

**SECTION 2 – Reports for Determination**

**Meeting Date:** 25 June 2020

**SECTION 3 – Reports for Determination**

**Item: 003**                    **CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 to Permit Residential Subdivision of Lots 1 and 3 DP 596558, and Lots 209 and 210 DP 260361, 16 William Cox Drive, Richmond - (95498, 144940)**

**Directorate:**            City Planning

---

**PLANNING PROPOSAL INFORMATION**

**File Number:**                    LEP002/19  
**Property Address:**            16 William Cox Drive, Richmond  
**Applicant:**                        Knight Frank Town Planning Sydney  
**Owner:**                            Hobartville Stud Pty Limited – Glenn A Morris  
**Date Received:**                15/10/2019  
**Current Zones:**                RU2 Rural Landscape and E2 Environmental Conservation  
**Proposed Zones:**              R2 Low Density Residential, RU2 Rural Landscape and E2 Environmental Conservation  
**Current Minimum Lot Size:**    10 hectares  
**Proposed Minimum Lot Size:** 115 m<sup>2</sup> for land proposed to be rezoned to R2  
**Site Area:**                        Approximately 66.9 hectares of which 9.4 hectares is proposed to be developed

**Key Issues:**                    ➤ Consistency with Greater Sydney Region Plan and Western City District Plan – Metropolitan Rural Area and flooding  
    ➤ Consistency with Section 9.1 Directions  
    ➤ Suitability of proposal having regard to:  
    • Heritage  
    • Character of locality  
    • Flood affectation  
    • Endangered ecological communities - wetlands

**Recommendation:**

That the Hawkesbury Local Planning Panel provide advice on the planning proposal to:

- (a) Rezone part of Lots 1 & 3 DP 596558 and part of Lots 209 & 210 DP 260361 to R2 Low Density Residential;
  - (b) Amend the minimum lot size for subdivision of part of Lots 1 & 3 DP 596558 and part of Lots 209 & 210 DP 260361 to 115m<sup>2</sup>;
  - (c) Create an Additional Permitted Use Map to identify the area of part Lots 1 and 3 DP 596558 and part Lots 209 and 210 DP 260361 to have additional permitted uses of 'attached dwelling' and 'dual occupancy'.
  - (d) Amend Schedule 1 – Additional permitted uses of Hawkesbury Local Environmental Plan 2012 to include 'attached dwellings' and 'dual occupancy' as an additional permitted use on part of the site.
-

## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

#### PURPOSE OF THE REPORT:

The purpose of this report is to seek advice from the Hawkesbury Local Planning Panel on an Applicant initiated planning proposal to amend the *Hawkesbury Local Environmental Plan 2012* to permit residential development of 'Hobartville Stud Farm', Lots 1, 2 and 3 DP 596558, and Lots 209 and 210 DP 260361, 16 William Cox Drive, Richmond.

#### EXECUTIVE SUMMARY:

Council is in receipt of a planning proposal from Knight Frank Town Planning consultants to rezone part of the 'Hobartville Stud Farm' property to R2 Low Density Residential to permit residential subdivision of the subject site to accommodate 118 dwellings in the form of separate dwelling houses, attached terrace houses and dual occupancies.

The 'Hobartville Stud Farm' property is a heritage item of both state and local significance. Part of the site is affected by the 1 in 100 Average Recurrent Interval flood event, and the entire site is below the Probable Maximum Flood. The subject site contains endangered ecological communities including wetlands.

This Report provides an assessment of the Planning Proposal and seeks the advice of the Hawkesbury Local Planning Panel as to whether the Planning Proposal should be progressed for a 'Gateway' determination.

This Report highlights that the Planning Proposal has not adequately justified the proposal or demonstrated that the proposal has strategic or site specific merit. In particular, the Planning Proposal is considered to be inconsistent with:

- the Greater Sydney Region Plan;
- the Western City District Plan;
- Section 9.1 Ministerial Directions; and
- State Environmental Planning Policies.

It is also considered that the proposal does not have merit having regard to:

- the character and density of existing residential development in the locality;
- the proposed development meeting the objectives of the R2 Low Density Residential zone; and
- the potential impacts of increased population on flood evacuation capacity.

and additionally does not adequately demonstrate:

- the likely impact the proposed development will have on the heritage significance of the State listed heritage item known as 'Hobartville' in terms of loss of curtilage, loss of landscape and impact on the continued historic use of the property as a horse stud or similar; and
- the likely impacts of the development on the adjoining wetland.



## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

#### RECOMMENDATION SUMMARY:

This report seeks advice from the Hawkesbury Local Planning Panel with respect to the Planning Proposal to amend Hawkesbury Local Environmental Plan 2012 to:

- (a) Rezone part of Lots 1 & 3 DP 596558 and part of Lots 209 & 210 DP 260361 to R2 Low Density Residential;
- (b) Amend the minimum lot size for subdivision of part of Lots 1 & 3 DP 596558 and part of Lots 209 & 210 DP 260361 to 115m<sup>2</sup>;
- (c) Create an Additional Permitted Use Map to identify the area of part Lots 1 and 3 DP 596558 and part Lots 209 and 210 DP 260361 to have additional permitted uses of 'attached dwelling' and 'dual occupancy'.
- (d) Amend Schedule 1 – Additional permitted uses of Hawkesbury Local Environmental Plan 2012 to include 'attached dwellings' and 'dual occupancy' as an additional permitted use on part of the site.

#### REPORT:

##### Context and Background

The Planning Proposal seeks to amend the *Hawkesbury Local Environmental Plan 2012* in order to permit a residential subdivision of the subject site to accommodate approximately 118 dwellings, being a mix of dwelling houses, attached dwellings and dual occupancies.

The Planning Proposal aims to achieve this by amending the relevant Land Zoning Map and Lot Size Map of the *Hawkesbury Local Environmental Plan 2012* to rezone the subject site to R2 Low Density Residential, and to provide a minimum lot size of 115m<sup>2</sup>. Additionally, the Planning Proposal also seeks to create an Additional Permitted Use Map and amend Schedule 1 – *Additional permitted uses* of the *Hawkesbury Local Environmental Plan 2012* to include 'attached dwellings' and 'dual occupancy' as additional permitted uses on the subject site.

The Planning Proposal is supported by a Master Plan, which is shown in Figure 1 below. The Masterplan proposes a development consisting of 87 terrace houses and 31 cottages, being predominantly one and two storey dwellings. Vehicle access will be from Chapel Street and William Cox Drive, and 260 parking spaces will be provided.



Figure 1: Master Plan

The master plan provides a vision for the future development of the subject site with a description of the streetscape character, parks, fences and entries, building types, roof types, verandahs, façade materials, window types and doors that are considered to be suitable for future development of the subject site.

The Planning Proposal advises that the design principles and indicative masterplan are proposed to be implemented through a detailed Development Control Plan that would be prepared following a 'Gateway' determination.

The Planning Proposal has identified particular environmental matters which may have consequences for the future subdivision and development of the land, including flooding, heritage, flora/fauna, wetlands, services and transport. However, in some instances detailed reports have not been provided to demonstrate that these matters are not prohibitive to future development.

The Department of Planning, Industry and Environment's document "A Guide to Preparing Planning Proposals", October 2012 advises:

*"The planning proposal should contain enough information to demonstrate that relevant environmental, social, economic, and other site specific matters have been identified and if necessary that any issues can be addressed with additional information and/or through consultation with agencies and the community."* and

*"To prevent unnecessary work prior to the Gateway stage, specific information nominated as being necessary would not be expected to be completed prior to the submission of the planning proposal. In such circumstances, it would be sufficient to identify what information may be required to demonstrate the proposal."*

Where it is determined that more detailed information is required, a recommendation can be made to the Department of Planning, Industry and Environment that detailed specialist reports be provided

## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

prior to notification of the proposal. The 'Gateway' determination will confirm the information (which may include studies) and consultation required before the planning proposal can be finalised.

#### Subject Site and Surrounds

The 'Hobartville Stud Farm' property at 16 William Cox Drive, Richmond is comprised of five parcels of land, including:

- (a) Lot 1 DP 596558 - 4.111 ha and contains a dwelling house;
- (b) Lot 2 DP 596558 - 20.43 ha and contains paddocks with farm buildings (horse shelters);
- (c) Lot 3 DP 596558 - 40.39 ha and comprises the heritage item known as 'Hobartville' and includes the main Georgian residence, additional manager's and worker's dwellings, and associated residential and farm rural outbuildings;
- (d) Lot 209 DP 260361 - 1.009 ha and is vacant;
- (e) Lot 210 DP 260361 - 1.018 ha and contains an outbuilding.

The property is approximately 66.9 ha in size, is irregular in shape and is located to the north of William Cox Drive, on the northern fringe of Richmond's urban area as shown in Figure 2 below.

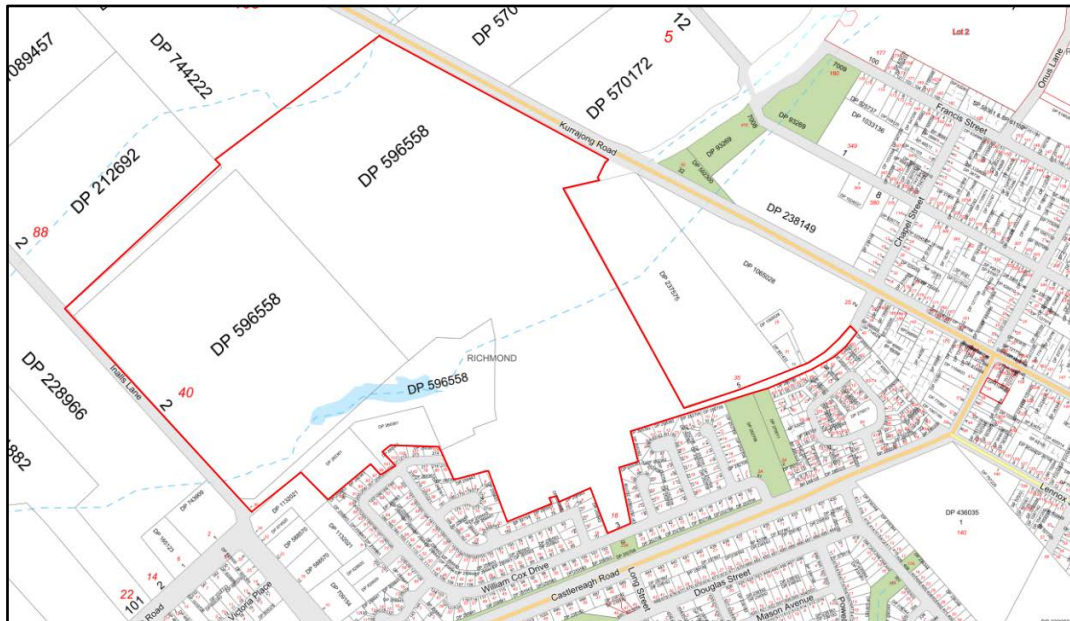


Figure 2: Locality Map – 16 William Cox Drive, Richmond

The Planning Proposal relates to the part of 'Hobartville Stud Farm' comprising part of Lots 1 and 3 DP 596558 and part of Lot 210 DP 260361 and Lot 209 DP 260361 as shown edged blue in Figure 3. This area is referred to as the 'subject site' in this Report.

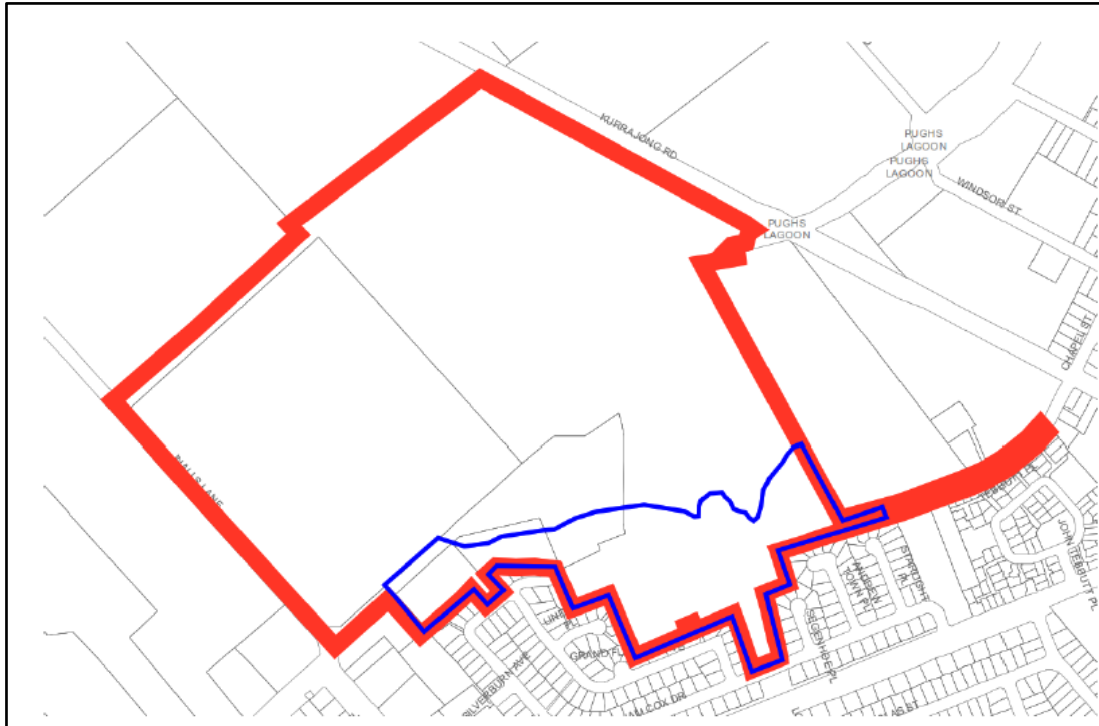


Figure 3: Subject Site

The subject site has an area of approximately 9.4 hectares and is used as a horse stud and contains numerous dwelling houses and outbuildings of heritage significance.

A watercourse and wetland adjoins the subject site to the north. The watercourse and wetland is surrounded by native vegetation.

The subject site varies in height from approximately 10m AHD in the northern portion to 21m AHD in the southern portion of the subject site. Based on Council's slope mapping, the subject site contains land having slopes in excess of 20% within the northern portion of the subject site adjacent to the wetland area.

The 'Hobartville Stud Farm' property is surrounded by the following development as shown in Figure 4 below:

- directly to the east is a large lot containing a single dwelling and the United Hawkesbury Richmond seniors housing and residential care facility which is located less than 200 metres to the east of the site at 25 Chapel Street,
- low density residential development on smaller lots on average approximately 550m<sup>2</sup>) is located immediately south and southwest of the site,
- larger lots with single dwellings dominate the land to the west,
- to the north and west of the subject site land is predominantly used for agricultural purposes,
- land to the northeast of Kurrajong Road contain a number of Polo Clubs.

## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020



**Figure 4: Aerial View of the Subject Site and the Surrounding Properties**

#### Current Planning Controls

The 'Hobartville Stud Farm' property is currently zoned RU2 Rural Landscape and E2 Environmental Conservation, and has a minimum lot size requirement for subdivision of 10 ha and 40 ha under the *Hawkesbury Local Environmental Plan 2012*. The subject site is located wholly within the RU2 Rural Landscape zone and is subject to a 10 ha minimum lot size requirement for subdivision.

The subject site has a maximum height of buildings provision of 10m.

Lots 1, 2 and 3 DP 596558 are identified as heritage items under Schedule 5 to the *Hawkesbury Local Environmental Plan 2012*. Lot 3 contains the dwelling known as 'Hobartville' and its associated buildings and structures. In addition to being a heritage item of local significance, 'Hobartville' (Lot 3 DP 596558) is also a state listed heritage item under the *Heritage Act 1977*.

Lots 1 and 2 have been listed as a separate heritage item of local heritage significance under the *Hawkesbury Local Environmental Plan 2012*, with its significance being identified as 'Grounds and landscaping surrounding "Hobartville"'.

The 'Hobartville Stud Farm' property is partially below the 1 in 100 year flood level of approximately 17.5m AHD, having land levels between 8.5 – 21m AHD, and therefore Clause 6.3 – *Flood planning* of the *Hawkesbury Local Environmental Plan 2012* applies. Whilst this is the case, the subject site is located on land having levels above the 1 in 100 year flood level.

The subject site contains 'Significant vegetation' and 'Connectivity between significant vegetation' as identified on the Terrestrial Biodiversity Map of the *Hawkesbury Local Environmental Plan 2012*. In this respect Clause 6.4 – *Terrestrial biodiversity* of *Hawkesbury Local Environmental Plan 2012* applies.

One area of 'Significant vegetation' corresponds to the watercourse and wetland located within Lots 1 and 3 DP 596558. Whilst part of this watercourse and wetland are situated on these lots, they are not located within the subject site. The wetland areas are also identified on the Wetlands Map and therefore Clause 6.5 - *Wetlands* of the *Hawkesbury Local Environmental Plan 2012* applies.

## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

Another area of 'Significant vegetation' comprises a pocket of remnant vegetation to the south of the Georgian residence which is located within the subject site.

Council's vegetation mapping identifies these areas of 'Significant Vegetation' as Freshwater wetlands and Shale Plains Woodland, which are Critically Endangered Ecological Communities under the *Biodiversity Conservation Act 2016*.

In addition, the wetland and its surrounds is mapped as a 'coastal wetlands and littoral rainforest area' under *State Environmental Planning Policy (Coastal Management) 2018*. The 'coastal wetlands and littoral rainforests area' is made up of land identified as "coastal wetlands" or as "littoral rainforests" on the *Coastal Wetlands and Littoral Rainforests Area Map as well as* "proximity area for coastal wetlands" and "proximity area for littoral rainforest". In this regard, whilst the subject site is not located within a 'coastal wetland', part of the subject site is located within the 'proximity area for coastal wetlands'.

The 'Hobartville Stud Farm' property is affected by Class 4 and 5 Acid Sulfate Soils on the Acid Sulfate Soils Planning Maps contained within the *Hawkesbury Local Environmental Plan 2012*. The Class 4 soils correspond to the watercourse and wetland areas of the property. As such, the subject site contains only Class 5 Acid Sulfate Soils. Clause 6.1 – *Acid sulfate soils of Hawkesbury Local Environmental Plan 2012* will apply to the future development of the subject site.

Part of Lots 1, 2 and 3 DP 596558 fall within the 20 to 25 ANEF (Acoustic Noise Exposure Forecast) Contour, however the proposed subject site is located outside of this contour and is not subject to the provisions of Clause 6.6 – *Development in areas subject to aircraft noise* of the *Hawkesbury Local Environmental Plan 2012*.

The 'Hobartville Stud Farm' property is identified as containing Agriculture Land Classification 1, 2 and 5 in the maps prepared by the former NSW Department of Agriculture, with the subject site located wholly within Class 5 land.

#### Planning Proposal

The Planning Proposal advises that it seeks to amend the *Hawkesbury Local Environmental Plan 2012* to enable the development of the subject site to provide low density residential development "whilst providing increased publicly accessible open space and opportunity for community infrastructure. The intended outcome is to provide low to medium density housing typologies, and supporting landscaping and open space that are responsive to the specific location and context."

A copy of the Planning Proposal is provided in Attachment 1.

The Planning Proposal aims to achieve the intended outcomes by amending the *Hawkesbury Local Environmental Plan 2012* as follows:

1. Amend the Land Zoning Map (Map Reference No. 3800\_COM\_LZN\_008BA) of the *Hawkesbury Local Environmental Plan 2012* to rezone Part of Lots 1 and 3 DP 596558 and Part of Lots 209 and 210 DP 260361 to R2 Low Density Residential as shown in Attachment 2 of this Report.
2. Amend the Lot Size Map (Map Reference No. 3800\_COM\_LSZ\_008BA) of the *Hawkesbury Local Environmental Plan 2012* to permit a minimum lot size of 115m<sup>2</sup> for Part of Lots 1 and 3 DP 596558 and Part of Lots 209 and 210 DP 260361 as shown in Attachment 3 of this Report.
3. Create an Additional Permitted Use Map for the locality in which the subject site is situated (Map Reference No. 3800\_COM\_APU\_008BA) and identify the area of Part Lots 1 and 3 DP 596558 and Part Lots 209 and 210 DP 260361 to have additional permitted uses of 'attached dwelling' and 'dual occupancy' as shown in Attachment 4 of this Report.

## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

4. Amend *Hawkesbury Local Environmental Plan 2012*, Schedule 1 – Additional permitted uses to insert the following:

**17 Use of certain lane at 16 William Cox Avenue, Richmond as shown on the Additional Permitted Uses Map**

- (1) This clause applies to land at 16 William Cox Avenue, Richmond being Part of Lots 1 and 3 DP 596558 and Part of Lots 209 and 210 DP 260361 identified as “4” on the Additional Permitted Uses Map.
- (2) Development for the purposes of attached dwelling and dual occupancy is permitted with consent.

The Planning Proposal contains a number of supporting documents including:

- The Hobartville Country Village Master Plan
- Curtilage Heritage Considerations for Planning Proposal
- Transport Impact Assessment
- Flood Impact Assessment
- Arboriculture Report for Subdivision
- Engineering Infrastructure Due Diligence Report

#### Justification of Proposal

The Planning Proposal states:

*“The intended outcome on the site is to provide a low-density residential development to provide housing for the increasing population demand in Richmond. The proposal is supported by a Master Plan that centres on low density residential development that respects the character of the existing heritage items on site.*

*The proposed masterplan retains the overwhelming majority of the site as rural and environmental conservation land (as shown on the proposed zoning map at Figure 14).*

*It is intended to improve access to heritage items and public open space. As a result, there will be a considerable net community benefit arising for Richmond in terms of increased access to open space and a greater level of amenity.*

*The outcome of the planning proposal will make a significant and positive contribution to Hobartville, contributing to housing supply, cultural awareness and improved recreation opportunities.”*

One of the Planning Proposal's justifications for the proposal is that improved access to the heritage item and to public open space will be available for the Richmond community in general. Access to the heritage item is based on the recommendation within the Heritage Report that the land be dedicated to Council via a Voluntary Planning Agreement/Heritage Agreement and used by the public.

The subject site is located in a pocket on the fringe of Richmond's urban/residential centre, not readily visible or accessible from main roadways or centres. It is therefore considered that it is likely that only residents of the development will benefit from the proposed open spaces.

The Masterplan philosophy is based on clustered dwellings with access to adjoining shared open spaces and pocket parks. Whilst this is the case, the Planning Proposal does not provide for public open space areas through zoning to give assurance that these will be provided.

## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

The Planning Proposal also seeks to justify the proposal through consistency with the Hawkesbury Residential Land Strategy, and as a means of meeting the housing targets for the Hawkesbury Local Government Area.

Whilst the Planning Proposal is considered to be generally consistent with the Hawkesbury Residential Land Strategy 2011, it should be noted that the Strategy is approximately 9 years old and, more recently, higher level strategic plans, such as the Greater Sydney Region Plan and the Western City District Plan, have been released in relation to the provision of future residential development. In particular, the Hawkesbury Residential Land Strategy 2011 is inconsistent with the principles of the Western City District Plan having regard to the objectives of the Metropolitan Rural Area as discussed further in this Report. Council is currently preparing a new Residential Land Strategy to address these matters and to inform the preparation of the Council's Local Strategic Planning Statement and subsequent Local Environmental Plan and Development Control Plan Amendments.

Council is required to work within the strategic planning direction set by the NSW Government and the Greater Sydney Commission for:

- Greater Sydney in the Greater Sydney Region Plan - a metropolis of 3 Cities including the Western Parkland City
- The Western City District, of which the Hawkesbury is a part, in the Western City District Plan

The Greater Sydney Region Plan forecasts that between 2016 and 2036 the Western City District is expected to grow by 740,000 people in 2016 to 1.1 million people by 2036 requiring approximately 40,000 new homes between 2016 and 2021, and nearly 185,000 new homes between 2016 and 2036.

Of this, the Western City District Plan sets a five-year housing target for Hawkesbury Local Government Area of 1,150 new homes between 2016 to 2021, which can be accommodated within the following areas:

- Vineyard Stage 1 (2,500 dwellings)
- Redbank (1,400 Lots)
- Jacaranda Ponds (580 Lots)

#### Policy considerations

The Department of Planning, Industry and Environment's '*A guide to preparing planning proposals*' August 2016 (the Guidelines) requires the applicant to demonstrate that a planning proposal is consistent with applicable local strategies/ strategic plans, State Environmental Planning Policies and Section 9.1 Ministerial Directions.

An assessment of the Planning Proposal against the relevant State Planning framework including *A Plan for Growing Sydney*, *Greater Sydney Region Plan - A Metropolis of Three Cities*, Western City District Plan, State Environmental Planning Policies and Section 9.1 Ministerial Directions and Local Planning/policy Framework contained within this report demonstrates that the Planning Proposal is considered to be inconsistent with both the State and Local Planning Framework.

#### A Plan for Growing Sydney

*A Plan for Growing Sydney* was released in December 2014 and is the NSW Government's 20-year plan for the Sydney Metropolitan Area. It provides direction for Sydney's productivity, environmental management, and liveability, and for the location of housing, employment, infrastructure and open space.

*A Plan for Growing Sydney* contains the following Vision for Sydney.



## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

A strong global site, a great place to live.

The Vision is supported by the following four goals and three principles:

Goal 1: A competitive economy with world-class services and transport.

Goal 2: A city of housing choices with homes that meet our needs and lifestyle.

Goal 3: A great place to live with communities that are strong, healthy and well connected.

Goal 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.

Principle 1: Increasing housing choice around all centres through urban renewal in established areas.

Principle 2: Stronger economic development in strategic centres and transport gateways.

Principle 3: Connecting centres with a networked transport system.

*A Plan for Growing Sydney* divides Sydney into six subregions: Central; West Central; West; North; South West; and South. The Hawkesbury Local Government Area is in the West subregion along with the Penrith and Blue Mountains Local Government Areas.

The Draft North West Subregional Planning Strategy was released by the NSW Government in December 2007. The Strategy covers the Local Government Areas of The Hills, Blacktown, Blue Mountains, Hawkesbury and Penrith and set broad directions for additional dwelling and employment growth.

The Key Directions of the draft Strategy are:

- plan to meet employment and housing capacity targets
- develop Penrith as a Regional City
- strengthen the roles of centres
- improve access to, from and within the subregion
- protect rural resource lands
- promote the environmental and scenic qualities of the region
- improve access to open space and recreation opportunities.

With the release of the Greater Sydney Region Plan – A Metropolis of Three Cities, it is considered that A Plan for Growing Sydney is no longer relevant as its objectives and provisions, in general, are incorporated or updated within the new Regional Plan and District Plans.

As a result it is considered that consistency with A Metropolis of Three Cities means consistency with A Plan for Growing Sydney.

#### **Greater Sydney Region Plan - A Metropolis of Three Cities**

In March 2018, the NSW Government released the concept of the vision for Greater Sydney as a Metropolis of Three Cities - the Western Parkland City, the Central River City and the Eastern Harbour City.

This strategic framework aspires to transform land use and transport patterns and boost Greater Sydney's liveability, productivity and sustainability by spreading the benefits of growth to all its residents.

## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

The emerging Western Parkland City with the Western Sydney Airport and Badgerys Creek Aerotropolis as a catalyst for the city cluster will grow a strong trade, logistics, advanced manufacturing, health, education and science economy and be the most connected place in Australia. It will produce knowledge-intensive jobs close to new well-designed neighbourhoods. Liveability for residents will be key – such as more trees to provide shade and shelter and walkable neighbourhoods within easy reach of shops and services.

It is the first plan to be prepared concurrently with *Future Transport 2056* and the State Infrastructure Strategy, aligning land use, transport and infrastructure planning to reshape Greater Sydney as three unique but connected cities.

The objectives and metrics of 'A Metropolis of three Cities' are based on Ten (10) Directions:

- (a) A city supported by infrastructure;
- (b) A collaborative City;
- (c) A city for people;
- (d) Housing the city;
- (e) A city of great places;
- (f) A well connected city;
- (g) Jobs and skills for the city;
- (h) A city in its landscape;
- (i) An efficient city; and
- (j) A resilient city.

These Directions are supported by objectives and strategies that are implemented through the actions within the Western City District Plan.

#### **Western City District Plan**

The Western City District Plan is a guide for implementing the Greater Sydney Region Plan - 'A Metropolis of Three Cities'. The District Plan is a bridge between regional and local planning.

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

The District Plan also assists Councils to plan for and support growth and change, and aligns their local planning strategies to place-based outcomes. It guides the decisions of State Agencies and informs the private sector and the wider community of approaches to manage growth and change.

The Western City District Plan focuses on identifying the Planning Priorities to achieve a liveable, productive and sustainable future for the District. Relevant Objectives, Strategies and Actions from *A Metropolis of Three Cities* are embedded in each of the Planning Priorities, to integrate the District's challenges and opportunities with the Greater Sydney vision of the metropolis of three cities.

Relevant to the Planning Proposal are the actions relating to:

- *Maximise the utility of existing infrastructure assets and consider strategies to influence behaviour changes, to reduce the demand for new infrastructure;*
- *Deliver healthy, safe and inclusive places for people of all ages and abilities that support active, resilient and socially connected communities;*
- *Limit urban development to within the Urban Area, except for the investigation areas at Horsley Park, Orchard hills, and east of The Northern Road, Luddenham*

## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

- *Using a place-based and collaborative approach throughout planning, design, development and management, deliver great places by:*
  - *Prioritising a people-friendly public realm and open spaces as a central organising design principle*
  - *Recognising and balancing the dual function of streets as places for people and movement*
  - *Recognising and celebrating the character of a place and its people.*
- *Identify, conserve and enhance environmental heritage;*
- *Protect and support agricultural production and mineral resources (in particular construction materials) by preventing inappropriately dispersed urban activities in rural areas;*
- *Protect environmentally sensitive areas of waterways and the coastal environment area;*
- *Protect and enhance biodiversity;*
- *Identify and protect scenic and cultural landscapes;*
- *Maintain or enhance the values of the Metropolitan Rural Area using place-based planning to deliver targeted environmental, social and economic outcomes;*
- *Avoid locating new urban development in areas exposed to natural and urban hazards and consider options to limit the intensification of development in existing urban areas most exposed to hazards;*
- *Respond to the direction for managing flood risk in the Hawkesbury-Nepean Valley as set out in Resilient Valley, Resilient Communities – Hawkesbury-Nepean Valley Flood Risk Management Strategy.*

It is considered that the Planning Proposal is inconsistent with the Western City District Plan for the following reasons:

1. The Hawkesbury Local Government Area (other than the Vineyard Growth Centre Precinct) is identified as part of the Metropolitan Rural Area under the Western City District Plan. The Western City District's rural areas contribute to habitat and biodiversity, support productive agriculture, provide mineral and energy resources, and sustain local rural towns and villages.

*The Greater Sydney Region Plan recognises that “urban development is not consistent with the values of the Metropolitan Rural Area. This Plan identifies that Greater Sydney has sufficient land to deliver its housing needs within the current boundary of the Urban Area, including existing Growth Areas and urban investigation areas associated with the development of the Western Sydney Airport. This eliminates the need for the Urban Area to expand into the Metropolitan Rural Area.*

*Restricting urban development in the Metropolitan Rural Area will help manage its environmental, social and economic values, help to reduce land speculation, and increase biodiversity from offsets in Growth Areas and existing urban areas.”*

In this regard, it is considered that the Planning Proposal is inconsistent with the policy intent for the Metropolitan Rural Area as it proposes an expansion of the Richmond urban centre without sufficient strategic justification as demonstrated within this Report.

In addition, it is considered that the Planning Proposal is not consistent with the District Plan's actions to protect and support agricultural production and mineral resources by preventing inappropriately dispersed urban activities in rural areas.

## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

2. The Planning Proposal does not adequately demonstrate that future subdivision and development of the subject site will not have a significant adverse impact on the State listed heritage item 'Hobartville', and therefore it is considered that the Planning Proposal is inconsistent with the District Plan's actions to conserve and enhance environmental heritage, and protect scenic and cultural landscapes.
3. Direction 2.2 – *Coastal Management* issued under Section 9.1 of the *Environmental Planning and Assessment Act 1979* specifies that a planning proposal must not rezone land which would enable increased development or more intensive land-use on land within a 'coastal wetlands and littoral rainforest area' identified by the *State Environmental Planning Policy (Coastal Management) 2018*.

The proposed future development will be located on land that is mapped as being within "proximity area for coastal wetlands" under *State Environmental Planning Policy (Coastal Management) 2018*, which forms part of a 'coastal wetlands and littoral rainforest area'.

In this regard it is considered that the Planning Proposal is not consistent with the District Plan's actions to protect environmentally sensitive areas of waterways and the coastal environment area, protect and enhance biodiversity and protect scenic and cultural landscapes.

4. In relation to flooding in the Hawkesbury-Nepean Valley, the Western City District Plan states:  
*"Given the scale of the severity and regional-scale of the risk, more stringent consideration is warranted for areas affected by the probable maximum flood (PMF) as well as the 1:100 year flood. The NSW Department of Planning and Environment is leading work to develop a planning framework to address flood risk in the Hawkesbury-Nepean Valley. This will include an examination of the cumulative impact of development within the Hawkesbury-Nepean Valley on flood risk. While this work is underway, the following planning principles will be applied to both local strategic planning and development decisions:*

- *Avoiding intensification and new urban development on land below the current 1 in 100 chance per year flood event (1 per cent annual exceedance probability flood event)*
- *Applying flood related development controls on land between the 1 in 100 chance per year flood level and the PMF level*
- *Providing for less intensive development or avoiding certain urban uses in areas of higher risk and allowing more intensive development in areas of lower flood risk, subject to an assessment of the cumulative impact of urban growth on regional evacuation road capacity and operational complexity of emergency management*
- *Balancing desired development outcomes in strategic centres with appropriate flood risk management outcomes*
- *Avoiding alterations to flood storage capacity of the floodplain and flood behaviour through filling and excavation ('cut and fill') or other earthworks*
- *Applying more flood-compatible building techniques and subdivision design for greater resilience to flooding.*

It is noted that Direction 4.3 issued under Section 9.1 of the *Environmental Planning and Assessment Act 1979* states:

- "(4) 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 2005 (including the Guideline on Development Controls on Low Flood Risk Areas)...*

## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

- (7) *A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).*
- (8) *For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General)."*

The document issued by the Department of Natural Resources and the Department of Planning in January 2007 titled "*Guideline on Development Controls in Low Flood Risk Areas*" ("*Guideline*") which forms part of the NSW Floodplain Development Manual (published by the NSW Government in April 2005) relevantly provides:

*"This Guideline confirms that, unless there are exceptional circumstances, councils should adopt the 100 year flood as the FPL for residential development. In proposing a case for exceptional circumstances, a Council would need to demonstrate that a different FPL was required for the management of residential development due to local flood behaviour, flood history, associated flood hazards or a particular historic flood.*

*Unless there are exceptional circumstances, councils should not impose flood related development controls on residential development on land with a low probability of flooding, that is, land above the residential FPL (low flood risk areas).*

*Justification for variations to the above should be provided in writing to, and agreed by, the Department of Natural Resources and the Department of Planning prior to exhibition of a draft local environmental plan or a draft development control plan that proposes to introduce flood related development controls on residential development."*

Section 9.1(3) of the *Environmental Planning and Assessment Act, 1979* states:

*"(3) A public authority or person to whom a direction is given under subsection (1) or (2) shall comply, and is hereby empowered to comply, with the direction in accordance with the terms of the direction."*

Section 3.8 of the *Environmental Planning and Assessment Act, 1979* states:

*"(2) In preparing a planning proposal under section 3.33, the planning proposal authority is to give effect:*

- (a) *to any district strategic plan applying to the local government area to which the planning proposal relates (including any adjoining local government area),"*

The District Plan requires flood related development controls to be applied to development on land between the 1 in 100 chance per year flood level and the PMF level.

However, the 2007 Guideline does not permit flood related development controls to be applied to residential development located on land above the flood planning level. *Hawkesbury Local*

*Environmental Plan 2012* defines the ‘flood planning level’ to “mean the level of a 1:100 ARI (average recurrent interval) flood event”.

There is an apparent inconsistency between the Guideline and the principles in the Western City District Plan. In order to address the inconsistency, and enable the Planning Proposal to implement the flood principles in the Western City District Plan, Council would need to seek and obtain the approval of the Secretary of the Department of Planning for “exceptional circumstances” before being able to seek a gateway determination to enable public exhibition of the Planning Proposal.

If this Planning Proposal were to proceed, *Hawkesbury Local Environmental Plan 2012* or *Hawkesbury Development Control Plan 2002* would need to be amended to include flood related development controls for the proposed future subdivision and construction of subsequent development to be consistent with the District Plan.

### **Section 9.1 Directions (Formerly Section 117 Directions)**

Section 9.1 Directions are issued by the Minister for Planning and apply to planning proposals.

Section 9.1 Directions require certain matters to be complied with and/or require consultation with government agencies during the preparation of a planning proposal. However, these Directions permit variations subject to meeting certain criteria. The principal criterion for variation to a 9.1 Direction is consistency with an adopted Local or Regional Strategy. A summary of the key Section 9.1 Directions are as follows:

#### ***Direction 1.2 Rural Zones***

A planning proposal 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 proposes to rezone part of the subject site from RU2 Rural Landscape to R2 Low Density Residential. As a consequence it is considered that the Planning Proposal is inconsistent with this Direction.

#### ***Direction 1.3 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.

This Direction applies when a planning proposal is prepared that would have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or obtaining extractive materials, or would restrict the potential development of these resources which are of state or regional significance by permitting land uses that are likely to be incompatible with such development.

The subject site is located within an identified 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 and Investment.

Additionally, part of the subject site is located within and in the vicinity of land described in Schedule 5 of the *Sydney Regional Environmental Plan No. 9 – Extractive Industry (No 2 – 1995)*.

As a result, the subject site is identified as being significant resource land. Given that the proposed future development of the subject site for residential purposes is likely to result in land use conflicts in relation to the development of the resource land, this Direction requires consultation with the Department of Industries.

Should the Planning Proposal proceed to a Gateway Determination, the NSW Department of Industry will be consulted in accordance with Direction 1.3(4) and (5) during the relevant government agency consultation period.

***Direction 1.5 Rural Lands***

This Direction applies when a planning proposal is prepared that will affect land within an existing or proposed rural or environmental protection zone or changes the existing minimum lot size on land within a rural or environmental protection zone.

The Planning Proposal proposes to rezone part of the subject site from RU2 Rural Landscape to R2 Low Density Residential. It also proposes to change the minimum lot size for subdivision of the subject site to allow subdivision into residential lots having a minimum lot size of 115m<sup>2</sup>.

Whilst the Planning Proposal includes an amendment to the minimum lot size, it is also changing the zoning of that part of the land to R2 Low Density Residential. In this regard, and given the requirements of Direction 1.2, which does not permit the rezoning of rural land to residential, it is considered that the intention of Direction 1.5 is to relate to rural land, and therefore is not relevant to the Planning Proposal.

Regardless, it is further considered that the Planning Proposal is inconsistent with this Direction as:

- It is inconsistent with applicable strategic plans, including the Sydney Region Plan and the Western City District Plan, as discussed previously in this Report;
- It will fragment rural land and increase the likelihood of land use conflict through increased residential development on the urban fringe and adjacent to agricultural land.

***Direction 2.1 Environmental Protection Zones***

A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. A planning proposal that applies to land within an environmental protection zone or land otherwise identified for environmental protection purposes in a local environmental plan must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).

The Planning Proposal is considered to be consistent with this Direction given the existing E2 Environmental Conservation land, corresponding to the wetlands within the 'Hobartville Stud Farm' property will remain and therefore the wetlands will continue to be protected.

***Direction 2.2 Coastal Management***

The objective of this Direction is to protect and manage coastal areas of NSW and requires that a planning proposal must include provisions that give effect to and are consistent with:

- (a) the objects of the *Coastal Management Act 2016* and the objectives of the relevant coastal management areas;
- (b) the NSW Coastal Management Manual and associated toolkit;
- (c) NSW Coastal Design Guidelines 2003; and
- (d) Any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the *Coastal Protection Act 1979* that continues to have effect under clause 4 of Schedule 3 to the *Coastal Management Act 2016*, that applies to the land.

## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

A planning proposal must not rezone land which would enable increased development or more intensive land-use on land:

- (a) Within a coastal vulnerability area identified by the *State Environmental Planning Policy (Coastal Management) 2018*; or
- (b) That has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken:
  - i. By or on behalf of the relevant planning authority and the planning proposal authority, or
  - ii. By or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority.

A planning proposal must not rezone land which would enable increased development or more intensive land-use on land within a coastal wetlands and littoral rainforest area identified by the *State Environmental Planning Policy (Coastal Management) 2018*.

State Environmental Planning Policy (Coastal Management) 2018 defines the 'coastal wetlands and littoral rainforests area' as the land identified as such by the *Coastal Wetlands and Littoral Rainforests Area Map*. The 'coastal wetlands and littoral rainforests area' is made up of land identified as "coastal wetlands" or as "littoral rainforests" on the *Coastal Wetlands and Littoral Rainforests Area Map*. The land so identified includes land identified as "proximity area for coastal wetlands" and "proximity area for littoral rainforest".

In this regard, part of the subject site is located within the proximity area for coastal wetlands. As a result, the Planning Proposal is inconsistent with this Direction as it will result in the rezoning of and increased density of development within the 'coastal wetlands and littoral rainforests area'.

#### **Direction 2.3 Heritage Conservation**

This Direction requires that a planning proposal must contain provisions that facilitate the conservation of heritage.

The subject site is identified as a heritage item. The Planning Proposal does not intend to amend any existing heritage provisions under *Hawkesbury Local Environmental Plan 2012* that currently apply to the land, and therefore is considered to be consistent with this Direction.

Regardless of the consistency with this Direction, it is considered that the Planning Proposal does not adequately demonstrate that the future development of the subject site will not have an adverse impact on the state listed heritage item 'Hobartville'.

#### **Direction 3.1 Residential Zones**

A planning proposal must include provisions that encourage the provision of housing that will:

- (a) Broaden the choice of building types and locations available in the housing market, and
- (b) Make more efficient use of existing infrastructure and services, and
- (c) Reduce the consumption of land for housing and associated urban development on the urban fringe, and
- (d) Be of good design.

A planning proposal must, in relation to land to which this direction applies:

- (a) Contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and
- (b) Not contain provisions which will reduce the permissible residential density of land.



It is considered that the Planning Proposal is inconsistent with this Direction as the subject site is located on the urban fringe and will result in the expansion of the urban area of Richmond into agricultural and resource land, rather than locating future residential development more appropriately within existing urban areas to provide for a variety of housing densities and types and within close proximity to infrastructure, services and amenities.

**Direction 3.4 Integrating Land Use and Transport**

This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:

- (a) Improving Transport Choice – Guidelines for planning and development (Department of Urban Affairs and Planning 2001), and
- (b) The Right Place for Business and Services – Planning Policy (Department of Urban Affairs and Planning 2001).

The Planning Proposal is considered to be consistent with the Principles of Improving Transport Choice – Guidelines for planning and development (Department of Urban Affairs and Planning 2001), and therefore this Direction, given that the Proposal will provide housing in close proximity to an existing strategic centre.

**Direction 4.1 Acid Sulfate Soils**

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. This Direction requires consideration of the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning, Industry & Environment.

The subject site is identified as containing “Class 5 Acid Sulfate Soils on the Acid Sulphate Soils Planning Maps contained within the *Hawkesbury Local Environmental Plan 2012*, and as such any future development on the land will be subject to Clause 6.1 Acid Sulfate Soils of the *Hawkesbury 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.

This Direction requires that a relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soil study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act. An acid sulfate soil study has not been included in the Planning Proposal but the Department of Planning, Industry & Environment will consider this as part of their ‘Gateway’ determination, and if required can request further information/consideration of this matter.

**Direction 4.3 Flood Prone Land**

The objectives of this Direction are to:

- (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
- (b) Ensure that the provisions of an LEP on flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

This direction applies to 'flood prone land', which means "land susceptible to flooding by the PMF (Probable Maximum Flood) event." The entire subject site is located on flood prone land. Clause 6.3 – Flood planning of the Hawkesbury Local Environmental Plan 2012 and Council's Development of Flood Liable Land Policy will apply to future development of the subject site.

This direction does not permit the rezoning of land within flood planning areas (land below the flood planning level) from a Rural Zone to a Residential, Business, Industrial, Special Use or Special Purpose Zone. The Planning Proposal proposes to rezone a part of the subject site from RU2 Rural Landscape to R2 Low Density Residential zone that is located on land above the flood planning level of *Hawkesbury Local Environmental Plan 2012*, and therefore is consistent with this requirement.

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 and are consistent with the NSW Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005*. 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.

Given the above, the Planning Proposal is considered to be consistent with Direction 4.3.

Having said this, it is considered that the proposal has not sufficiently demonstrated the likely impact of the future development on flood evacuation capacity. This is discussed further in this Report.

**Direction 5.10 Implementation of Regional Plans**

This Direction requires planning proposals to be consistent with a Regional Plan that has been released by the Minister for Planning.

As discussed previously in this Report, it is considered that the Planning Proposal is inconsistent with the Greater Sydney Region Plan – A Metropolis of Three Cities, and therefore is also inconsistent with this Direction.

**Direction 6.1 Approval and Referral Requirements**

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

**Direction 6.3 Site Specific Provisions**

The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls. The planning proposal is consistent with Direction 6.3 as the proposal seeks an amendment to *Hawkesbury Local Environmental Plan 2012* to amend the Land Zoning Map, Lot Size Map and Schedule 1 only and does not intend to propose any site specific restrictions.

**Direction 7.1 Implementation of ‘A Plan for Growing Sydney’**

The objective of this Direction is to give legal effect to the planning principles, directions, and priorities for subregions, strategic centres and transport gateways contained in ‘A Plan for Growing Sydney’.

The directions of ‘A Plan for Growing Sydney’ have been considered as previously discussed in this Report.

**State Environmental Planning Policies**

The Planning Proposal has been considered against the applicable State Environmental Planning Policies. The State Environmental Planning Policies most relevant to the planning proposal are:

- *State Environmental Planning Policy No. 55 - Remediation of Land,*
- *Sydney Regional Environmental Plan No. 9 - Extractive Industry (No 2- 1995) and*
- *Sydney Regional Environmental Plan No. 20 - Hawkesbury - Nepean River (No.2 - 1997).*

*State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)*

*State Environmental Planning Policy No. 55* requires consideration as to whether or not land is contaminated and, if so, is it suitable for future permitted uses in its current state or whether it requires remediation. This Policy may require Council to obtain, and have regard to, a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

The subject site has been used for the purposes of a horse stud since the late 1800’s. According to Table 1 - *Some Activities that may cause contamination* of the Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land, agricultural activities may cause contamination.

The matter of potential contamination and the need for investigations can be considered as part of the ‘Gateway’ determination by the Department of Planning, Industry and Environment.

*Sydney Regional Environmental Plan No. 9 - Extractive Industry (No 2- 1995) - (SREP 9)*

The primary aims of *Sydney Regional Environmental Plan No. 9* are to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of regional significance and to ensure consideration is given to the impact of encroaching development on the ability of extractive industries to realise their full potential.

The subject site is within the vicinity of land (Richmond Lowlands) described in Schedule 5 of the Plan, however it is considered that the proposed development would be able to meet the requirements of this Plan.

*Sydney Regional Environmental Plan No. 20 – Hawkesbury–Nepean River (No. 2 – 1997) – (SREP 20)*

The aim of *Sydney Regional Environmental Plan No. 20 (No. 2 - 1997)* is to protect the environment of the Hawkesbury - Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. This requires consideration of the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy, impacts of the development on the environment, the feasibility of alternatives and consideration of specific matters such as total catchment management, water quality, water quantity, flora and fauna, agriculture, rural residential development and the metropolitan strategy.

Specifically the Plan encourages Council to consider the following:

- rural residential areas should not reduce agricultural viability, contribute to urban sprawl or have adverse environmental impact (particularly on the water cycle and flora and fauna);
- develop in accordance with the land capability of the site and do not cause land degradation;
- the impact of the development and the cumulative environmental impact of other development proposals on the catchment;
- quantify and assess the likely impact of any predicted increase in pollutant loads on receiving waters;
- consider the need to ensure that water quality goals for aquatic ecosystem protection are achieved and monitored;
- consider the ability of the land to accommodate on-site effluent disposal in the long term and do not carry out development involving on-site disposal of sewage effluent if it will adversely affect the water quality of the river or groundwater. Have due regard to the nature and size of the site;
- minimise or eliminate point source and diffuse source pollution by the use of best management practices;
- site and orientate development appropriately to ensure bank stability;
- protect the habitat of native aquatic plants;
- locate structures where possible in areas which are already cleared or disturbed instead of clearing or disturbing further land;
- consider the range of flora and fauna inhabiting the site of the development concerned and the surrounding land, including threatened species and migratory species, and the impact of the proposal on the survival of threatened species, populations and ecological communities, both in the short and longer terms;
- conserve and, where appropriate, enhance flora and fauna communities, particularly threatened species, populations and ecological communities and existing or potential fauna corridors;
- minimise adverse environmental impacts, protect existing habitat and, where appropriate, restore habitat values by the use of management practices;
- consider the impact on ecological processes, such as waste assimilation and nutrient cycling;
- consider the need to provide and manage buffers, adequate fire radiation zones and building setbacks from significant flora and fauna habitat areas;
- consider the need to control access to flora and fauna habitat areas;
- give priority to agricultural production in rural zones;
- protect agricultural sustainability from the adverse impacts of other forms of proposed development;
- consider the ability of the site to sustain over the long term the development concerned;

## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

- maintain or introduce appropriate separation between rural residential use and agricultural use on the land that is proposed for development;
- consider any adverse environmental impacts of infrastructure associated with the development concerned.

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

The Planning Proposal does not provide adequate information to demonstrate that the future use of the subject site for increased residential purposes in an urban context would be consistent with the planning policies, strategies and development controls contained in the Plan.

#### **Hawkesbury Residential Land Strategy 2011**

The Hawkesbury Residential Land Strategy was prepared to “*guide future residential development within the Local Government Area over the next 30 years and ensure future residential development is sustainable and meets the needs of the Hawkesbury population.*” It aims to:

- *Accommodate between 5,000 to 6,000 additional dwellings by 2031, primarily within the existing urban areas as prescribed in the Department of Planning’s North West Subregional Strategy;*
- *Accommodate changing population, which presents new demands in terms of housing, services and access;*
- *Identify on-going development pressures to expand into natural and rural areas, as well as new development both in and around existing centres;*
- *Preserve the unique and high quality natural environment of the LGZ;*
- *Identify physical constraints of flood, native vegetation and bushfire risk.*

The Hawkesbury Residential Land Strategy 2011 was adopted by Council on 10 May 2011.

The Residential Land Strategy states that “*Any proposal, or application, for release or rezoning of land in the Hawkesbury Local Government Area must be within the areas identified as ‘Future Investigation Areas.’*” The subject site is identified as a ‘Future Investigation Area’ with short-medium term opportunity for residential development as shown in Figure 5 below:

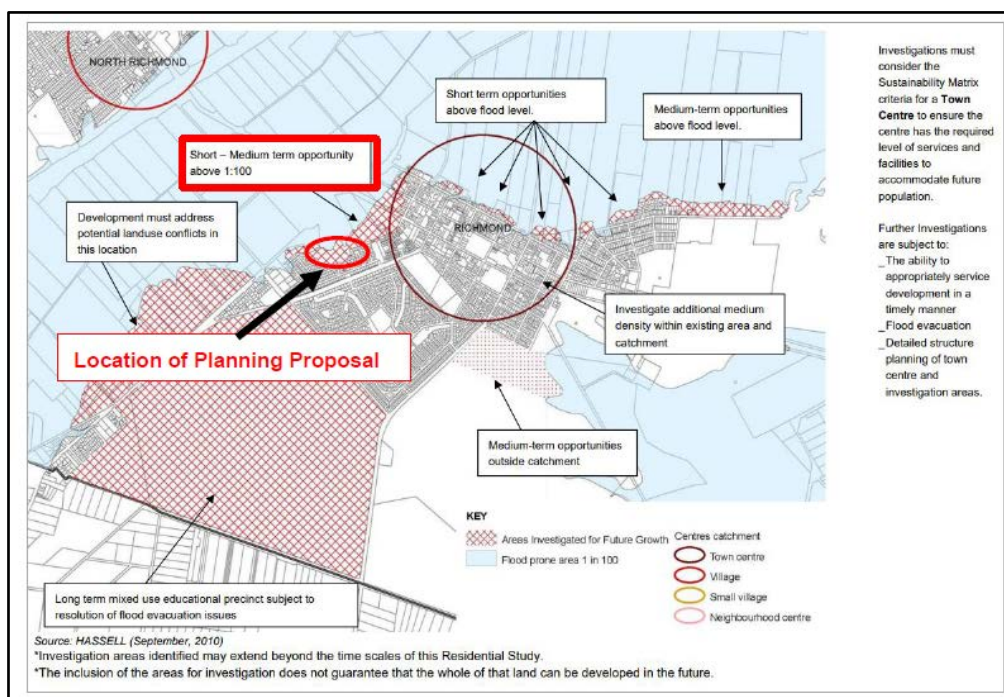


Figure 5: Hawkesbury Residential Land Strategy - Richmond Investigation Areas

The Hawkesbury Residential Land Strategy 2011 states that further Investigations of the Richmond 'Future Investigation Area' are subject to:

- The ability to appropriately service development in a timely manner
- Flood evacuation
- Detailed structure planning of town centre and investigation areas.

Detailed structure planning of the Richmond town centre is currently being undertaken by Council under the Liveability Program Project, however detailed structure planning of the investigation area has not been undertaken and the Planning Proposal does not address these matters. In addition, whilst the Planning Proposal states that evacuation of the subject site can be achieved during a major flood event, the issue of the impact of the increased number of people needing to evacuate when it has been recognised by the State Emergency Services and Infrastructure New South Wales that there is currently insufficient time to evacuate the existing population from the Hawkesbury floodplain.

The Hawkesbury Residential Land Strategy 2011 sets out a Sustainable Development Framework that is to be used in the investigation of the appropriateness for future residential development. The Strategy states that investigations for Richmond must consider the Sustainability Matrix criteria for a Town Centre. The Planning Proposal does not provide an assessment as to whether or not Richmond Town Centre provides the infrastructure, services and amenities identified within the Sustainability Matrix, or whether existing infrastructure, services and amenities will be sufficient to support the increased population resulting from the proposal.

Whilst the Planning Proposal is considered to be generally consistent with the Sustainability Matrix of the Hawkesbury Residential Land Strategy 2011, it should be noted that the Strategy is approximately 9 years old and, more recently, higher level strategic plans, such as the Sydney Region Plan and the Western City District Plan, have been released in relation to the provision of future residential development. In particular, the Hawkesbury Residential Land Strategy 2011 is inconsistent with the principles of the District Plan having regard to the objectives of the Metropolitan Rural Area as previously discussed. Council is currently preparing a Residential Land Strategy to address these matters and to inform the preparation of the Council's Local Strategic Planning Statement and subsequent Local Environmental Plan and Development Control Plan Amendments.

# HAWKESBURY LOCAL PLANNING PANEL MEETING

## SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

### Hawkesbury Local Environmental Plan 2012

As shown in Figure 6 below, the Hobartville Stud Farm property is currently zoned RU2 Rural Landscape and E2 Environmental Conservation E2 under *Hawkesbury Local Environmental Plan 2012*.

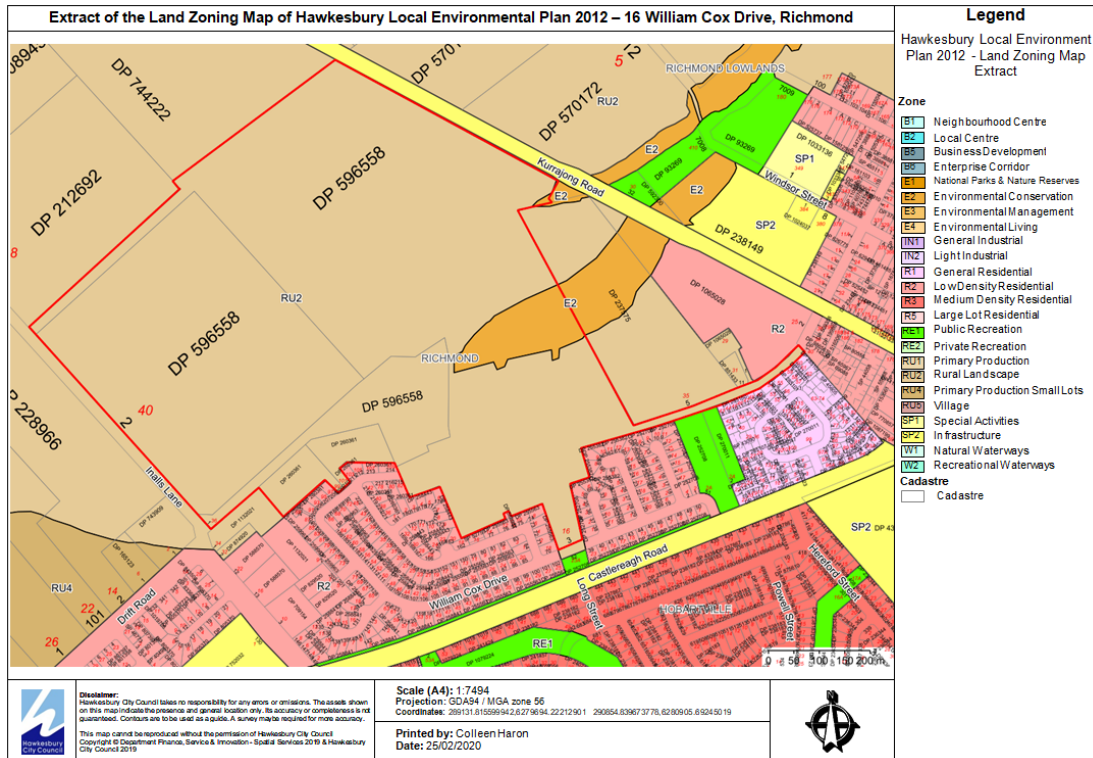


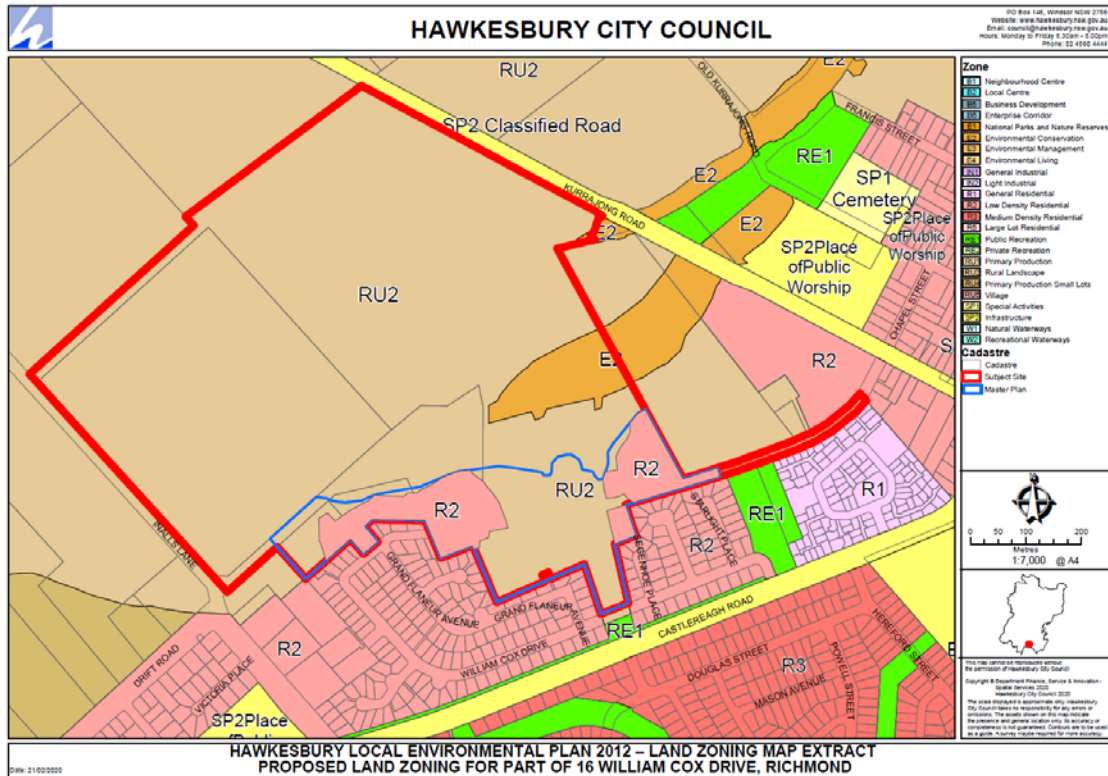
Figure 6: Land Zoning Map

The Planning Proposal seeks to rezone part of the property (the subject site) to R2 Low Density Residential as shown in Figure 7:

# HAWKESBURY LOCAL PLANNING PANEL MEETING

## SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020



**Figure 7: Proposed Land Zoning for Part of 16 William Cox Drive, Richmond**

The objectives of the R2 Low Density Residential zone are:

- to provide for the housing needs of the community within a low density residential environment.
- to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- to protect the character of traditional residential development and streetscapes.
- to ensure that new development retains and enhances that character.
- to ensure that development is sympathetic to the natural environment and ecological processes of the area.
- to enable development for purposes other than residential only if it is compatible with the character of the living area and has a domestic scale.
- to ensure that water supply and sewage disposal on each resultant lot of a subdivision is provided to the satisfaction of the Council.
- to ensure that development does not create unreasonable demands for the provision or extension of public amenities or services.

In addition to rezoning the subject site to R2 Low Density Residential, the Planning Proposal also seeks to have a minimum lot size for subdivision of 115m<sup>2</sup> and include Additional Permitted Uses to permit dual occupancies and attached dwellings in relation to the subject site.



## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

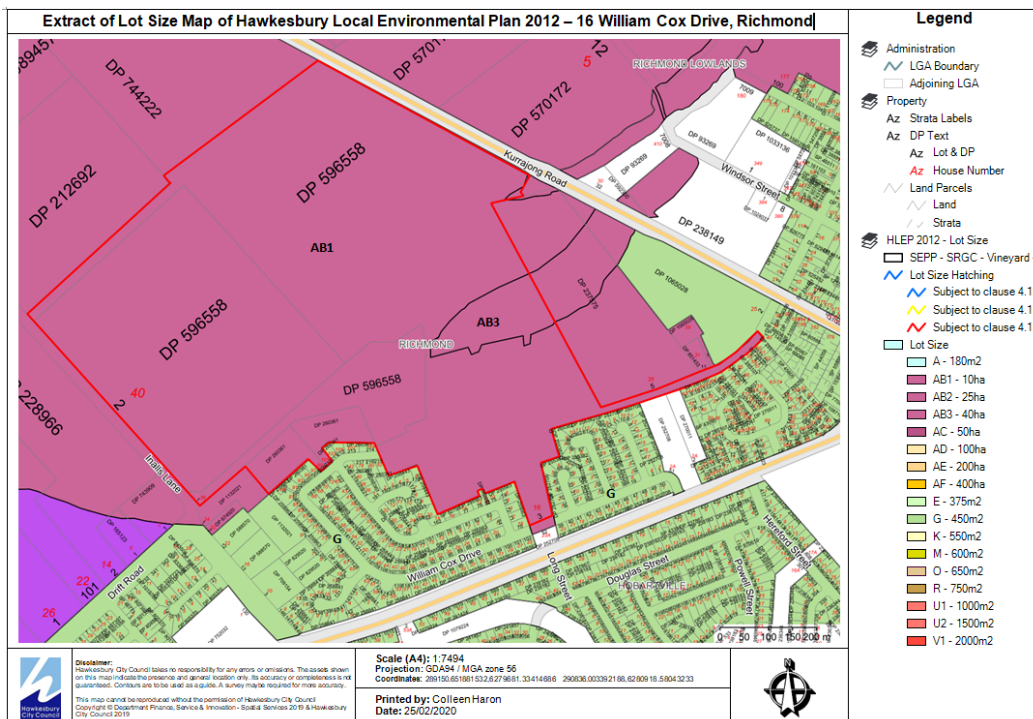
**Meeting Date: 25 June 2020**

It is considered that the R2 zone is not the appropriate zone to achieve the Planning Proposals intended outcomes, as future development for residential subdivision involving lot sizes of 115m<sup>2</sup> and two storey attached dwellings is not considered to be consistent with the zone objectives of providing housing within a low density residential environment. In addition, the density and form of the proposal is not in keeping with the objective of providing and protecting the character of the traditional residential development and streetscapes of the locality, as represented by the existing development within the residential subdivision surrounding William Cox Drive.

It is considered that the Planning Proposal in general does not demonstrate that the proposed future development is in keeping with the character and amenity of existing development in the locality. Regardless, the proposal is not considered to be appropriate to the context and character of the locality having regard to:

- the density of the existing residential subdivision adjoining the proposal as a consequence of lot sizes of approximately 550m<sup>2</sup>;
- the bulk of the proposed attached dwellings comprising of up to 12 two storey (attached) terraces providing a density and character not compatible to the existing low density residential development adjoining to the south of the subject site.
- being at the interface of an existing residential area and a rural/agricultural area. The subject site is located on fringe of the Richmond urban area and adjoining rural/ agricultural land. It is considered that in such a location a transition in density of development would be appropriate, or at the minimum the current residential density be maintained. The Planning Proposal seeks to increase the density through a minimum lot size of 115m<sup>2</sup> and built form comprising of two storey attached houses (terraces).

Currently, the Hobartville Stud Farm has a minimum lot size requirement of 10 ha and 40 ha under the *Hawkesbury Local Environmental Plan 2012* as shown in Figure 8.



**Figure 8: Lot Size Map**

## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

Table 1 below outlines the lot areas, minimum subdivision lot sizes and current subdivision potential of the existing relevant Hobartville Stud Farm allotments:

**Table 1: Current Subdivision Potential**

Allotment Description	Lot Size (ha)	Minimum Lot Size for Subdivision (ha)	Current Subdivision Potential
Lot 1 DP 596558	4.111	10	Nil
Lot 3 DP 596558	40.39	10 and 40	Nil
Lot 209 DP 260361	1.009	10	Nil
Lot 210 DP 260361	1.018	10	Nil

One of the intended outcomes of the Planning Proposal is to subdivide the subject site into lot sizes of 115m<sup>2</sup>. In order to facilitate subdivision of the subject site, the minimum lot size provisions for the land need to be amended. However, the Planning Proposal has not addressed the minimum lot size provisions for the remainder of the lots not affected by the Planning Proposal. As a result, the proposed amendment to the Lot Size Map of *Hawkesbury Local Environmental Plan 2012* will not enable the subdivision of the land as proposed as the minimum lot size of 10 ha and 40 ha cannot be met. In this regard, the Lot Size Map would have to be amended to provide appropriate minimum lot sizes for the whole of the land.

#### Assessment of the Merits of the Planning Proposal

##### Ecology

A wetland mapped as a 'coastal wetlands and littoral rainforest area' under *State Environmental Planning Policy (Coastal Management) 2018* is located within the 'Hobartville Stud Farm' property

The 'coastal wetlands and littoral rainforests area' is made up of land identified as "coastal wetlands" or as "littoral rainforests" on the *Coastal Wetlands and Littoral Rainforests Area Map as well as "proximity area for coastal wetlands" and "proximity area for littoral rainforest"*. In this regard, whilst the subject site is not located within a 'coastal wetland', part of the subject site is located within the 'proximity area for coastal wetlands'.

Clause 11 to *State Environmental Planning Policy (Coastal Management) 2018* states that development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:

- (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
- (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

An assessment of the above considerations has not been submitted with the application. To ensure that the presence of mapped 'coastal wetland areas' is not prohibitive to the future development of the subject site it is recommended that a report addressing these matters be requested should the Planning Proposal proceed through the 'Gateway' determination.

Council vegetation mapping records the site as containing Shale Plains Woodland, which is a critically endangered ecological community under the *Biodiversity Conservation Act, 2016*. This vegetation community is located to the south of the Georgian residence and is unlikely to be impacted by future residential development.

## Heritage

The 'Cultural Heritage Considerations for Planning Proposal' Report prepared by GML Heritage P/L and submitted in support of the Application advises that *Heritage buildings are best conserved when they are used and maintained for the purpose for which they were built. The most ideal outcome for the building in heritage terms would be for it to continue its historical use as a horse stud and residence*".

Further in this Report, GML Heritage identifies four potential uses for the core heritage precinct on the subject site, including the continued use as a horse stud or horse riding facility/club. However, the Report further states that "*the proposed development areas may place constraints on the functional use of the property for this purpose.*"

In general, it appears that this Report is more an assessment of the 2004 Conservation Management Plan that applies to the 'Hobartville Stud Farm' property and how this needs to be updated, and advice as to what further studies are required.

In particular, the Heritage Report does not provide justification for a minimum lots size of 115m<sup>2</sup> and clustering of the development in term of the impacts of this development on the heritage significance of 'Hobartville' and its surrounding landscape/gardens, and does not address:

- the impact of the proposal on heritage values;
- the implications of the state heritage listing;
- the impact of the reduction of the curtilage as a consequence of the proposal; and
- how the existing access from Chapel Street is to be upgraded as identified by the Transport Impact Assessment' report, and what impacts this will have.

## Flooding

The 'Hobartville Stud Farm' property is partially below the 1 in 100 year flood level of approximately 17.5m AHD, having land levels between 8.5 – 21m AHD. Whilst this is the case, the subject site is located on land having levels above the 1 in 100 year flood level. The 1 in 100 year flood level is indicated by the yellow line in Figure 9 below.

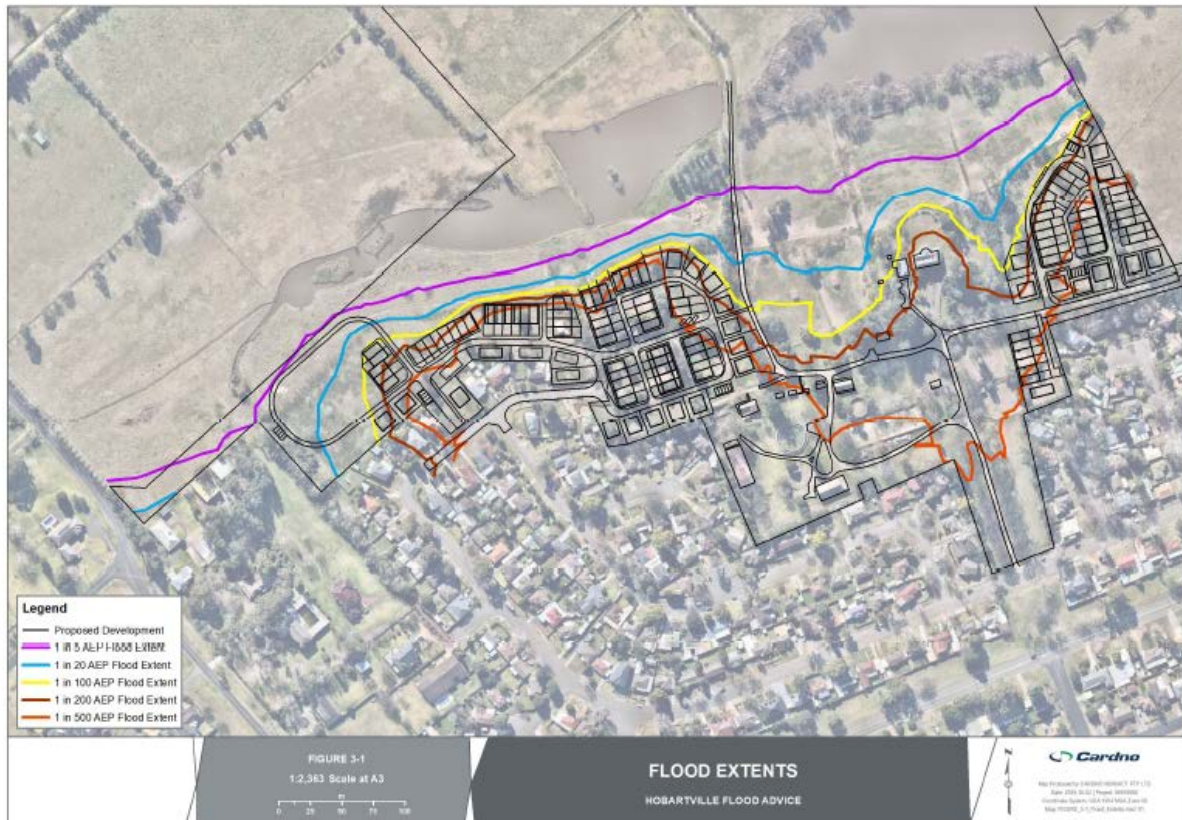


Figure 9: Design Flood Extents for Subject Site

The Planning Proposal is supported by a 'Flood Impact Assessment' that *"found that the proposed development complies with Hawkesbury Council flood related development controls and S9.1 Ministerial Direction."*

The Assessment identified local evacuation routes for future residents to be able to access the Regional Evacuation Route. The Assessment estimates that the proposal will result in an additional 559 occupants and 260 vehicles, and concludes that the increase in evacuation traffic compared to the '2010 base case estimates' is relatively small.

The 'Transport Impact Assessment' report submitted in support of the Planning Proposal confirms that *"defined evacuation routes are also readily accessible with the quantum of vehicle movements not having a significant impact on these routes."*

Whilst this may be the case, the Assessment does not address the issue of the impact of the increased number of people needing to evacuate when it has been recognised that there is currently insufficient time to evacuate the existing population from the Hawkesbury floodplain during a major flood event.

### Conclusion

As demonstrated in this Report, the Planning Proposal is considered to be inconsistent with the relevant legislation and considerations for the assessment of planning proposals, including the directions, objectives and actions of the Greater Sydney Region Plan and the Western City District Plan and the aims, objectives and requirements of State Environmental Planning Policies and Section 9.1 Directions.

## HAWKESBURY LOCAL PLANNING PANEL MEETING

### SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

In particular:

- the proposal is inconsistent with the principles of the Metropolitan Rural Area under the *Greater Sydney Region Plan*, which recognises that increased urban development is not compatible with the identified requirement of protecting and managing the environmental, social and economic values of the Metropolitan Rural Area.
- Direction 1.2 – *Rural Lands* prevent the rezoning of land from a rural to residential zone.
- Direction 2.2 – *Coastal Management* prevents the rezoning of land which would enable increased development or more intensive land-use on land within a 'coastal wetlands and littoral rainforest area', including the 'proximity to coastal wetlands' buffer area.

The proposed amendments to the *Hawkesbury Local Environmental Plan 2012* to permit subdivision of approximately 118 lots having a size of 115m<sup>2</sup> is not considered to be appropriate having regard to:

- The character and density of existing residential development in the locality;
- The proposed development meeting the objectives of the R2 Low Density Residential zone;
- The impact the proposed development will have on the heritage significance of the State listed heritage item known as 'Hobartville' in terms of loss of curtilage, loss of landscape and impact on the continued historic use of the property as a horse stud or similar;
- Potential impacts of increased population on flood evacuation capacity; and
- Likely impacts of the development on the adjoining wetland.

For the above reasons, it is considered that the Planning Proposal cannot be supported.

#### RECOMMENDATION:

That the Hawkesbury Local Planning Panel:

- A. Provide advice on the Planning Proposal to amend the *Hawkesbury Local Environmental Plan 2012* in relation to the subject site as follows:
  1. Amend the Land Zoning Map (Map Reference No. 3800\_COM\_LZN\_008BA) of the *Hawkesbury Local Environmental Plan 2012* to rezone Part of Lots 1 and 3 DP 596558 and Part of Lots 209 and 210 DP 260361 to R2 Low Density Residential as shown in Attachment 1 of this Report.
  2. Amend the Lot Size Map (Map Reference No. 3800\_COM\_LSZ\_008BA) of the *Hawkesbury Local Environmental Plan 2012* to permit a minimum lot size of 115m<sup>2</sup> for Part of Lots 1 and 3 DP 596558 and Part of Lots 209 and 210 DP 260361 as shown in Attachment 2 of this Report.
  3. Create an Additional Permitted Use Map for the locality in which the subject site is situated (Map Reference No. 3800\_COM\_APU\_008BA) and identify the area of Part Lots 1 and 3 DP 596558 and Part Lots 209 and 210 DP 260361 to have additional permitted uses of 'attached dwelling' and 'dual occupancy' as shown in Attachment 3 of this Report.
  4. Amend *Hawkesbury Local Environmental Plan 2012*, Schedule 1 – *Additional permitted uses* to insert the following:

**HAWKESBURY LOCAL PLANNING PANEL MEETING**

**SECTION 2 – Reports for Determination**

**Meeting Date:** 25 June 2020

**17 Use of certain lane at 16 William Cox Avenue, Richmond as shown on the Additional Permitted Uses Map**

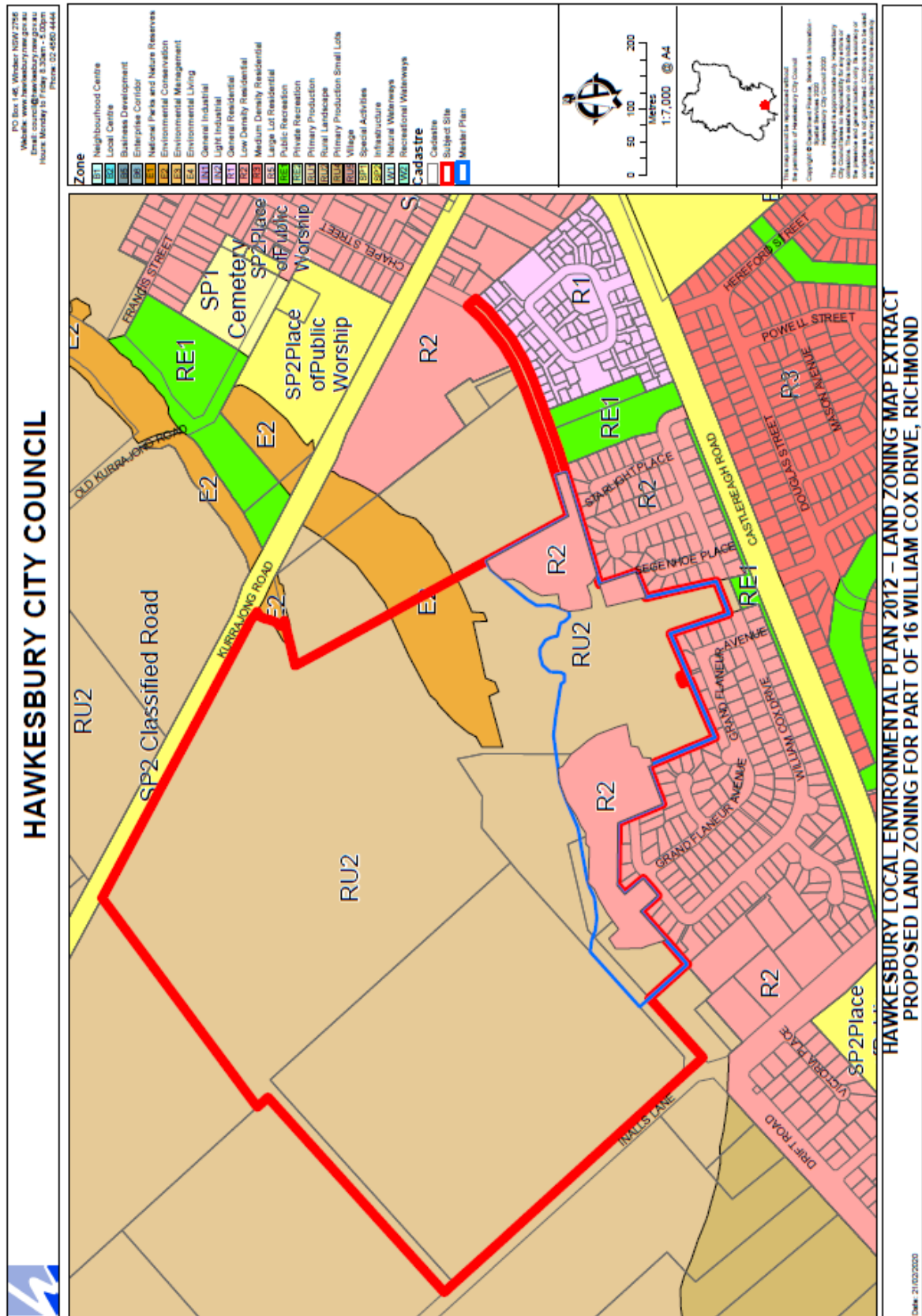
- (1) This clause applies to land at 16 William Cox Avenue, Richmond being Part of Lots 1 and 3 DP 596558 and Part of Lots 209 and 210 DP 260361 identified as “4” on the Additional Permitted Uses Map.
- (2) Development for the purposes of attached dwelling and dual occupancy is permitted with consent.

**ATTACHMENTS:**

- AT - 1** Planning Proposal (*Distributed under separate cover*).
- AT - 2** Proposed Land Zoning Map.
- AT - 3** Proposed Lot Size Map.
- AT - 4** Proposed Height of Buildings Map.
- AT - 5** Addendum (*Distributed under separate cover*).

**HAWKESBURY LOCAL PLANNING PANEL MEETING**  
**SECTION 2 – Reports for Determination**  
Meeting Date: 25 June 2020

**AT- 2 - Proposed Land Zoning Map**

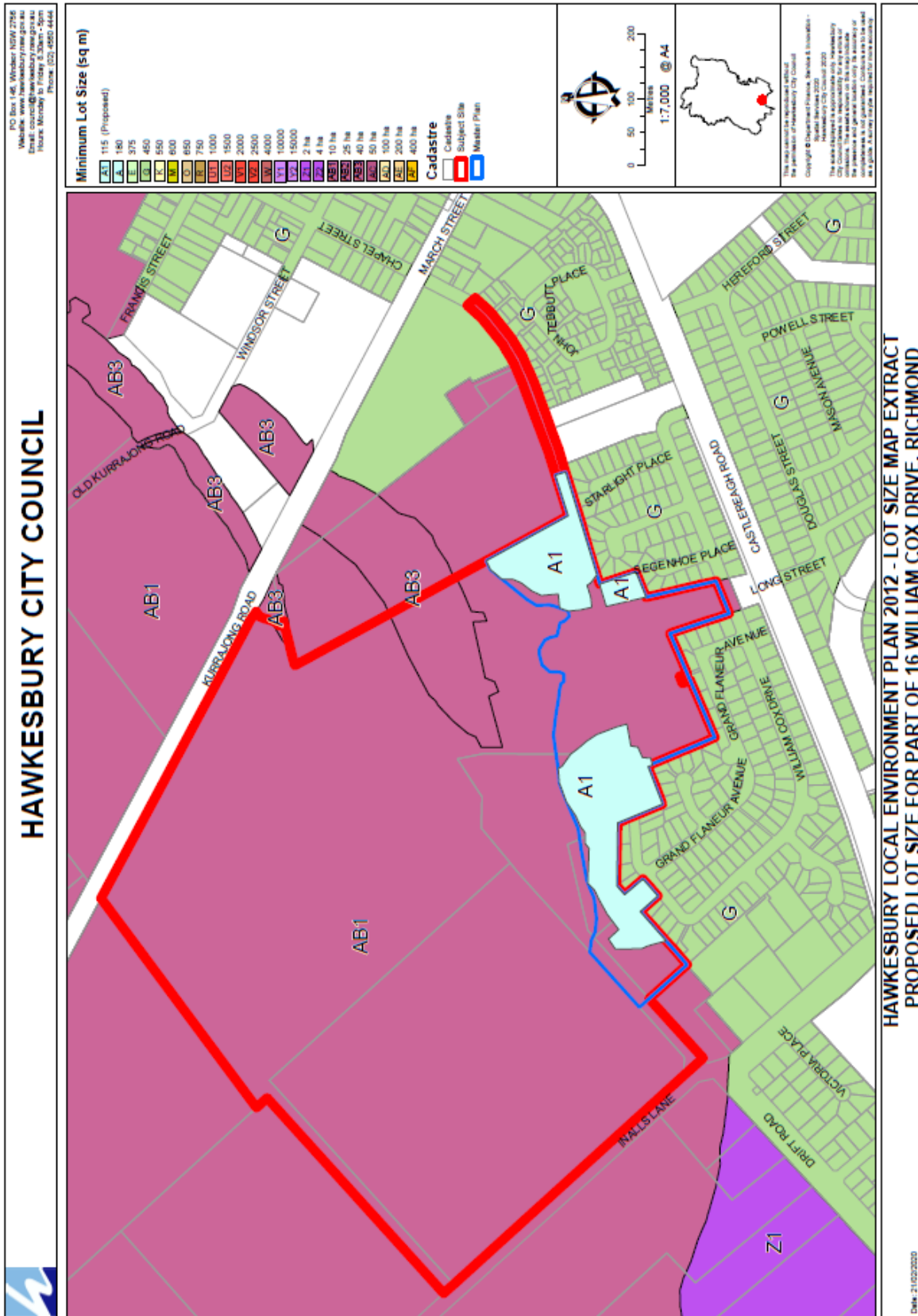


HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

AT - 3 - Proposed Lot Size Map



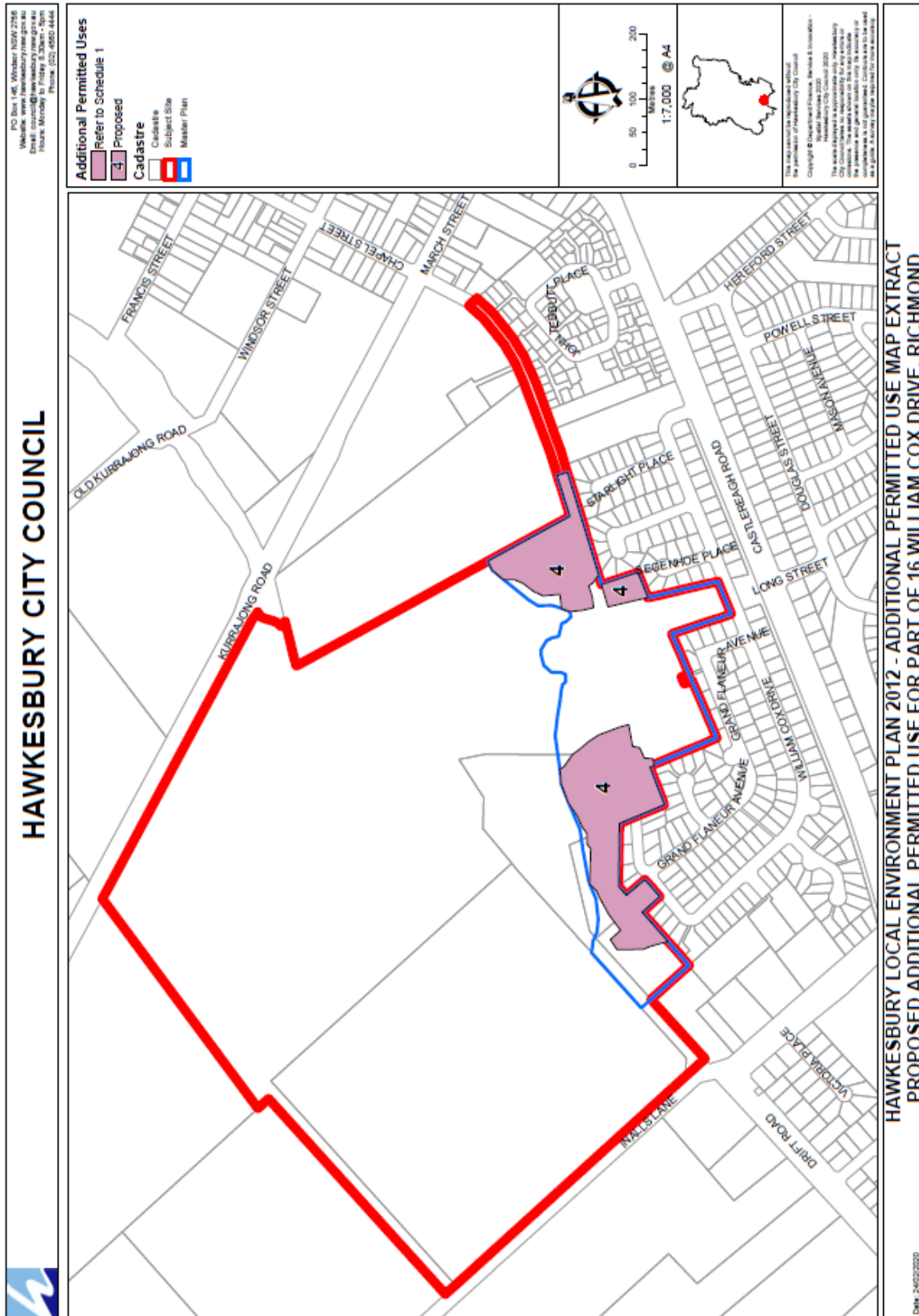


HAWKESBURY LOCAL PLANNING PANEL MEETING

SECTION 2 – Reports for Determination

Meeting Date: 25 June 2020

AT- 4 - Proposed Height of Buildings Map



oooO END OF REPORT Oooo



hawkesbury

local

planning

panel

meeting -

planning

proposal

advice

end of  
business  
paper

This business paper has  
been produced  
electronically to reduce  
costs, improve efficiency  
and reduce the use of  
paper. Internal control  
systems ensure it is an  
accurate reproduction of  
Council's official copy of  
the business paper.