



Hawkesbury Local Planning Panel

Date of meeting: 20 July 2023
Location: By audio-visual link
Time: 9:00 AM

BUSINESS PAPER

HAWKESBURY LOCAL PLANNING PANEL

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PROCEDURAL MATTERS

Meeting Date: 20 July 2023

1. PROCEDURAL MATTERS

Welcome

The Chairperson will acknowledge the Indigenous Heritage and address the Hawkesbury Local Planning Panel meeting, mentioning:

- Recording of the Hawkesbury Local Planning Panel Meeting
- Statement regarding people addressing the Meeting

Attendance

Attending Panel members and Council staff members will be noted for the purposes of the Minutes.

Declaration of Interest

The Chairperson will ask for any Declaration of Interests from the attending Panel Members. These will then be addressed at the relevant item.

HAWKESBURY LOCAL PLANNING PANEL

2. REPORTS FOR ADVICE

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2. REPORTS FOR ADVICE

**2.1.1. CP - Planning Proposal - LEP001/21 - 745 Old Pitt Town Road, Oakville
Amendment to Schedule 1 Additional Permitted Uses of Hawkesbury Local
Environmental Plan 2012 - (124414)**

Directorate: City Planning

PLANNING PROPOSAL INFORMATION

File Number:	LEP001/21
Property Address:	745 Old Pitt Town Road, Oakville
Applicant:	SLR Consulting Pty Ltd
Owner:	Mr F & Mrs EJ Gatt
Date Received:	27/03/2023
Current Zone:	RU4 Primary Production Small Lots
Site Area:	2.009Ha
Key Issues:	<ul style="list-style-type: none">• Service Station and neighbourhood shop• Metropolitan Rural Area• Proposed additional permitted use clause

EXECUTIVE SUMMARY

Council is in receipt of a Planning Proposal from SLR Consulting Pty Ltd for land legally described as Lot 11 DP 1157046 at 745 Old Pitt Town Road, Oakville (subject site). The Planning Proposal seeks to amend the Hawkesbury Local Environmental Plan 2012 to enable a service station and neighbourhood shops as additional permitted uses with consent on the south-eastern part of the subject site.

The Planning Proposal seeks to achieve the above intended outcome by inserting a new local clause in Schedule 1 'Additional permitted uses' of the Hawkesbury Local Environmental Plan 2012 to include a service station and neighbourhood shops as additional permitted uses on the south-eastern part of the subject site. Further, the Planning Proposal seeks to amend the Additional Permitted Use Map of the Hawkesbury Local Environmental Plan 2012 to reflect the additional permitted uses on that part of the subject site.

This report provides an overview of the Planning Proposal which is considered to be generally consistent with the relevant NSW State and Local planning framework.

RECOMMENDATION

That the Hawkesbury Local Planning Panel provide advice on the Planning Proposal which seeks to insert a new local clause in Schedule 1 'Additional permitted uses' of the Hawkesbury Local Environmental Plan 2012 to enable a service station and neighbourhood shops as additional permitted uses with consent on the south-eastern part of the subject site.

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2. REPORTS FOR ADVICE

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PURPOSE OF THE REPORT

The purpose of this report is to seek advice from the Hawkesbury Local Planning Panel on the applicant-initiated Planning Proposal which seeks to amend the Hawkesbury Local Environmental Plan 2012 as outlined in this report to enable a service station and neighbourhood shops as additional permitted uses with consent on the south-eastern part of the subject site.

BACKGROUND

Background and History

The subject site has a history of development approvals as shown in Table 1.

Table 1: Past Development Approvals

Approved Development/Work	Development Application (DA)	Date of Approval
Dwelling house and attached garage	DA0789/14	10/03/2015
Rural shed	CDC150062	12/03/2015
Removal of five trees	DA0080/15	20/03/2015
Removal of two trees	DA0311/16	15/06/2016
Structure Ancillary to Dwelling House - Front Fence	DA0739/16	15/11/2016

On 19 September 2021, Council received a planning proposal from SLR Consulting Pty Ltd which seeks to insert a new local clause in Schedule 1 'Additional permitted uses' of the Hawkesbury Local Environmental Plan 2012 to enable a service station and neighbourhood shops as additional permitted uses with consent on the south-eastern part of the subject site. A preliminary assessment of the Planning proposal undertaken by Council Officers highlighted that as submitted it was not consistent with the relevant State and Local Planning framework and did not clearly articulate sufficient strategic and site-specific merits of the proposal. As a result, a meeting was held with the applicant to go through the findings of the preliminary assessment and advise how to address those issues with appropriate justifications in a revised Planning Proposal. On 27 March 2022, the amended Planning Proposal was lodged on the NSW Planning Portal by the applicant. In May 2022, the applicant was advised in writing that the amended Planning Proposal still failed to demonstrate its sufficient strategic and site-specific merits and consistency with the relevant legislation and a further updated proposal satisfactorily addressing those issues needed to be submitted to Council. In July 2022, a further meeting was held with the applicant, and subsequently an updated Planning Proposal (March 2023) was submitted on the Planning Portal on 27 March 2023 which is the latest version (Attachment 1). The Planning Proposal includes the following background information.

The existing dwelling house and the outbuildings located towards the south-eastern corner was demolished in January 2021 following completion of the construction of the approved dwelling house and attached garage closer to the north-western boundary. This was in accordance with conditions of development consent for the dwelling house and attached garage on the subject site (DA0789/14). The Aerial view (January 2021) shown Figure 1 confirms the demolition.



Figure 1: Aerial Views – Before and After Construction of the Dwelling House

The subject site currently includes a single-storey dwelling, a rural shed, scattered trees mainly along the north-eastern boundary, front fencing and associated driveway providing access from Old Pitt Town Road as shown in Figure 2.



Figure 2: Existing Development

The subject site is located approximately 800m north of the Vineyard Precinct - Stage 1 and directly opposite the Box Hill Release Area as shown in Figures 3 and 4 respectively. Further, the subject site is located approximately 3km from the Riverstone West Residential Precinct which forms part of the North-West Growth Centre.

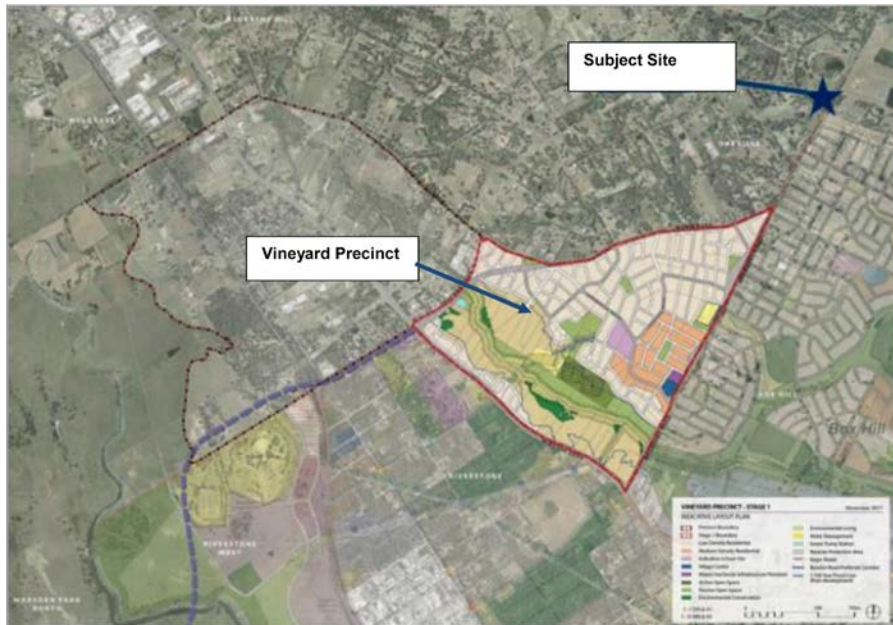


Figure 3: Subject Site in Relation to Vineyard Precinct Stage 1

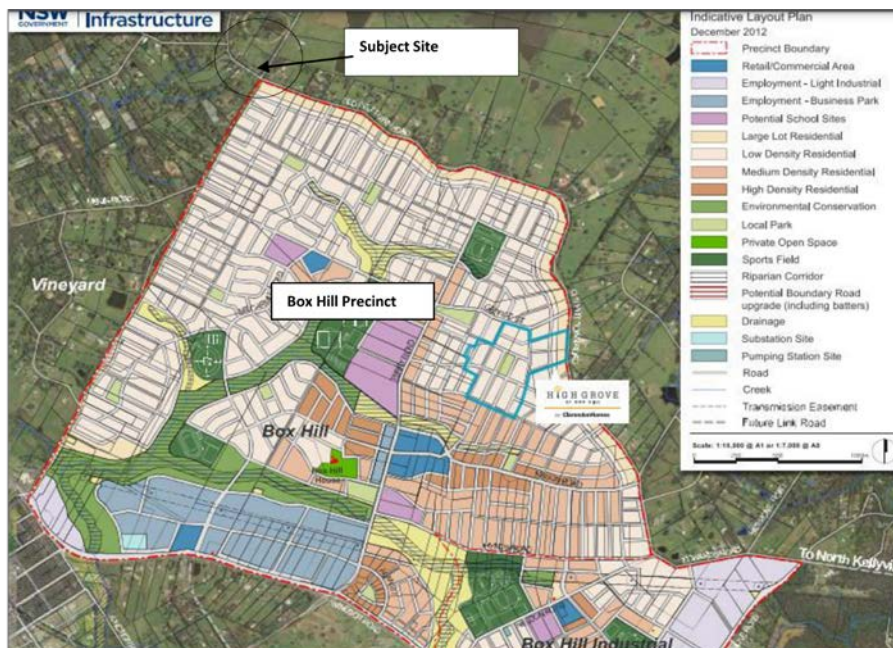


Figure 4: Subject Site in Relation to Box Hill Residential Precinct

The subject site is legally described as Lot 11 DP 1157046, has an area of 2.009ha and is located at the intersection of Boundary Road/Old Pitt Town Road, Oakville. Figure 5 shows that the subject site is rectangular in shape. The subject site has an approximate frontage to Boundary Road of 130m, and approximately 142m frontage to Old Pitt Town Road with current access via Old Pitt Town Road.



Figure 5: Aerial View of the Subject Site

The subject site is surrounded by residential and primary production/rural agricultural land, and north and west of the subject site, and west of Boundary Road is predominantly residential with some agricultural uses.

Current Planning Controls

The subject site is currently zoned RU4 Rural Small Holdings under the Hawkesbury Local Environmental Plan 2012, with a 2ha minimum Lot Size, and 10m maximum height of building provision.

The subject site is identified as being Bushfire Prone (Vegetation Category 3), and is affected by Class 5 Acid Sulfate Soils on the Acid Sulphate Soils Planning Maps contained within the Hawkesbury Local Environmental Plan 2012. The subject site contains Shale Plains Woodland and connectivity between Remnant Vegetation as identified on the Terrestrial Biodiversity Map of the Hawkesbury Local Environmental Plan 2012.

The subject site is not subject to flooding, and is not listed as a heritage item or located within or near a conservation area.

The subject site is identified as containing Agriculture Land Classification 3 in maps prepared by the former NSW Department of Agriculture.

The subject site falls within the Middle Hawkesbury-Nepean conservation area sub-catchment of Part 6.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021 and is not shown on the Hawkesbury-Nepean Riverine Scenic Area Map.

Planning Proposal

The intended outcome of the Planning Proposal is to permit neighbourhood shops and a service station as additional permitted uses on the south-eastern part of the subject site shown in Figure 6. The Planning Proposal seeks to achieve this intended outcome by inserting a new local clause in Schedule 1 'Additional permitted uses' of the Hawkesbury Local Environmental Plan 2012 to include a

service station and neighbourhood shops as additional permitted uses on the subject site. The Planning Proposal also seeks to amend the Additional Permitted Use Map of the Hawkesbury Local Environmental Plan 2012 to identify the south-eastern part of the subject site to which the proposed additional permitted use clause applies as item "8".



Figure 6: Part of the Subject Site Proposed for Additional Permitted Uses

A Development Concept Plan is shown in Figure 7 in order to highlight how the south-eastern part of the subject site could be developed for the proposed service station and neighbourhood shops. According to the Development Concept Plan, the south-eastern part of the subject site would be developed to include the following facilities/uses:

- Service station and retail/food and drinks facility building
- Neighbourhood shops – Retail Area 1 and Retail Area 2
- Loading bay adjacent to the service station building
- Six fuel dispensers and a canopy covering the fuel dispensers
- Onsite parking facility (45 spaces)
- Underground fuel tanks
- Air and water bay

Access to the future development is proposed via Old Pitt Town Road.

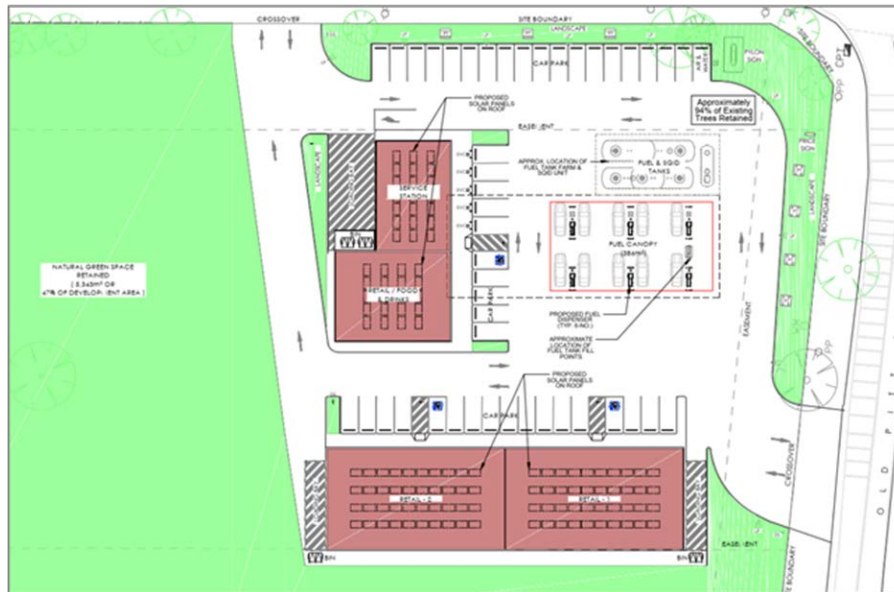


Figure 7: Development Concept Plan

Justification for the Planning Proposal

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

- Neighbourhood shops as an additional permitted use on the subject site will cater for the day-to-day needs of the people who live and work in the surrounding area.
- The site is located to the west of the Box Hill Release Area which has experienced significant residential development within R2 Low Density and R3 Medium Residential zones over the past decade.
- The Box Hill Release Area expects to accommodate an additional 42,480 residents by 2038.
- The predominant land use in the immediate vicinity is residential.
- Significant growth is occurring in the wider precinct.
- The proposed neighbourhood shops and the service station will cater for the growing population within the Riverstone Precinct Stage 1 and Box Hill Release Area.
- The growing population within the Oakville and Box Hill area will create increased demand for local shops and businesses.
- The future service station will meet the increased demand of the new residential population within the Box Hill Release Area.
- The Planning Proposal will enable increased local job opportunities.
- The subject site is connected to the existing local and regional transport network

DISCUSSION

Relationship to State and Local Strategic Planning Framework

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

Greater Sydney Region Plan

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

The subject site is not specifically identified in the Greater Sydney Region Plan.

The Planning Proposal provides the following information to establish that it is consistent with the Greater Sydney Region Plan, 'A Metropolis of Three Cities':

"The subject site is located within the 'Western Parkland City', which is projected to increase in population by nearly 50 % from 740,000 in 2016 to 1.1 million by 2036. The Planning Proposal is aligned with the strategic vision outlined within the regional plan, with the document prepared with key planning projects in mind.

Of relevance to the Planning Proposal is Objective 14 'A metropolis of three cities- integrated land use and transport creates walkable and 30-minute cities'. To enable the vision of the 30 minute city, Objective 14 requires integrated land use planning. With the proposed land uses of 'service station' and 'neighbourhood shop', the PP would deliver key services to the surrounding and compatible residential and primary industry land uses."

The subject site is not located within any local town/neighbourhood centre catchment within the Hawkesbury Local Government Area, and is approximately 9km from the Richmond-Windsor Strategic Centre which is the only strategic centre within the Hawkesbury Local Government Area. Currently, the McGraths Hill Neighbourhood Centre is the closest centre and is approximately 7km from the subject site. The Box Hill City Centre which is currently under construction is approximately 3.5km from the subject site and the future Vineyard Village Shopping Centre is approximately 3.2 km from the subject site. Hence, the proposed neighbourhood shops and service station would meet the day-to-day needs of the local residents and enable increased job opportunities closer to their homes and the number of workers live and work within the Hawkesbury Local Government Area. It is noted that currently 56% of workers within the Richmond-Windsor Strategic Centre live in the Hawkesbury Local Government Area. Also, the proposed service station would service the surrounding neighbourhoods or local centres, including Oakville, Maraylya, Pitt Town, Pitt Town Bottom and Cattai.

One of the productivity outcomes for A Metropolis of Three Cities is to drive opportunities for investment and business across Greater Sydney. Further, Objective 22 – 'Investment and business activity in centres' of the Plan states that there will be a need for over 5 million m² of additional retail floor space as Greater Sydney's population grows over the next 20 years. The Planning Proposal enabling 800m² of retail floor space within the proposed neighbourhood shops in addition to the proposed service station on the subject site and in proximity to the Vineyard Precinct Stage 1 and Box Hill Release Area would help achieve this retail floor space target albeit to a very small degree.

Given the above circumstances, the Planning Proposal is not considered to be inconsistent with the Greater Sydney Region Plan. However, this is a matter for the Department of Planning and Environment to consider at the Gateway Determination if the Planning Proposal is to proceed.

Western City District Plan

The Western City District Plan sets out planning priorities and actions for improving the quality of life for residents of the Western City District as the District grows and changes. The Western City District covers the Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, Liverpool, Penrith and Wollondilly Local Government Areas. This 20-year Plan is to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision for Greater Sydney.

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

"The Planning Priority W3 'Providing services and social infrastructure to meet people's changing needs' outlines the services and infrastructure requirements to meet the needs of the growing population. As the priority explains, the increasing population will place additional demand on the existing services which are already near capacity. The APUs proposed, that being 'service station' and 'neighbourhood shop' are considered to be a part of the key service infrastructure for communities. Within the immediate locality although there has been and will continue to be a significant increase in residential development, there is an undersupply of the required supporting infrastructure and services. The PP would enable the opportunity to improve accessibility to the fundamental infrastructure and services to cater for the needs of the community. Furthermore, by placing the proposed land uses at the subject site it will contribute to improving the liveability of the local neighbourhood. The PP is aligned with Action 9 of the Planning Priority W3 as it would provide the opportunity for development that reflects the needs of the community now and into the future".

The Planning Proposal enabling neighbourhood shops and a service station on the subject site adjacent to the rural residential properties and in proximity to the Vineyard Stage 1 and Box Hill Residential Precincts within the NSW Growth Centre will provide opportunities for local residents who live and work within these residential precincts and surrounding rural residential population to meet their day-to-day needs and have some form of social interaction. Therefore, the Planning Proposal that would help improve social infrastructure and thereby improved liveability in the locality is not considered to be inconsistent with the Western City District Plan.

The Planning Proposal states that there has been and will continue to be a significant increase in residential development in the locality but there is an undersupply of the required supporting social infrastructure and services. The Planning Proposal would enable the opportunity to augment the required social infrastructure and services to cater for the needs of the community. However, the Planning Proposal does not include supportive evidence or social infrastructure and service assessment to justify this statement.

Should the Planning Proposal proceed, the need to have a social infrastructure and service assessment or supportive evidence to justify the Planning Proposal's claim is a matter for the Department of Planning and Environment at the Gateway Determination.

Metropolitan Rural Area

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

The Plan acknowledges that the distinctive towns and villages of the Metropolitan Rural Area offer opportunities for people to live and work in attractive rural or bushland settings, close to a major city.

They provide focal points for local communities and rural industries. Ongoing planning and management of rural towns and villages will need to respond to local demand for growth, the character of the town or village and the values of the surrounding landscape and rural activities.

The subject site is approximately 9km from the Richmond- Windsor Strategic Centre and 7km from the McGraths Hill Neighbourhood Centre. Therefore, the Planning Proposal that would enable an opportunity for the existing surrounding rural residential population and people who live and work in the Vineyard Stage 1 and Box Hill Residential Precincts within the NSW Growth Centre to meet their day-to-day needs closer to their homes is not considered to be inconsistent with the above outlined objectives of the Metropolitan Rural Area.

State Environmental Planning Policies (SEPP)

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

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

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

- (a) whether the development will minimise human interference with the condition of the sub-catchment,
- (b) whether the development will maintain and enhance the structure and floristics of native vegetation in the sub-catchment,
- (c) whether the development will maintain or enhance the scenic quality of the locality,
- (d) whether development has previously been carried out on the development site.

It is considered that the future use of south-eastern part of the subject site for the purposes of a service station and neighbourhood premises would be able to satisfy the above development provisions or be able to appropriately minimise any impacts. Should the plan be made to give effect to the Planning Proposal, the above matters can be further considered at the development application stage.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of land

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

According to Council's records, the subject site has not been used for agricultural purposes or any other purpose referred to in Table 1 of the contaminated land planning guidelines. Therefore, development of the subject site is considered to be suitable for the proposed uses. A Site Investigation Report prepared by SMEC Testing Services Pty Ltd, dated 28 July 2014 which formed part of the previous Development Application (DA0789/14) has been submitted in support of the Planning Proposal. However, this report focuses on the soil bearing capacity or the land capability to withstand a dwelling house, and is not a contamination assessment. Should the Planning Proposal

proceed, the need to prepare a preliminary site investigation report in support of the Planning Proposal is a matter for the Department of Planning and Environment at the Gateway Determination.

State Environmental Planning Policy (Resources and Energy) 2021

Chapter 3: Extractive Industries in Sydney

The subject site is not within the vicinity of land described in Division 1, 4, 6, 7, 8 or 9 of Schedule 3 of the State Environmental Planning Policy (Resources and Energy) 2021. The Planning Proposal is therefore consistent with this State Environmental Planning Policy. Regardless of the above comments, should the Planning Proposal proceed and receive a Gateway Determination, the Department of Primary Industries will be consulted in accordance with Direction 8.1, during the relevant government agency consultation period.

Local Planning Directions (Ministerial Directions)

Relevant to the Planning Proposal are the following ministerial directions:

Direction 1.1 Implementation of Regional Plans

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

Direction 1.3 Approval and Referral Requirements

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

Direction 1.4 Site Specific Provisions

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

Direction 4.3 Planning for Bushfire Protection

The subject site is identified as being bushfire prone, containing Vegetation Category 3 on the NSW Rural Fire Service's Bushfire Prone Land Map. This Direction requires consultation with the NSW Rural Fire Service following receipt of a Gateway Determination under section 3.34 of the Environmental Planning and Assessment Act 1979, and prior to undertaking community consultation in satisfaction of Schedule 1, clause 4 of the Act.

The Planning Proposal is not accompanied by a Bushfire Assessment Report. This is considered to be a matter for consideration by the Department of Planning and Environment as part of the Gateway Determination.

Direction 4.4 Remediation of Contaminated Land

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

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

Direction 4.5 Acid Sulfate Soils

This Direction requires that a relevant planning authority must not prepare a Planning Proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps.

The subject site is identified as containing Class 5 acid sulfate soils on the Acid Sulphate Soils Planning Maps, and as such any future development on the land will be subject to Clause 6.1 Acid Sulfate Soils of the Local Environmental Plan 2012 which has been prepared in accordance with the 'Acid Sulfate Soils Model Local Environmental Plan provisions within the Acid Sulfate Soils' Planning Guidelines adopted by the Director General.

Direction 8.1 Mining, Petroleum production and Extractive Industries.

The objective of this direction is to ensure that future extraction of State or Regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

The Planning Proposal is consistent with this direction as the subject site is not located within an Identified Resource Area, Potential Resource Area or the Transition Area which is adjacent to Identified Resource Areas as identified by mineral resource maps provided by the NSW Resource & Energy Division of NSW Trade & Investment. Additionally, the subject site is not located within or in the vicinity of land described in Schedule 1, 2 and 5 of the State Environmental Planning Policy (Resources and Energy) 2021.

Direction 9.1 Rural Zones

The objective of this direction is to protect the agricultural production value of rural land.

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

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

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

Direction 9.2 Rural Lands

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

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

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

The land has not previously been used for agricultural purposes other than for rural residential purpose.

Irrespective of the above circumstances, should the Planning Proposal proceed and receive a Gateway Determination to proceed, the Department of Primary Industries - Agriculture will be consulted on the Planning Proposal.

Local Planning Framework

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

Hawkesbury Community Strategic Plan 2022-2042

The Hawkesbury Community Strategic Plan 2022-2042 is the core document underpinning Council's future planning, and determines its strategies. The Plan reflects the Hawkesbury community's priorities and aspirations for the future and focuses on four key Outcome areas - Great Place to Live, Protected Environment and Valued History, Strong Economy and Reliable Council. Under each Outcome area, Long term Objectives and Success Indicators are identified in order to meet the Community's expectations and aspirations.

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

Additional planning for services and infrastructure will need to be undertaken in line with the anticipated growth within the Hawkesbury region, and the proposed neighbourhood shops and service station on part of the subject site as additional permitted uses will address the daily needs of the community. As the surrounding locality of the subject site evolves with increasing urbanisation, particularly south of Boundary Road, the Planning Proposal will address the additional demands and services required for the region. Therefore, it is considered that the Planning Proposal is consistent with the Plan.

The increasing urbanisation south of Boundary Road referred to in the Planning Proposal is occurring in the Box Hill Release Area within The Hills Shire Local Government Area. The proposed additional uses aim to provide additional services primarily focused on the residential community within the Box Hill Release Area as well as the Vineyard Precinct. Given the Hawkesbury Community Strategic Plan 2022 – 2042 is to identify the Hawkesbury community's needs, priorities and aspirations for the future, and therefore the Planning Proposal facilitating the needs of the Vineyard Precinct and Box Hill Release Area within the Hills Local Government Area is not considered to be completely inconsistent with the Hawkesbury Community Strategic Plan 2022 – 2042 given it is generally consistent with the following Long-term Objective and Success Indicator under Community Outcome 3 - Strong Economy:

Long Term Objective

3.4 Support the revitalisation of our town centres and growth of our business community

Success Indicator

- We are satisfied with the jobs, training and education opportunities available in the city.

The Planning Proposal makes reference to the repealed Community Strategic Plan 2017 – 2036 and therefore it will need to be updated to make reference to the Hawkesbury Community Strategic Plan 2022 – 2042 and demonstrate how it is consistent with the Community Strategic Plan 2017 – 2036.

Hawkesbury Local Strategic Planning Statement 2040

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

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

“Planning Priority 7 of the LSPS seeks to ‘promote and support all sectors of industry and business in the Hawkesbury to meet current and future demands and trends.’ As the surrounding targeted urban growth areas continue to be developed there will be an increased demand for service stations and local shops to meet the daily needs of the growing population.

Furthermore, the proposal will provide additional job opportunities for residents within the Hawkesbury LGA which is another indicator of the LSPS. As such, this proposal directly addresses these requirements and aligns with planning priority 7”.

The Richmond -Windsor Strategic Centre will continue its role as the primary business and retail hub for the Hawkesbury Local Government Area and will be supported by well-considered incremental supportive zones and serviced lands to ensure increased provision of commercial and retail development. In addition, local centres, neighbourhood centres and village centres within the Hawkesbury Local Government Area provide local job opportunities for people living nearby or within the Hawkesbury Local Government Area. Although the proposed development consisting of neighbourhood shops and a service station is not within the catchment of a local centre or neighbourhood centre, it will be able to provide job opportunities for people to work and live closer to their homes within the Hawkesbury Local Government Area. Therefore, the Planning Proposal is generally consistent with the Hawkesbury Local Strategic Planning Statement 2040.

Hawkesbury Rural Lands Strategy

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

“The strategy outlines the key planning considerations for individual localities within the LGA including Oakville. With regard to Oakville, future long-term planning is required to consider infrastructure especially noting TfNSW's future plans for the Outer Sydney Orbital Corridor. It is considered that this PP would provide a daily service that meets the needs of the locality whilst also servicing the additional traffic from the proposed Outer Sydney Orbital Corridor

Data from the strategy revealed 87.2% of land in Oakville is for rural residential use and the area is considered of not great significant to agricultural supply. Furthermore, the strategic plan outlines that the Primary Production Small Lots are mainly made up of rural residential development with 91.7% of the zone rural residential use as shown in Figure 9. The data reveals that the majority of the RU4 land in Oakville is for rural residential and not agricultural farming. As such the PP is considered not to impact on rural farming land.”

Council adopted the Hawkesbury Rural Lands Strategy in March 2021 which identified five broad land use units - Agriculture Production, Rural Landscape, Native Vegetation, Rural Residential and Towns & Villages within the Hawkesbury Local Government Area as shown in Figure 8. These broad land

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use units have been designated using a sieve methodology which is generally a soil and land capability assessment, and findings of a recent land use survey undertaken as part of the Hawkesbury Rural Lands Strategy. The Strategy states that these land units can be translated into land use designations, and recommends two broad designations of Agriculture Production and Rural Landscape for rural land within the Hawkesbury Local Government Area.

As shown in Figure 8, lands that are zoned RU4 Primary Production Small Lots within Oakville, Maraylya, Pitt Town, Cattai, Vineyard and McGraths Hill are designated as Rural Landscape and shown in yellow. The Strategy states that RU4 Primary Production Small Lots zoning was not considered necessary because its objectives are not as robust as the RU1 Primary Production zone. However, the Strategy is a guiding document for better management and protection of Hawkesbury's rural land, and does not rezone or transform RU4 Primary Production Small Lots zoned lands to RU2 Rural Landscape zone which is a matter for Council's consideration during a major review of the Hawkesbury Local Environmental Plan 2012.

Given all agricultural land uses are permitted with consent within the RU4 Primary Production Small Lots zone, should Council resolve to proceed with the Planning Proposal and receive a Gateway Determination advising to proceed with the Planning Proposal from the Department of Planning and Environment, the Department of Primary Industries - Agriculture will be consulted seeking feedback on the Planning Proposal.

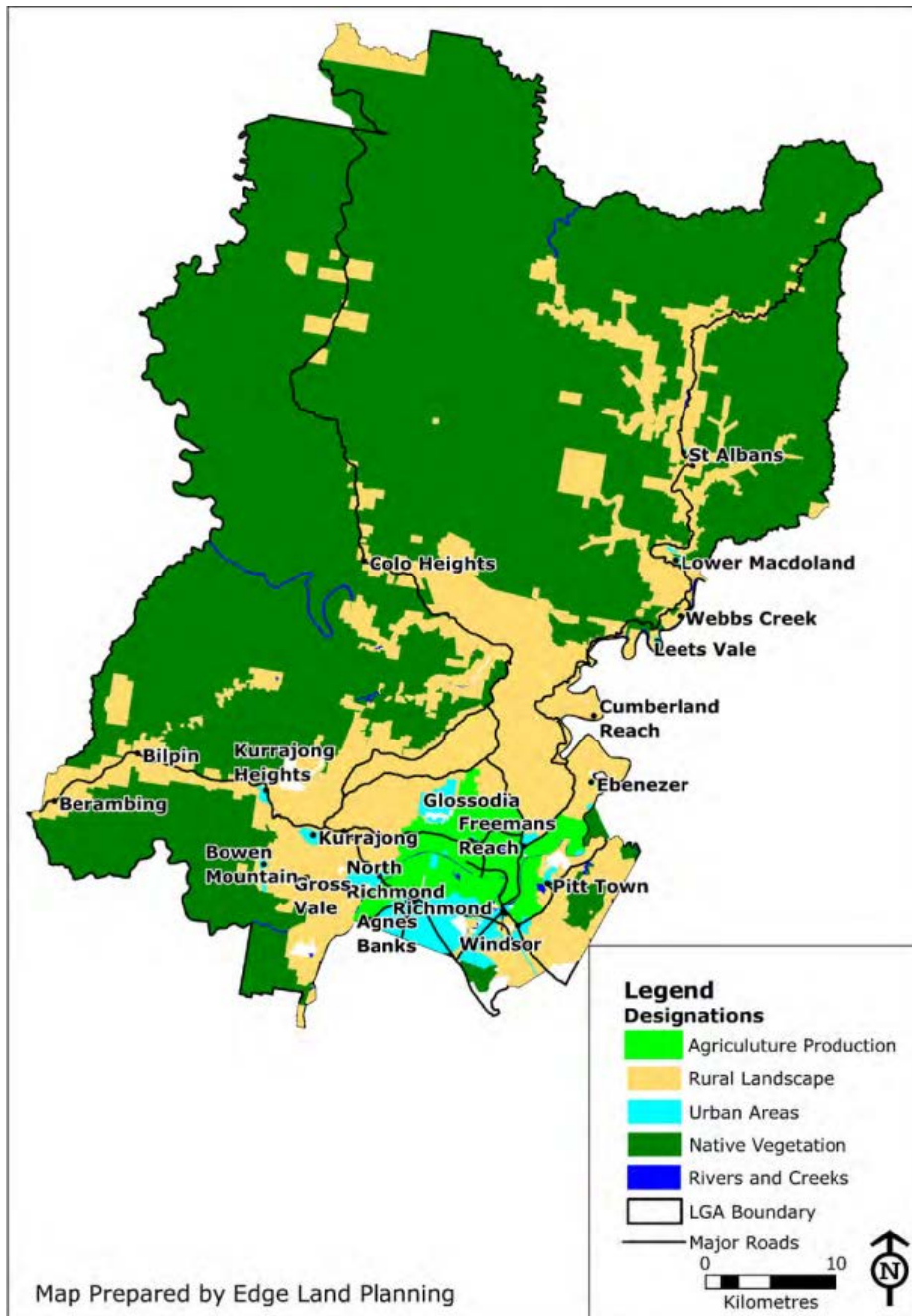


Figure 8: Land Units within the Hawkesbury LGA

Hawkesbury Employment Land Strategy

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

“This PP would enable a future mixed use development of multiple neighbourhood shops and a service station. This mix of land uses would provide convenience to surrounding residents with the multiple shops , while also providing a service station to meet the daily needs as well. By incorporating carefully considered landscaping and unique built form it can provide an experience which is considered to bring pedestrian moment back, which is aligned with the strategic plan.”

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Furthermore, the strategic plan states that service stations should be located typically on main roads and busy road corridors. Boundary Road is experiencing increasing vehicle movements due to the residential developments associated with the Sydney Regional Growth SEPP, whilst the Outer Sydney Orbital Road Corridor is anticipated to pass through Oakville. It is therefore considered the subject site is in a strategic location for a service station which is aligned with the plan."

As stated in the Hawkesbury Employment Land Strategy, Hawkesbury's employment lands are mostly located in the southern part of the Local Government Area within the Centres of Windsor, South Windsor, Richmond, North Richmond, Pitt Town, Bligh Park and Mulgrave. Currently, employment lands within the above-mentioned centres are accommodated within the following Zones:

- E1 Local Centre
- E2 Commercial Centre
- E3 Productivity Support
- E4 General Industrial

The Western City District Plan identifies a base line target of 12,000 Jobs and a higher target of 16,500 jobs within the Richmond-Windsor Strategic Centre Catchment by 2036. There are no such set targets identified for other rural towns, neighbourhoods or villages within the Hawkesbury Local Government Area. The subject site which is zoned RU4 Primary Production could not be classified as employment land. However, given the proposed development on the subject site would be able to provide a few local jobs closer to homes, the Planning Proposal is not completely inconsistent with the Hawkesbury Employment Land Strategy.

Hawkesbury Local Environmental Plan 2012

The subject site is currently zoned as RU4 Primary Production Small Lots under the provisions of the Hawkesbury Local Environmental Plan 2012 as shown in Figure 9.

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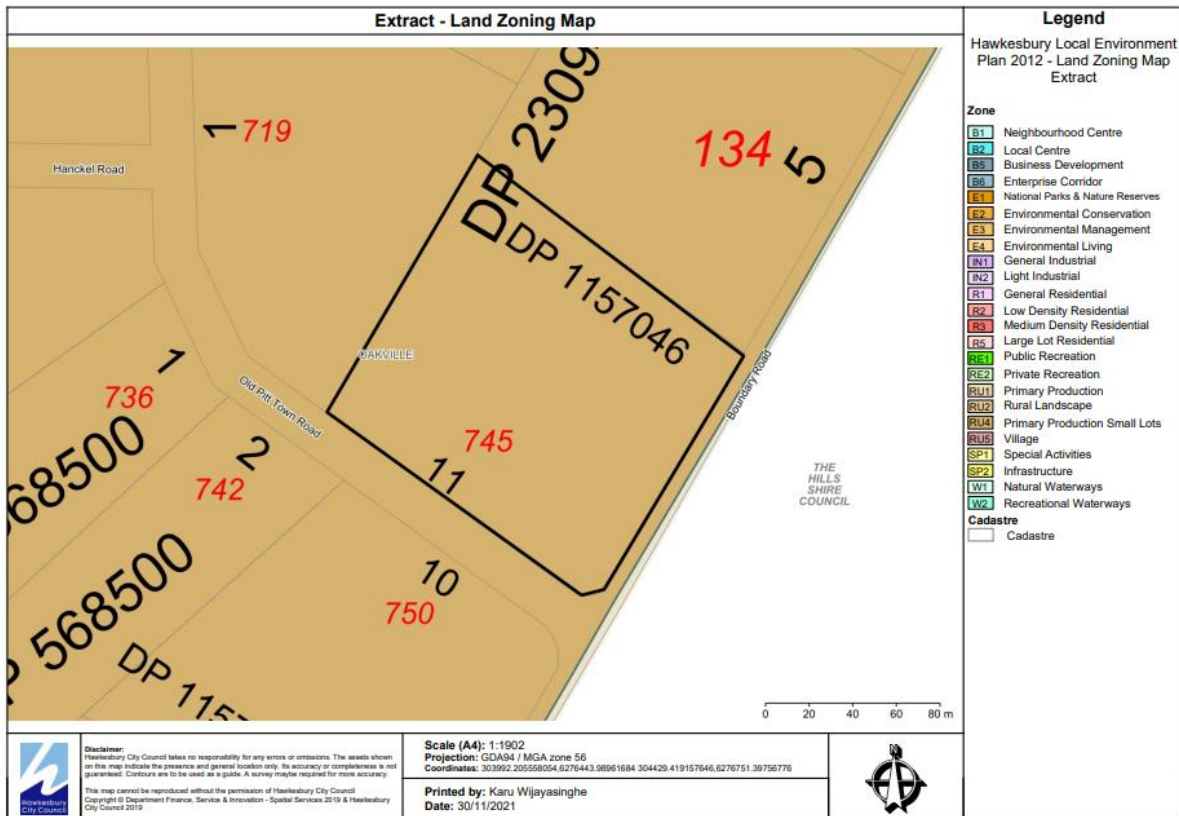


Figure 9: Extract of the Land Zoning Map

Proposed Amendments

Neighbourhood shops and service stations are prohibited land uses within the RU4 Primary Production Small Lots zone.

The LEP Practice Note (Ref No PN 11 -001) states that listings in the LEP Schedule 1 should be minimised, with appropriate justification provided to the Department for any inclusions. Wherever possible, land uses should be governed by the Land Use Table and Schedule 1 should only be used where Council has demonstrated why this cannot be achieved.

Rezoning of the subject site to a business or an industrial zone to allow the proposed development on the subject site is not considered to be an appropriate alternative as the immediate vicinity is predominantly zoned RU4 Primary Production Small Lots and would create a zoning anomaly at the locality. Also, a business or an industrial zone allows a range of land uses that are not considered to be appropriate at this location. There are no other alternatives available under the provisions of the Hawkesbury Local Environmental Plan 2012 to allow the proposed development on the south-eastern part of the subject site. Therefore, the proposed amendment to Schedule 1 Additional Permitted Uses of the Hawkesbury Local Environmental Plan 2012 is the only option available to allow development of the subject site for the proposed purposes.

Therefore, the Planning Proposal seeks to amend the Hawkesbury Local Environmental Plan 2012 to allow neighbourhood shops, and a service station as additional permitted uses on the south-eastern part of the subject site as follows:

- (a) Amendment to Schedule 1 Additional Permitted Uses

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

Insert the following clause after Clause 20 of Schedule 1:

21 Use of Certain Land at 745 Old Pitt Town Road

(1) This clause applies to land at 745 Old Pitt Town Road, Oakville, being part of Lot 11 DP 1157046, identified as "8" on the Additional Permitted Uses

Map.

(2) Development consent for the purposes of a service station and neighbourhood shops are permitted with consent.

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

(a) if the total gross floor area of all neighbourhood shop tenancies within the site is greater than 800m².

The proposed land uses are defined in the Hawkesbury Local Environmental Plan 2012 as follows:

"neighbourhood shop means premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area but does not include neighbourhood supermarkets or restricted premises".

"service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following—

- a) the ancillary sale by retail of spare parts and accessories for motor vehicles,*
- b) the cleaning of motor vehicles,*
- c) installation of accessories,*
- d) Inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),*
- e) the ancillary retail selling or hiring of general merchandise or services or both".*

Neighbourhood Shops

According to the above proposed clause, the maximum total gross floor area of all neighbourhood shops should be less than 800m². Given there is no evidence, supportive argument, or a retail needs assessment in support of the Planning Proposal to justify this gross floor area, the 800m² proposed maximum gross floor area of neighbourhood shops is considered to be an arbitrary figure. A reasonable justification or a retail needs assessment prepared by a suitably qualified and experienced professional confirming or supporting the need of the specified gross floor area is considered to be vital. However, should the Planning Proposal proceed, this is a matter for consideration by the Department of Planning and Environment as part of the Gateway Determination.

Service Station

As per Figure 7: Development Concept Plan, there is a retail/food & beverage area ancillary to the proposed service station. It is not clear whether this retail area is included in the 800m² maximum

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gross floor area of neighbourhood shops referred to in the proposed clause 21 (3)(a) above. Further, the Planning Proposal does not demonstrate that the proposed service station is not an over representation other than a letter from a fuel supplier stating that the subject site has a demand for a service station.

Total Gross Floor Area and Land Area

Further, given the proposed development is immediately east of the existing dwelling house on the subject site, and is predominantly characterised by rural residential development within the immediate vicinity, it is considered to be warranted to specify a maximum cap or limit for the total gross floor area and the land area for the proposed development in order to ensure both visual and community amenity is not adversely affected. Therefore, it is proposed to amend the proposed subclause 21(3)(a) and include an additional subclause (subclause 21(3)(b)) shown in bold black text in order to limit the total gross floor areas as follows:

Further, it is considered to be necessary to specify the maximum land area to be developed for the proposed uses and the associated car parking areas and unloading bay to ensure an environmentally sustainable development that blends with the surrounding development on the subject site. In order to achieve this, it is suggested to amend the proposed clause 21 with the inclusion of an additional subclause (subclause 3(b)) as follows:

21 Use of Certain Land at 745 Old Pitt Town Road

(1) This clause applies to land at 745 Old Pitt Town Road, Oakville, being part of Lot 11 DP 1157046, identified as "8" on the Additional Permitted Uses Map.

(2) Development for the purposes of a service station and neighbourhood shops is permitted with consent.

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

(a) if the total gross floor area of neighbourhood shop tenancies and retail floor area ancillary to the service station within the site is greater than 800m².

(b) if the total development area of the land for the purposes of neighbourhood shops, service station and ancillary retail area and associated car parking and unloading bay is greater than XX,XXXm².

(b) Proposed Amendment to Additional permitted use Map

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

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

"2.5 Additional permitted uses for particular land

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

(a) with development consent, or

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

that development.”

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

The following section discusses the strategic and site specific merits.

Strategic Merits

The subject site has strategic merits due to the following reasons:

The subject site has strategic merit with respect to the location of the proposed service station at the corner of Old Pitt Town Road and Boundary Road which links to the regional road network. The subject site is located in close proximity to major urban release areas namely Vineyard Precinct Stage 1 and Box Release Area within the NSW Growth Centre. The Planning Proposal states that the subject site has been used as a shelter-in-place by the State Emergency Service during major flood events given its elevation above the Probable Maximum Flood (PMF) level.

Site Specific Merits

Topography

The subject site varies in elevation from approximately 60m AHD at Old Pitt Town Road to 53m AHD at the rear of the subject site. The subject site is relatively flat with a gentle slope towards the rear of the property, and as such is favourable to the proposed development.

Public Infrastructure and Services

The subject site has access to all the required infrastructure services including electricity, telephone and reticulated water other than reticulated sewerage to accommodate the planned development on the subject site. Should the Plan be made to give effect to the Planning Proposal, an onsite sewage facility is to be established on the subject site. However, the capability of the subject site to accommodate such a facility could be considered at the development application stage.

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

Flora and Fauna

The Terrestrial Biodiversity Map of the Hawkesbury Local Environmental Plan 2012 identifies some areas/patches of land along the south-eastern and south-western boundaries as 'endangered ecological community' and the rest of the subject site as 'connectivity between remnant vegetation' as illustrated in Figure 10 below.

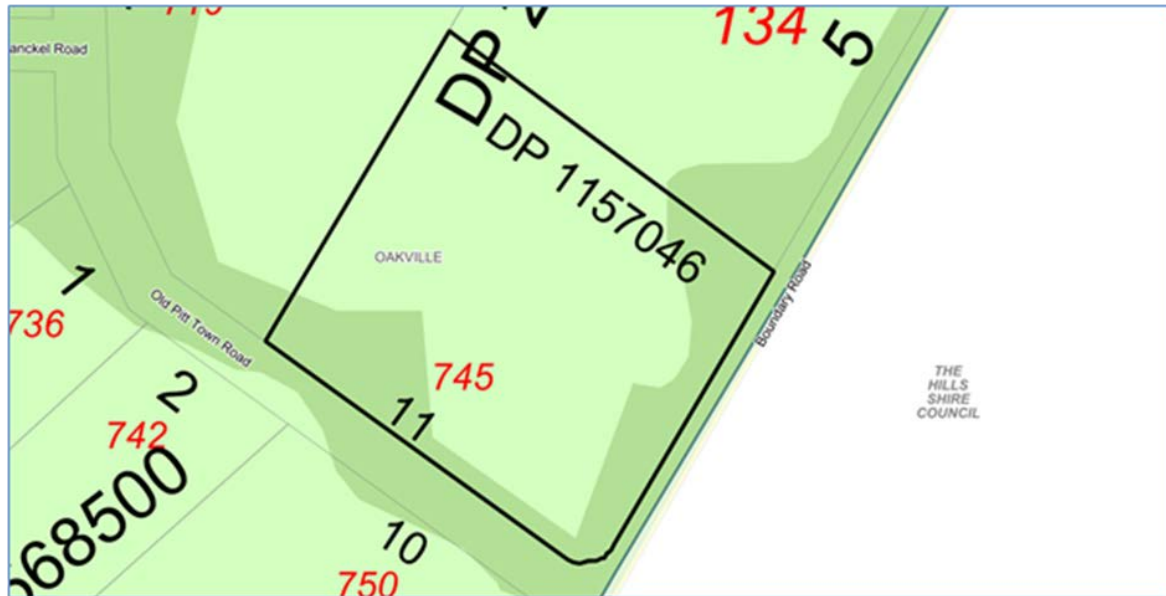


Figure 10: Extract of Terrestrial Biodiversity Map

Council vegetation mapping shows the subject site as containing Shale Plains Woodland along the South-Eastern and South-Western boundaries. Shale/Gravel Transition Forest which is listed as a Critically Endangered Ecological Community under the NSW Threatened Species Conservation Act 1995 and under the Environment Protection and Biodiversity Conservation Act 1999.

The Planning Proposal is accompanied by a Flora and Fauna Assessment (July 2021) prepared by Biosis Pty Ltd. Approximately 0.37ha of Exotic pasture consists of a highly degraded understorey of grazed grasses and herbs occurs throughout the remainder of the study area. Cumberland Plain Woodland in the study area is low in condition due to altered structural integrity, low native species diversity and moderate levels of weed incursion resulting from historical vegetation clearing and pastoral grazing.

The Assessment concludes that:

“The current proposal indicates that 0.11ha of Cumberland Plain Woodland meeting Biodiversity Act listing criteria and highlighted in the Biodiversity Value Map”.

In this case, where the Planning Proposal is seeking to alter the land use, the Biodiversity Act requires that the assumption of total clearance of the land. Any impacts to land mapped as biodiversity values will trigger the Biodiversity Offset Schemes and the preparation of a Biodiversity Development Assessment Report is required to accompany the development application (as per Table 2 below):

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Table 2: Biodiversity Offset Scheme assessment

BOS Trigger	Yes/No	Justification
Clearing threshold	No	The total clearing of native vegetation (0.11 ha) does not exceed the minimum clearing threshold of 0.5 ha, based on a minimum lot size of 2 ha.
BV Map	Yes	The project will impact on areas mapped within the BV Map.
Significant impact	No	The project is unlikely to result in a significant impact on threatened species, populations or communities listed under the BC Act.

It recommended that an application for the refinement Biodiversity Values mapping within the study area is undertaken as the current mapping covers the majority of the subject site including exotic pasture. If the Biodiversity Values mapping is amended and the development can demonstrate avoidance impacts to the Cumberland Plain Woodland, Biodiversity Development Assessment Report will not be required, and a Flora and Fauna Impact Assessment should be prepared to support the development application."

Site Access and Traffic Generation

Although the subject site is a corner block with frontages to Old Pitt Town Road and Boundary Road, the current vehicular access to the subject site is from Old Pitt Town Road. Boundary Road is a State classified road which forms part of the Main Road 655 which extends from Pennant Hills Road, Pennant Hills to Old Northern Road, Dural. The subject site has a reasonable access to the regional road network via Boundary and Windsor Roads.

Given Boundary Road is a State classified road, future access to the subject site needs to be maintained via Old Pitt Town Road given that Transport for New South Wales generally restricts direct access from a classified road where considered necessary.

The proposed retail premises with an area of more than 1,000m² in total and a service station with an area of 178.5m² as shown in Figure 7 above would likely increase the traffic volume in the locality and impact on the traffic flow along Boundary Road and the regional road network. Given the subject site fronts a classified road, Transport for New South Wales will need to be consulted on the proposed development. Generally, Transport for New South Wales requires a traffic statement in support of the Planning Proposal for its consideration.

Should Council resolve to proceed with the Planning Proposal, the need for a traffic statement prior to relevant government agency consultation is a matter for consideration by the Department of Planning and Environment at the Gateway Determination.

Character of the Area

The immediate locality of the subject site is predominantly characterised by rural residential development and the approximate lot size within the immediate vicinity is 2ha. As shown in Figure 11, the properties immediately North, South and West are rural residential development, and the Box Hill Release Area to the East. In summary, the area immediately surrounding the subject site has two

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distinct visual characteristics. One area having a rural-residential character, and the other area having an urban low to medium density residential developments.

Immediately west of the proposed development on the subject site is a single-storey five-bedroom house which could potentially be incompatible with the proposed development which is in retail nature. Should the Plan be made to give effect to the Planning Proposal, this will need to be addressed at the development application stage.



Figure 11: Subject Site and Surround

The Planning Proposal enabling neighbourhood shops and a service station on the subject site is generally a single-storey development and therefore is consistent with the immediate vicinity which is predominantly characterised by a low-rise development. The scale of development is not considered to be a key factor determining a Planning Proposal. However, a maximum gross floor for neighbourhood shops and maximum total land area for the development are included in order to ensure that the proposed development will not adversely impact the visual character of the locality.

Agricultural Land Classification

The subject site is shown as being Agriculture Land Classification 3 on maps prepared by the former NSW Department of Agriculture. This land is described by the classification system as being:

"3. Grazing land or land well suited to pasture improvement. It may be cultivated or cropped in rotation with pasture. The overall production level is moderate because of edaphic or environmental constraints. Erosion hazard, soil structural breakdown and other factors including climate may limit the capacity for cultivation; and soil conservation or drainage works may be required."

Agricultural land classification and development history showing a rural residential use and not showing as prime agricultural land as well as the proximity of the subject site to the Vineyard and Box Hill Residential Release Areas, it is considered that it is unlikely the subject site could sustain a commercially sustainable agricultural business. However, should Council resolve to proceed with the Planning Proposal and receive a Gateway Determination advising to proceed with the Planning Proposal from the Department of Planning and Environment, the NSW Department of Industry – Agriculture will be consulted on the Planning Proposal as part of the relevant government agency consultation.

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Heritage

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

In addition, the subject site is not within or adjoining a heritage conservation area and not identified as an archaeological site.

Conclusion

An assessment of the Planning Proposal contained in this report highlights that the subject site has certain strategic and site specific merits and potential to accommodate the planned development.

The Planning Proposal is generally consistent with the State and Local Planning frameworks. It will enable the day-to-day needs of the surrounding residential population and increase the percentage of people who live and work within the Hawkesbury Local Government Area. Also, the Planning Proposal enabling the proposed development on the subject site is generally considered to be compatible with the scale of the surrounding development, and there will be no adverse impact on the visual amenity of the locality.

ATTACHMENTS

AT - 1 Planning Proposal - 745 Old Pitt Town Road, Oakville - *(Distributed under separate cover)*.

AT - 2 Ecological Constraints Assessment - 745 Old Pitt Town Road, Oakville - *(Distributed under separate cover)*.

AT - 3 Site Investigation Report - *(Distributed under separate cover)*.

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Hawkesbury Local Planning Panel Meeting

End of Business Paper

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