



# Hawkesbury Local Planning Panel

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Date of meeting: 18 July 2024  
Location: By audio-visual link  
Time: 10:00 AM

**BUSINESS PAPER**



**HAWKESBURY LOCAL PLANNING PANEL**

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### 1. PROCEDURAL MATTERS

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### 1. PROCEDURAL MATTERS

#### **Welcome**

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

1. Recording of the Hawkesbury Local Planning Panel Meeting
2. 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.

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### 2. REPORTS FOR DETERMINATION

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### 2. REPORTS FOR DETERMINATION

2.1.1. DA0298/23 - 361 George Street, Windsor - (96329)

Directorate: City Planning

#### DEVELOPMENT INFORMATION

<b>Development Application No.</b>	<b>DA0298/23</b>
<b>Date Received</b>	12/01/2024
<b>Proposal</b>	Alterations and additions to the rear of the existing Country Women's Association (CWA) building at McQuade Park
<b>Estimated Cost</b>	\$100,000.00
<b>Legal Description</b>	Lot 1, DP 556829
<b>Property Address</b>	Country Women's Association (CWA) Building; McQuade Park – 361 George Street, Windsor
<b>Area</b>	8.125Ha
<b>Zoning</b>	RE1 Public Recreation
<b>Applicant</b>	Mrs Barbara Tarnawski
<b>Owner</b>	Crown Lands
<b>Exhibition Dates</b>	18/01/2024 – 19/02/2024
<b>Submissions</b>	Nil
<b>Recommendation</b>	Approval, subject to conditions.

#### EXECUTIVE SUMMARY

The development application seeks consent for alterations and additions to the rear of the existing Country Women's Association (CWA) building at McQuade Park. The works (as amended) include the demolition of the rear water closet and construction of a new accessible bathroom; refurbishment of the existing bathrooms including updates for accessibility and the addition of a rear deck with ramp for accessible entry to the rear of the CWA building's open space and gardens. The application is a nominated Integrated Development pursuant to Section 58 of the Heritage Act 1977. Heritage NSW granted their General Terms of Approval (GTA) on 2 May 2024.

The immediate location of the proposal comprises of an open grass area, existing lake, pedestrian footpath and existing mature trees. Within proximity to the proposal area to the north-east is Windsor Bowling & Sports Club, Windsor Tennis Club and Memorial Park. To the north is Hawkesbury Valley Rugby Union Club, and to the north-west is Don't Worry Oval. The Hawkesbury City Council chambers and Windsor Function Centre are immediately south-east of the CWA Building.

The subject site is zoned RE1 Public Recreation with the proposal identified as ancillary works to an existing community facility, which is a permissible form of development in the RE1 zone under the Hawkesbury Local Environmental Plan 2012 (HLEP 2012).

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McQuade Park is identified as an item of State Historical significance because it is a powerful testimony to the first stage of formal town-planning in New South Wales. The expanse of open green space in the centre of Governor Macquarie's most significant Hawkesbury town has survived and been expanded over two centuries and is still today an essential historic asset for public recreation, both sporting and passive. Its deliberate siting adjacent to the iconic Anglican Church of St Matthew and cemetery enhances the State significance of the park, church and cemetery. In accordance with Council's Community Participation Plan 2019, the Development Application was required to be advertised. No submissions have been received.

In accordance with the Environmental Planning and Assessment Act 1979, Section 9.1 – Directions by the Minister, this application is reported to the Hawkesbury Local Planning Panel for determination as the development is located on Crown Land, owned by Council, with Council being the applicant. Having regard to Council's Policy in respect to Managing Council Related Development, the subject application has been externally assessed by an independent planning consultant.

The application has been assessed relative to Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act), taking into consideration all relevant state and local planning controls.

Having regard to the matters for consideration under Section 4.15 of the EP&A Act 1979 and the context of the site, the proposed development is considered to deliver an appropriately balanced and responsive planning outcome, enabling ongoing use of the existing park whilst maintaining the amenity of surrounding properties. It is recommended that Development Application DA0298/23 be approved, subject to conditions of consent. The recommended conditions of consent are within Attachment 1.

#### RECOMMENDATION

Pursuant to Section 4.16 (1)(b) of the Environmental Planning and Assessment Act, 1979:

That the Hawkesbury Local Planning Panel, exercising the function of the consent authority, grant development consent to DA0298/23 for alterations and additions to the existing CWA State Heritage listed building consisting of an accessible bathroom with associated decking and access ramp and renovation of the existing internal toilets on the site of 361 George Street Windsor, subject to conditions of consent.

The reasons for the conditions imposed on this application are as follows:

1. To facilitate the orderly implementation of the objectives of the Environmental Planning and Assessment Act 1979 and the aims and objectives of the relevant Council Planning instrument.
2. The proposed development would not have an adverse impact on the existing heritage item and its surrounding curtilage and setting.
3. To ensure that the local amenity is maintained and is not adversely affected and that adequate safeguards are incorporated into the development.
4. To ensure the development does not hinder the proper and orderly development of the subject land and its surrounds.

## BACKGROUND

### 1. Site Description

The subject site is legally described as Lot 1, DP 556829, No. 361 George Street, Windsor. The works are relevant to the Country Women's Association (CWA) building (Figure 1, Figure 2, Figure 5 and Figure 6).

As described within the Plan of Management (2022) for McQuade Park:

*"The Country Women's Association (CWA) building, built in 1938, is located on George Street, immediately south of the car parking. The property retains a brick and wrought-iron front boundary fence (likely Post-war period additions) with two original sandstone piers either side of the single entry gate. This gate has a CWA inscription. A concrete pathway leads to the cottage. The side and rear boundaries are enclosed with a weld-mesh fence. The austere character of the building, its functional fencing, walls and garden provide little aesthetic value to the park. Although delineation of boundaries may be a response to past vandalism, this approach reinforces a perception of 'private space' within a public park."*

The site is surrounded by R2 Low Density Residential, E1 Local Centre and E2 Commercial Centre, R3 Medium Density Residential, RE2 Private Recreation (Bowling and Sports Club) and SP1 zoned land (Cemetery). To the north and east of the site is SP2 zoned land for the purposes of place of public worship and education establishments identified as St Mathews Anglican Church, St Mathews Catholic Church, St Mathews Primary School and Windsor Public School. Refer to Figure 3 for land zoning of the site and surrounds.

The site is located approximately 400m from Windsor Railway Station and south-west from Hawkesbury River. McQuade Park is surrounded by established residential development characterised by detached dwelling houses of various architectural styles, varying scales and periods of construction. The built form of the area is reflective of an established suburban neighbourhood with a variety of single and double storey dwelling designs.

The development site is zoned RE1 – Public Recreation and is identified as being of State heritage significance (SHR No: 01851); Figure 4. McQuade Park's significance is based on its outstanding and rare feature of Governor Macquarie's concept of a planned country town in 1810. A central square played a pivotal role in a Macquarie town and McQuade Park retains this role in relation to public activities and open space, as well as its relationship to one of the great early churches and cemeteries of New South Wales (St Matthews). The intimate association with Macquarie himself and with his chief surveyor, James Meehan, is of State significance. To the south of the grandstand there is a playground. There is also a bandstand and War Memorial which are listed as a separate heritage item as per HLEP 2012.

McQuade Park occupies an irregular pentagon. The east and south sides of Macquarie's original rectangular Great Square are still part of the park, along most of the frontage to Tebbutt Street and part of the frontage to George Street. The western side of the park is bounded by Hawkesbury Valley Way (known as Richmond Road until 2009). The two northerly sides of the park are bounded by Moses Street.

Team sport dominates the northern sector of the park. There are two ovals, primarily used for cricket. The principal playing field, with a grandstand, car-parking and amenities, is on the east, with a vehicular entry from Tebbutt Street. The playing area is delimited by a white picket fence installed early in the twenty-first century as the result of an initiative of the local Rotary Club. The other cricket pitch, known as the Don't Worry field, lies to the west and has no amenities.

The south-west sector of the park is used primarily for passive recreation around the lake close to George Street. This hard-edged free-form pond, normally adorned with water-lilies, is a modern development of the natural feature of a swampy area fed by a spring and a seasonal waterway. A

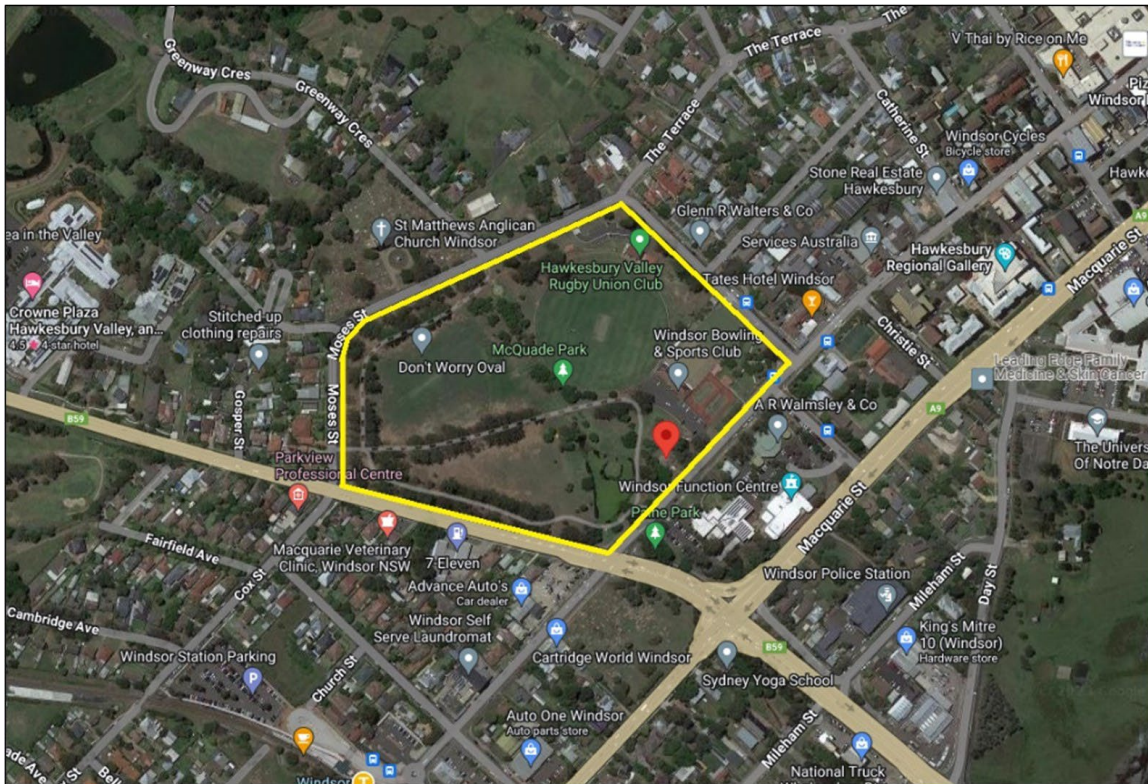
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small, grassy island, reached by a short pedestrian bridge, has been created in the northern part of the pond. Immediately to the east of the pond, accessed from George Street, is the Country Women's Association (CWA) meeting hall, an inter-war brick cottage within a small rectangular enclosure. The CWA meeting hall is the subject of the proposed development.

The Plan of Management (November 2022) ("PoM") for McQuade Park outlines opportunities for the Country Women's Association (CWA) building, which are further discussed within **Section 4** of this assessment report.



**Figure 1 Aerial image of subject site outlined in yellow (Source: Nearmap)**  
The CWA Building is marked with a red "pin".



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**Figure 2 Aerial image of subject site graded in yellow (Source: SIXMaps) with insert showing location of the CWA building.**



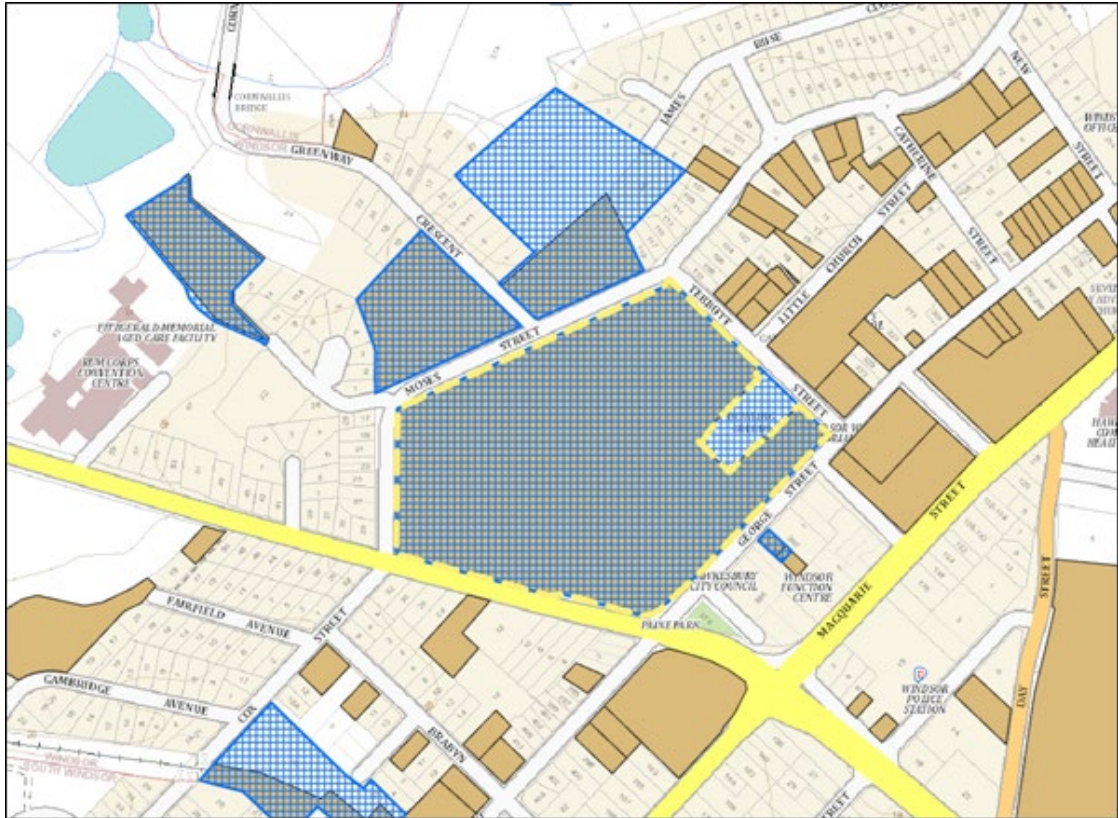
**Figure 3 Zoning Map with subject site outlined in yellow (Source: DoP Spatial Viewer)**



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**Figure 4 Heritage Map outlining Heritage Item (01851 – McQuade Park)**  
(Source: DoP Spatial Viewer)



**Figure 5 Existing rear elevation (location of proposed works)**



**Figure 6 External toilet to be demolished**  
(Red outline emphasis added)

**2. Relevant Site History**

The site was subject to the following development applications:

Application	Proposal	Determination
DA0699/05	Extension to existing kiosk building for additional storage and toilet facilities	Approved – 13/10/2005
<a href="#">DA0567/06</a>	New cricket storage facility	Approved – 20/11/2006
<a href="#">DA0056/16</a>	Recreational Area - Memorial Structure	Withdrawn
<a href="#">DA0350/23</a>	Proposed construction of a Cenotaph	Approved – 21/03/2024

**3. The Proposal**

The proposal (as amended) seeks consent for the alterations and additions to the existing Country Women’s Association (CWA) building located to the south-east of McQuade Park, and to the north-east of the existing lake. The proposal will specifically include the following:

- Demolition of the external toilet (Figure 6) and replacement with an accessible toilet;
- Minor increase to GFA of 6.1m<sup>2</sup> as part of the rear bathroom addition;
- New external (unroofed) rear deck with access ramp down to existing garden
- Upgrade of existing internal bathroom facilities.

No changes are sought to the ongoing operations or use of the community building as part of this development application.

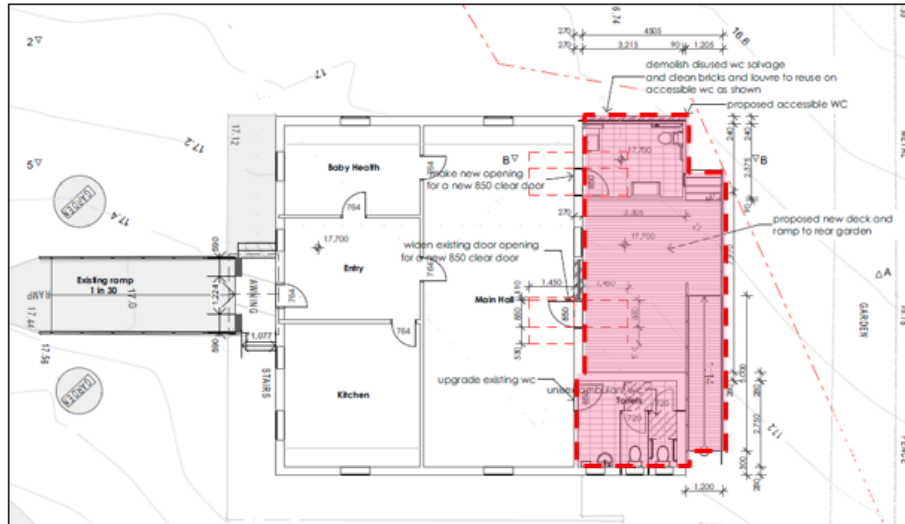


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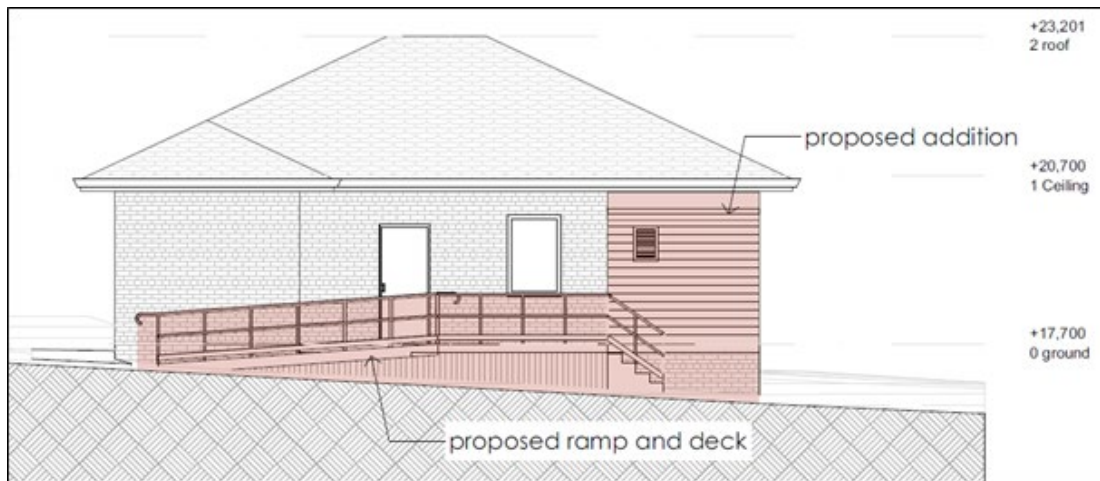
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The proposed alterations and additions are consistent with the targets of the Plan of Management for McQuade Park (see Section 9 and Section 10 of this report).



**Figure 7 Proposed Floor Plan showing layout of proposal submitted with DA0298/23**  
(Red outline and emphasis added – not to scale)



**Figure 8 Proposed Elevation (North-West / rear) submitted with DA0298/23**  
(not to scale)

**4. Relevant Application History**

Date	Comment
12/01/24	Application lodged on the NSW Planning Portal.
29/04/24	Feedback from Heritage NSW.
30/04/24	Amended Plans addressing Heritage NSW comments lodged (proposed “as amended”)

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**5 Referrals**

<b>Stakeholder</b>	<b>Comment</b>
<b>Parks Officer</b>	Nil Comment.
<b>Building Surveyor</b>	Nil Comment.
<b>SMF Officer</b>	<p><i>This property is connected to Council’s Sewerage Scheme. They will need plumbing and drainage inspections done if they are doing any sanitary drainage as part of the toilet upgrade.</i></p> <p><i>More information required: Distance from sewer to nearest point of deck and sewer to nearest point of structural wall.</i></p> <p><b>Comment:</b> Addressed within conditions of consent.</p>
<b>Infrastructure Services</b>	<p><i>A sewer peg out (aka service protection report) will be required to confirm suitability. I would advise developer to do this sooner rather than later in case an issues a rises with the distance of the sewer to development.</i></p> <p><b>Comment:</b> Addressed within conditions of consent.</p>
<b>Heritage Advisor</b>	<p><i>“The subject historic Inter – War Country Women’s Association Building is not individually heritage listed but it forms part of the McQuade Park (State) heritage listing (listed- as item I01851).</i></p> <p><i>Subject to the imposition of the recommended heritage related conditions mentioned below no objections are raised to the proposed development which would be unlikely to result in any adverse heritage impacts on the subject Inter-War building, the other heritage features of McQuade Park, or other nearby State and locally listed heritage items.</i></p> <p><i>1. The proposed demolition of the original rear toilet is not supported on heritage grounds and does not form part of the consent for this application.</i></p> <p><i>2. The existing original timber window and all associated joinery, sills, and hardware on the western rear wall of the building is to be carefully removed along with the original brickwork from below sill level and all these original items are to be safely stored on site for re-use/repairs for the building, in the future. Details to be shown on the future construction certificate plans.</i></p> <p><i>3. The existing rear timber panelled multilight door on the western rear elevation of the building and associated joinery, architraves and hardware is to be adaptively re-used for the entry door to the new accessible toilet or to be safely retained and stored on site for potential re-use in the future. Details to be shown on the future construction certificate plans.</i></p> <p><i>4. The proposed timber weatherboards for the addition shall have a plain timber weatherboard profile and shall have a minimum thickness of 20-25 mm. Details to be shown on the future construction certificate plans.</i></p> <p><i>5. The roof and rainwater goods of the rear addition shall comprise of traditional corrugated galvanised steel and the form of the gutters and downpipes shall match the form of the existing gutters and downpipes on the subject building. Details to be shown on the future construction certificate plans.</i></p>

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Stakeholder	Comment
	<p>6. <i>The rear decking shall comprise of hardwood timber with the brickwork for the piers for the decking to match the colour of the existing, original brickwork for the building. Details to be shown on the future construction certificate plans.</i></p> <p>7. <i>The colour/ finish of the balustrading for the rear deck and ramp shall complement/be sympathetic to the existing external colour scheme of the building. Details to be provided with the future construction certificate.</i></p> <p><b>Comment:</b> Demolition of the rear toilet is supported (contrary to recommended condition #1) on planning grounds given the removal of the rear toilet facilitates development that is consistent with the objectives and performance targets outlined within the McQuade Park Plan of Management, and that there are no objections to the removal of this component of the CWA building from the Heritage Council of NSW. The remainder of the conditions (#2 - #7) are included within the recommended conditions of consent.</p>
	<b>External Referrals</b>
<b>Heritage Council of NSW</b>	<p><i>Approval, subject to General Terms of Approval</i></p> <p><b>Comment:</b> These conditions have been included as conditions of this consent.</p>

## 6. Environmental Planning Instruments

### 6.1 Overview

The instruments applicable to this application are:

- State Environmental Planning Policy (Biodiversity & Conservation) 2021
- State Environmental Planning Policy (Resilience & Hazards) 2021
- State Environmental Planning Policy (Transport & Infrastructure) 2021
- Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) (SREP No. 20)
- Hawkesbury Local Environmental Plan 2012 (HLEP 2012)
- Hawkesbury Development Control Plan 2002 (HDCP 2002) & 2023 (HDCP 2023)
- Hawkesbury City Council Flood Policy 2020
- McQuade (Windsor) Park Plan of Management (November 2022)

### 6.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The State Environmental Planning Policy (Biodiversity & Conservation) 2021 applies to the site.

#### Chapter 2 – Vegetation in Non-Rural Areas

The Biodiversity and Conservation SEPP regulates clearing in non-rural areas.

This development application does not propose the removal of any trees or vegetation.

Chapter 6 – Water Catchments

Chapter 6 of the Biodiversity and Conservation SEPP generally aims to improve water quality and river flows, protect and enhance the environmental quality of water catchments and ensure consistency with local environmental plans and principles of ecologically sustainable development. The site is mapped as being located within the Hawkesbury-Nepean Catchment. Given the small-scale nature of the proposed development, there will be a neutral effect on water quality in the catchment, with modest modifications to the roof form to connect to the existing stormwater infrastructure.

**6.3 State Environmental Planning Policy (Resilience and Hazards) 2021**

The State Environmental Planning Policy (Resilience and Hazards) 2021 applies to the site.

Chapter 4 – Remediation of Land

The aims of this chapter is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. In accordance with this chapter, Council must consider if the land is contaminated, and if it is contaminated, if the land can made suitable for the intended use.

The proposal includes the demolition of a small existing toilet to the rear of the existing building, construction of a new deck and accessible bathroom, with internal renovations to the existing bathrooms. Given the existing use of the subject site is for community facility and previous application records indicate there are no previous potentially contaminating use, there is no specific evidence that indicates the site is contaminated.

**6.4. State Environmental Planning Policy – Transport and Infrastructure 2021.**

The relevant matters to be considered under Chapter 2 of the SEPP for the proposed development outlined below.

Clause 2.120 Impact of road noise or vibration on non-road development

This clause applies to development that is located adjacent on a frontage to a classified road. Hawkesbury Valley Way is identified as a SP2 – Classified Road and is located along the southern portion of the site.

*2.119 Development with frontage to classified road*

1. *The objectives of this section are—*
  - a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
  - b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
2. *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
  - a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
  - b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
    - i) *the design of the vehicular access to the land, or*

- ii) *the emission of smoke or dust from the development, or*
- iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The Country Women's Association (CWA) Building, while part of McQuade Park, is not directly accessible from Hawkesbury Valley Way (being the classified road), but rather, has direct frontage and is accessed from George Street. The deck and bathroom renovations (including addition) will not result in any adverse impacts on traffic; nor is the development sensitive to traffic noise as a result of the site's location adjacent to a classified road.

## **7. Hawkesbury Local Environmental Plan 2012**

The relevant matters considered under the HLEP 2012 for the proposed development are outlined below:

### **7.1. Clause 1.2 Aims of plan**

*(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*

- *to provide the mechanism for the management, orderly and economic development and conservation of land in Hawkesbury.*
- *to provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production,*
- *to protect attractive landscapes and preserve places of natural beauty, including wetlands and waterways,*
- *to protect and enhance the natural environment in Hawkesbury and to encourage ecologically sustainable development,*
- *to conserve and enhance buildings, structures and sites of recognised significance that are part of the heritage of Hawkesbury for future generations,*
- *to provide opportunities for the provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups in Hawkesbury,*
- *to encourage tourism-related development that will not have significant adverse environmental effects or conflict with other land uses in the locality.*

The proposed development will allow for the continued use of the site for public recreation purposes and as a community facility and allow the continuation of community health and recreational services. In doing so, the proposed development is considered to align with aims (aa), (b),(e) under the HLEP 2021.



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#### 7.2. Clause 2.3 Zone objectives and Land use table.

The site is zoned RE1 – Public Recreation under the HLEP 2012. The objectives of the RE1 zone are as follows:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To protect and enhance the natural environment for environmental purposes.*
- *To restrict development on land required for future open space purposes.*

The proposed development achieves the above objectives, as it:

- Enables the continuation of use of a public community facility within a public open space that facilitates recreational activities and an ongoing compatible land use;
- Provides a suitable platform used for recreational purposes;
- Does not involve the removal of any trees or native vegetation, thus protecting the natural environment in which the proposed development is located.

The proposed development is best described as alterations and additions to an existing 'community facility', which is a permissible form of development in the RE1 zone under the HLEP 2012. A 'community facility' is defined as:

**Community facility** means a building or place –

(a) *owned or controlled by a public authority or non-profit community organisation, and*

(b) *used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.*

Clause	Comment
<b>Part 4 – Principal development standards</b>	
<b>4.1 Minimum subdivision lot size</b>	The application does not include subdivision works.
<b>4.2 Rural subdivision</b>	N/A
<b>4.3 Height of buildings</b>	No nominated height controls for the site.
<b>4.4 Floor Space Ratio</b>	No nominated FSR for the site.
<b>4.6 Exceptions to development standards</b>	The proposed development does not seek any variation to the development standards.
<b>Part 5 – Miscellaneous provisions</b>	
<b>5.1A Development on land intended to be acquired for public purposes</b>	The site is already zoned RE1 – Public Recreation and is used as a park for public purposes.
<b>5.10 Heritage conservation</b>	The site is zoned RE1 – Public Recreation and is identified as being of State heritage significance (SHR No: 01851). McQuade

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Clause	Comment
	<p>Park's significance is based on its outstanding and rare feature of Governor Macquarie's concept of a planned country town in 1810. A central square played a pivotal role in a Macquarie town and McQuade Park retains this role in relation to public activities and open space, as well as its relationship to one of the great early churches and cemeteries of New South Wales (St Matthews). The intimate association with Macquarie himself and with his chief surveyor, James Meehan, is of state significance.</p> <p>A Heritage Impact Statement was lodged with the application and satisfactorily addresses the matters for consideration under Clause 5.10 with respect to Heritage Conservation.</p> <p>The application was referred internally to Council's Heritage Advisor, who provided feedback on the development and recommended conditions of consent that, where reasonable, have been integrated into the recommended conditions of consent attached to this development assessment.</p> <p>The application was externally referred to the Heritage Council of NSW who have raised no objections to the proposal, subject to standard conditions and the General Terms of Approval (GTA), which have been included as conditions of consent associated with this Development Application.</p> <p><b>Note:</b> <i>Revision E of the plans were submitted in response to comments provided by the Heritage Council of NSW.</i></p>
<b>5.11 Bush fire hazard reduction</b>	The site is not mapped as being located on bushfire prone land.
<b>5.21 Flood planning</b>	The floor levels of the rear addition (deck and bathroom addition) match that of the existing CWA Building and will be an improvement from the existing rear toilet, which is set down below the internal finished floor level of the existing building. The modest nature of the development with respect to additional site cover, and lightweight structure of the deck and ancillary structures will not result in any adverse impacts on the local drainage or floodway characteristics within the larger catchment.
<b>Part 6 – Additional local provisions</b>	
<b>6.1 Acid sulphate soils</b>	The subject site is mapped as containing Class 5 Acid Sulfate Soils and is located approximately 180m away from land affected by Class 4 Acid Sulfate Soils. The proposal includes minimal earthworks in order to accommodate the required demolition and construction of the building additions. The proposal does not include works by which the water table is likely to be lowered below 1m Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. An Acid Sulfate Soils Management Plan was not required in this case.
<b>6.2 Earthworks</b>	No major earthworks are required to accommodate the development. The alterations and additions are modest in size, and will not have any detrimental impact on drainage pattern; soil stability; future redevelopment; quality of cut or fill; the amenity of any adjoining land use; or impact on any environmentally sensitive area. Appropriate measures to

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Clause	Comment
	mitigate the impacts of the development and the likelihood of disturbing relics have been integrated into the recommended conditions of consent.
<b>6.6 Development in areas subject to aircraft noise</b>	The proposed development is not considered to be a noise sensitive.
<b>6.7 Essential services</b>	The subject site accommodates essential services. No proposed changes.

**8. Hawkesbury Development Control Plan 2002 & 2023**

Consideration of the relevant provisions within the Hawkesbury Development Control Plan 2002 & 2023 is provided below:

CONTROL	COMPLIANCE
<b>Chapter 2: Site Analysis</b>	
<p><b>4.1 Site Analysis Plan</b></p> <p>A Site analysis plan must be submitted for construction of any building, external alterations to existing buildings and Torrens title subdivision of land, and must address all matters identified in the acceptable solutions column.</p> <p>The scope of the site analysis will depend on the scale and nature of the development, the sensitivity of the site and the extent of the area that may be affected by the proposed development. The site analysis must clearly demonstrate an appreciation of the site and its context, and the opportunities and constraints on the layout and design of the site. The site must demonstrate that the development will integrate within the streetscape or context when considering scale, proportion and massing.</p>	<p>Site Analysis Plan (Drawing No DA01) has been submitted with the development application and adequately details the location of new works, with the exception of the external stairs shown on the floor plan.</p> <p>A condition of consent to update the site plan has been incorporated into the recommended conditions of consent.</p>
<b>Chapter 3: Heritage</b>	
<p><b>5 Heritage Management Documents</b></p> <p>For development proposals affecting a heritage item, conservation area or sites in the vicinity of a heritage item or conservation area, the applicant will be required to prepare a Heritage Impact Statement in order to assess the impact of the proposed works on the heritage significance of the heritage item(s) and/or conservation area concerned. Heritage Impact Statements should be prepared in accordance with the Australia ICOMOS Burra Charter 2013 and NSW Heritage Office Guidelines Statements of Heritage Impact.</p>	<p>The application has been supported by a Statement of Heritage Impact (SoHI) prepared by Christo Aitken + Associates, dated July 2023.</p> <p>The SoHI considers several development options for the CWA building with respect to accessible upgrades and Council's long-term development targets for the CWA building (refer to Section 9 of this report). The HIS concludes that the proposed alterations and additions will not have a significant impact on McQuade Park, with the proposal in its current form offering a balanced massing outcome to the rear elevation, where the existing rear door and window can be retained and the additions are appropriately sited.</p>

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<b>CONTROL</b>	<b>COMPLIANCE</b>
<p><b>6.3 Alterations and Alterations</b></p> <p>The scale, form and siting of alterations and additions to a heritage item are not to diminish the heritage significance of a heritage building or place.</p> <p><b>6.5 New Development Within The Curtilage of a Heritage Item</b></p> <p>Any development within the curtilage of a heritage item is to be designed and sited so that the heritage significance of the item is conserved.</p>	<p>The alterations and additions will maintain a character, scale and external appearance that provides for an appropriate visual relationship with the heritage significance of the surrounding park. The proposal will be appropriately sited, with adequate landscaping remaining around the perimeter of the CWA building.</p>
<p><b>Chapter 5: Traffic Access, Street Design and Parking</b></p>	
<p><b>4.1 Off Street Parking Rates</b></p> <p>D1.1.1 Parking is to be provided in accordance with Table 01. Uses not referred to in the Table 01 will be assessed on merit for bicycle, motor cycle and car parking. Note: In the circumstances where the car parking and/ or other requirements are not defined by this chapter for a particular land use or where a development may cause a potential significant impact on the surrounding road network and properties, a detailed Car Parking and Traffic Impact Assessment Study and Road Safety Audit may be required to be prepared for the proposed development to substantiate proposed parking provisions.</p> <p>Community facilities: On merit. Traffic and parking study may be required depending on scale of the development, taking into consideration the proposed uses and equivalent rates for similar uses.</p>	<p>The proposal involves a modest increase to GFA of approximately 6.1m<sup>2</sup> to accommodate an accessible bathroom, which is not an intensification of the existing use of the premises.</p> <p>The inclusion of an accessible bathroom in addition to the modest internal renovations and rear deck would not generate any adverse traffic impacts which would require any additional traffic mitigation measures.</p> <p>The development, being for the purpose of a community facility, therefore does not warrant any additional traffic or parking consideration notwithstanding an abundance of public parking around the perimeter of McQuade Park.</p>

**Hawkesbury City Council Flood Policy 2020**

The application has been assessed against Councils Flood Policy. The development is required to be designed and certified by a structural engineer to withstand 1:100-year flood forces including buoyancy forces. Appropriate conditions of development consent have been imposed.

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**9. McQuade (Windsor) Park Conservation Management Plan (2004)**

<b>CONSERVATION POLICY</b>	<b>RESPONSE</b>
<b>6.5.2 Landscape Design</b>	
B1 Consider fencing the entire park perimeter (e.g. a simple arris rail and timber post fence) and install gates to allow control of vehicular access	No changes proposed.
B2 Enhance and reinforce the bold avenue plantings to the Park perimeter and to the internal road.	No changes proposed.
B3 Avoid introducing permanent monuments, memorials or artworks within Windsor (McQuade) Park that have no direct, compelling relevance to the site.	No changes proposed.
B4 Enhance the south western corner of the Park with a passive recreational focus by planting with additional shade trees, the placement of which creates visual connections to the lake.	No changes proposed to existing landscaped nature of the site.
B5 Enhance the Lake precinct with additional tree plantings and, where appropriate, related structures that complement its use as a major passive focus. Consider incorporating indigenous wetland species as a means of interpreting the earlier (Macquarie era) vegetation regime in this area.	No changes proposed to existing landscaped nature of the site.
B6 Enhance and reinforce the avenue of memorial plantings in the vicinity of the Macquarie Memorial.	No changes proposed to existing landscaped nature of the site.
B7 Ensure the conservation of the War Memorial structures and gardens	No changes proposed to existing landscaped nature of the site.
B8 Provide an integrated formal carpark design in conjunction with a landscape masterplan for the northeastern part of the park.	No changes proposed.
<b>6.5.3 Paths</b>	
C 1 Pathway entrances to the park should be designed to a standard suitable for wheelchair access.	No changes proposed.
<b>6.7 Interpretation</b>	
E1 Ensure the photographs, histories and plans pertaining to Windsor Park are catalogued and made available in the Local Studies section of the Hawkesbury City Council Library.	The recommended conditions of consent include the preparation of a Photographic Archival Recording, to be provided to both Council and the Heritage Council of NSW.
<b>6.8 Use</b>	
F5 Review the use of the CWA building with a view to optimising the opportunities provided by its location and facilities.	<p>The use of the building as a community facility will continue (no change to existing).</p> <p>The proposed improvements to the bathrooms, rear entry ramp and rear deck extension are consistent with the identified development opportunities, management framework and performance targets of the current Plan of</p>

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CONSERVATION POLICY	RESPONSE
	Management for the McQuade Park, which includes the CWA Building.
<b>6.9 Management</b>	
G2 There should be no subdivision of the park or excisions from or alienation of parts of the park.	No changes proposed.
<b>6.10 Future Developments</b>	
H1 Future development should be consistent with the significance of the open space character of the Park, the passive recreational aspects and the importance of the continuing use of the Park for sporting events.	The proposed development is not considered to create detrimental impacts to the significance of the open space character of McQuade Park, or impact upon its ability to cater for community based recreational activities and events.
H2 New design for replacement structures should be of an appropriately high standard sympathetic to the context and subservient to the cultural significance of the place.	The proposed alterations and additions are modest in nature, are considered to be of a high standard, which is sympathetic to the context and cultural significance of the park and will not detract from the significance of the CWA Building.

#### 10. Plan of Management – McQuade Park, Windsor (November 2022)

At its meeting on the 22 February 2022, Council resolved to exhibit the draft Plan of Management for McQuade Park. The Plan of Management was exhibited between August – September 2022, and adopted in November 2022.

The McQuade Park Plan of Management is the key strategic planning and governance tool that Council has in place for the management and use of the Park. The Plan of Management establishes a vision and relevance for the next 5-10 years and provides certainty to Council and the community about how the reserve will be used. The Plan of Management provides the rationale for decision-making and consistency with the principles of Crown Land management and reserve purpose; and sets out the objectives and performance targets for managing the Crown reserve; use of the land; and development on the land.

##### Country Women's Association (CWA) Building

The proposed development is consistent with the aims and objectives of the McQuade Park Plan of Management, which identifies the following development opportunities and development targets for the Country Women's Association (CWA) building:

- *"The 2013 PoM noted that the CWA building and location offer significant opportunities for broader integration and engagement with the park and user groups. The Hawkesbury Vibrant Towns and Villages Liveability project, identified this location as being suitable for adaptive re-use, including a visitor information centre, interpretation centre and/or bike hire. Part of the building could be retained for existing CWA uses and functions.*
- *The CWA, however, have some concerns regarding the compatibility of these proposals with their existing use of the building. Concerns are centred around security and the need to retain exclusive use of areas such as sewing rooms and kitchen.*
- *Some potential improvements could include an extension toward the rear garden with decking to provide an outdoor café/ kiosk with elevated views over the lake precinct. These facilities could be leased, potentially generating an important source of funding for both the CWA and the park.*

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- Council has recently prepared plans for an upgrade of the existing CWA building. These works include improved accessibility with new front and rear entry ramps, rear deck extension and accessible bathroom, and internal upgrades of the main dining/ meeting room, kitchen, and storage areas.”

Further, the proposed improvements to the bathrooms, rear entry ramp and rear deck extension are consistent with the identified development opportunities, management framework and performance targets of the current Plan of Management for the McQuade Park and CWA Building, which are:

- To establish opportunities for broader integration and engagement with the park and lake-side precinct.
- To permit sympathetic development of community and recreational facilities consistent with the park’s traditional character and cultural heritage significance.
- To improve accessibility to the building (front and rear ramped access) and other upgraded facilities.
- To improve diversity for park visitors and user groups, providing opportunities and synergies for social, cultural, and recreational opportunities.

Figure 9 (below) is an excerpt of the planned upgrade of the CWA Building as illustrated within the current McQuade Park Plan of Management. The desired outcome of the upgrades is to provide an improved level of visitor access, public safety and connectivity with the park. The upgrade of the CWA building is of high priority. This application seeks to provide a permanent building upgrade for the long term enjoyment by the community and used in ongoing public and community-engagement services; and ultimately achieve the development targets of the site.



**Figure 9 CWA Building – Proposed Accessibility Upgrade**

(Sourced from the McQuade Park Plan of Management November 2022; Page 39)

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#### Response

The proposed development has been assessed against the above matters for consideration and successfully ensures:

- The protection of the local heritage values and vistas;
- The retention of the open visual quality and low-key character of the lake-side landscape setting;
- Safety and accessibility; and
- A built form which is not excessively bulky and is sympathetic to the recreational character of the existing building and surrounding landscape.

As the site is a State Heritage Item, the application is considered to be *Nominated Integrated Development* pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* as approval is required under Section 58 of the *Heritage Act 1977*. The application was referred to the Heritage Council of NSW, who raised no objections to the proposal, subject to the recommended conditions of consent in the General Terms of Approval, issued on the 2 May 2024.

<b>McQuade Park Action Plan – Performance Targets and/or Management Actions</b>	<b>RESPONSE</b>
<b>A1 Guiding Legislation</b>  Implement actions identified in this upgraded Plan of Management in accordance with the Crown Land Management Act 2016 (CLM Act), Local Government Act 1993 (LG Act), Commonwealth Native Title Act 1993 (NT Act), Heritage Act 1977, and all other relevant legislation and policy including Council's Liveability Project – Vibrant Towns & Villages – Revitalising Windsor Town Centre.	The proposed building upgrades (alterations and additions) are consistent with the actions outlined within the adopted Plan of Management for McQuade Park (Figure 7 & 9).
<b>A2 Future development, land uses and activities:</b> <ul style="list-style-type: none"><li>• To protect the park's State heritage significance, cultural setting, and other identified values from inappropriate uses, activities, and development. To promote the park's role as a broadly accessible, equitable, and safe community asset.</li><li>• To protect the open visual character, its historic landscape setting and significant relationship with St. Matthew's Church group.</li><li>• To actively engage with the community to protect, manage and enhance the park for the community's benefit and for future generations.</li><li>• To improve access, circulation, and connectivity.</li><li>• To protect the park from incremental negative impacts and introduction of unsympathetic elements.</li></ul>	<p>The proposal maintains the park's State heritage significance and does not include a use or activity which threatens or adversely impacts the heritage significance of the site, landscape, cultural setting, aesthetic, or visual, social and cultural values of the site.</p> <p>The proposed building upgrades (alterations and additions) are consistent with the actions outlined within the adopted Plan of Management for McQuade Park (Figure 7 &amp; 9).</p>



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<b>McQuade Park Action Plan – Performance Targets and/or Management Actions</b>	<b>RESPONSE</b>
<ul style="list-style-type: none"> <li>• To ensure that development proposals will have a net positive benefit in relation to identified values.</li> <li>• To improve visitor education and interpretation.</li> </ul> <p>Development proposals, permissible uses and activities, leases/ licences/estates, and management practices must be consistent with:</p> <ul style="list-style-type: none"> <li>• Crown reserve purpose: ‘Public Recreation’ and assigned categories and core objectives.</li> <li>• The park’s State heritage significance (State Heritage listing)</li> <li>• Protection of historic cultural setting, visual quality, open landscape character, commemorative, cultural and sporting values</li> <li>• Maintaining diversity and quality of historic cultural setting, recreational, sporting, and community uses and activities</li> <li>• Ensuring public accessibility, safety, connectivity, equity, and broad community use (including disabled access)</li> <li>• Providing opportunities for broader multiple uses and adaptive re-use of existing infrastructure</li> <li>• Promoting improved water quality in the lake and WSUD principles</li> <li>• Facilitation of programs in community education and interpretation of heritage values including the Heritage Trail Network and Revitalisation of Windsor Town Centre (George Street).</li> </ul> <p>Development proposals, uses and activities which may directly or indirectly threaten or adversely impact any key value(s) of historic heritage significance, landscape and cultural setting, aesthetic, visual, social, cultural or recreational values as identified in this Plan of Management are not permissible.</p>	
<p><b>A3</b></p> <p>To protect key values and significance in accordance with the CMP, listing on the State Heritage Register and this Plan of Management.</p> <p>Development proposals, uses and activities which may directly or indirectly threaten or adversely impact any key value(s) of historic heritage significance, landscape and</p>	<p>The proposal will not adversely affect the heritage significance of the site, landscape, cultural setting, aesthetic, or visual, social and cultural values of the site.</p> <p>The alterations and additions to the CWA building, being proposed to the rear, are sympathetic to the siting of the</p>

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<b>McQuade Park Action Plan – Performance Targets and/or Management Actions</b>	<b>RESPONSE</b>
<p>cultural setting, aesthetic, visual, social, cultural or recreational values as identified in this Plan of Management are not permissible.</p>	<p>existing building within the context of McQuade Park.</p>
<p><b>A4</b></p> <p>To permit appropriate maintenance and development of the park and its community, sporting, and passive recreational facilities consistent with the park’s heritage significance.</p> <p>This Plan of Management expressly authorises the maintenance, repairs, development and upgrading of the park and its facilities including ovals, cricket pitches, grandstand/ spectator seating, rotunda/ bandstand, bike-paths/ walkways, fitness equipment, signs, children’s play area/ equipment, picnic tables, seating, barbeques and shelters [see FIGURE 7: Landscape Masterplan] subject to compliance with State Heritage listing [Heritage Act 1977, s.57 (2) Schedule C: Exemptions to allow work], core objectives and development guidelines.</p>	<p>The proposed building upgrades (alterations and additions) are consistent with the actions outlined within the adopted Plan of Management for McQuade Park (Figure 7 &amp; 9).</p> <p>The development was referred to the Heritage Council of NSW, who have granted General Terms of Approval that form part of the recommended conditions of consent.</p>
<p><b>A6 &amp; A7 Leases or Licenses</b></p> <p>This Plan of Management expressly authorises the granting of a lease or licence for the following:</p> <ul style="list-style-type: none"> <li>• Use of the CWA cottage for community purposes such as baby health clinic, craft and sewing activities.</li> <li>• Adaptive re-use/ extension of CWA cottage as a café/ refreshment kiosk and/ or visitor centre including proposed outdoor area with decking, tables/ seating, and improved accessibility [FIGURE 7].</li> <li>• Tennis courts and associated facilities.</li> <li>• Sporting fields and associated facilities</li> <li>• Mobile/or ‘pop-up’ kiosk or café, including seating (up to 15 people) and picnic area, subject to investigation and leasing of CWA cottage.</li> </ul>	<p>No change to the use of the community facility is proposed under this development application. The CWA building will continue to be used for the baby health clinic, craft and sewing activities.</p>
<p><b>C28 CWA Health Centre/Meeting Hall – Proposed Adaptive Re-Use (Café/Kiosk / Visitor Centre)</b></p> <ul style="list-style-type: none"> <li>• To establish opportunities for broader integration and engagement with the park and lake-side precinct.</li> <li>• To permit sympathetic development of community and recreational facilities consistent with the park’s</li> </ul>	<p>The proposed alterations and additions to the CWA Building are consistent with the planned upgrade for improved accessibility with a new rear entry ramp; rear deck extension and accessible bathroom(s).</p> <p>There are no proposed changes to the use of the community facility (i.e. adaptive reuse is not sought at this</p>

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McQuade Park Action Plan – Performance Targets and/or Management Actions	RESPONSE
<p>traditional character and cultural heritage significance.</p> <ul style="list-style-type: none"><li>• To improve accessibility to the building (front and rear ramped access) and other upgraded facilities.</li><li>• To improve diversity for park visitors and user groups, providing opportunities and synergies for social, cultural, and recreational opportunities.</li></ul> <p>The CWA building and location offer significant opportunities for broader integration and engagement with the park and user groups. The rear garden could accommodate an extension with decking to provide an outdoor café/ kiosk with elevated views over the lake precinct. These facilities could be leased, potentially generating an important source of funding for both the CWA and the park. Further options for adaptive re-use of the cottage may include a visitor information centre, interpretation centre and/or bike hire. Part of the building could be retained for existing CWA uses and functions. These improvements are likely to deliver further benefits to the community, promoting greater diversity for park visitors, enhancing social, cultural, and recreational opportunities, and establishing broader connectivity with Council's Liveability Project and Revitalisation of Windsor Town Centre (see George Street proposed upgrade).</p> <p>Council has recently prepared plans for an upgrade of the existing CWA building (<b>Figure 9 of this report</b>). These works include improved accessibility with new front and rear entry ramps, rear deck extension and accessible bathroom, internal upgrades of main dining/ meeting room, kitchen, and storage areas.</p>	<p>time). The CWA building will continue to be used for the baby health clinic, craft and sewing activities.</p>

#### 11. Development Contributions

Pursuant to Council's adopted 7.11 Contributions Plan, the proposed works do not trigger development contributions.

#### 12. EP&A Regulations 2021

Applicable regulation considerations for compliance with the Building Code of Australia, PCA appointment and notice of commencement of works, sign on work sites, critical stage inspections and records of inspection will be covered under the recommended conditions of consent.

#### 13. The likely impacts of the development

The development application seeks consent for the construction of alterations and additions to the rear of the Country Women's Association (CWA) Building located at 361 George Street, Windsor. This application seeks to provide accessible upgrades, including bathroom facilities and a rear deck with an accessible ramp to the rear of the existing building. The development achieves the performance

targets and management actions outlined within the Plan of Management for the McQuade Park (updated November 2022).

The proposed development is considered to deliver an appropriately balanced and responsive planning and heritage outcome that enables ongoing use and the potential future adaptive reuse of the community facility. The alterations and additions sought by the development are characteristic of the site and its heritage significance and will not appear visually excessive when viewed from either George Street or from McQuade Park and its surrounding lake and landscaped setting.

The proposal does not include excessive earthworks to accommodate the proposed development, with the proposed works being considered to be minor in nature.

The application is a nominated Integrated Development pursuant to Section 58 of the Heritage Act 1977. The application was referred to the Heritage Council of NSW, who have raised no objections to the proposal, subject to General Terms of Approval.

The proposal is not considered to result in adverse economic and social impacts, and is consistent with Council's target of providing additional recreational opportunities and revitalisation of the Windsor Town Centre. In this regard, the proposed development can be supported subject to the imposition of appropriate conditions.

#### **14. Suitability of the Site**

The site is located in an RE1 Public Recreation zone with the proposal being a permissible form of development with consent. The proposed development is sought to support the ongoing use of the Country Women's Association (CWA) Building. The proposed bathroom facility upgrade and rear deck results in a modest addition of 6.1m<sup>2</sup> of gross floor area. No changes are proposed to the existing parking and access arrangement.

Additionally, the application is nominated Integrated Development pursuant to Section 58 of the Heritage Act 1977. The application was referred to the Heritage Council of NSW, who have raised no objections to the proposal, subject to General Terms of Approval.

#### **15. Public Consultation**

In accordance with Council's Community Participation Plan 2019, the Development Application was advertised from 18 January 2024 to 19 February 2024. No submissions were received.

The application was re-notified from the 18 June 2024 to 16 July 2024. No submissions were received.

#### **16. Public Interest**

The proposed development has been considered to relate to the size, shape and context of the site and has been designed in accordance with the existing character of the existing CWA Building and integrate into the heritage context of McQuade Park.

The proposal has been designed to minimise, as far as practicable, any adverse effects on the heritage listed site, with the development complying with the principal controls and/or objectives of the LEP and the DCP. The proposal is not considered to result in adverse amenity impacts to nearby residents and the public.

The proposed alterations and additions align with the targets and actions outlined within the Plan of Management for McQuade Park.

Accordingly, the proposed development is considered in the public interest.

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**Attachments**

**AT - 1** S4.15 assessment Report & Recommended conditions - *(Distributed under separate cover)*.

**AT - 2** Plans used during assessment - *(Distributed under separate cover)*.

**oooO END OF REPORT Oooo**

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### 2. REPORTS FOR DETERMINATION

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#### 2.1.2. DA0364/23 - 173 March Street, Richmond - (96329)

Directorate: City Planning

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#### EXECUTIVE SUMMARY

The application seeks the redevelopment of a residential flat building on the site of 173 March Street, Richmond. The site is zoned R2 Low Density Residential to which the development of a residential flat building is prohibited under the Hawkesbury Local Environmental Plan 2012 (LEP).

It is noted that a GIPA request revealed several consents related to the initial development of a residential flat building on the site (refer to section 3). In this respect, the use of the site as a residential flat building has been demonstrated as lawful and has not ceased for a period of more than twelve (12) months. In this respect, the site benefits from existing use rights under Division 4.11 of the EP&A Act 1979.

Pursuant to section 164 of the EP&A Regulations 2021, an existing use, where demonstrated that it has commenced lawfully, can be enlarged, expanded and intensified subject to development consent.

It is recognised that the permissibility of the site for development of a Residential Flat Building is derived from existing use rights notwithstanding the prohibition of such use under an R2 Low density residential zone.

It is noted that the Hawkesbury City Council does not have a Design Review Panel (DRP) constituted under clause 145 (2) of the SEPP. Nonetheless, the Council has engaged EMBECE in providing detailed design advice pursuant to clause 147 (1)(a), (b) & (c). The comments from EMBECE are attached as Appendix 1.

Council and EMBECE have raised concerns with the usability of the common open space (COS) given its location forward of the building line and fronting a classified road that being March Street. The applicant has not provided justification for the usability of this space but instead chose to address this by way of introduction of a palisade fence running the perimeter of the COS. Further, the main thoroughfare into the building and letterboxes have been included in the COS calculations. These spaces allude to 19.57m<sup>2</sup> to which, should be excluded from COS calculations. The removal of this space would also exclude space to the West of the pathway from meeting the minimum dimensions of 3m. This entails to the total removal of 48.8m<sup>2</sup> from the COS calculations bringing the overall COS to 245.7m<sup>2</sup> (noting the ADG requirement for COS is 294.2m<sup>2</sup>). A rooftop COS was discussed in both preliminary meetings with the applicant as well as in the DRP meeting to which the applicant has chosen not to incorporate into the design.

This is further discussed below under section 3D of the ADG assessment. Should the panel accept this solution a condition of consent has been recommended requiring the detailing of fencing prior to the issue of a Construction Certificate.

The proposal was referred to Council's acoustic health and engineering teams who have raised no concerns with the proposal subject to the imposition of conditions. The Department of Defence was referred due to the site proximity to the Richmond RAF Base to which no response was received. TFNSW was referred under a concurrence for section 138 (Non-integrated) road works.

Council has reviewed the additional information request and note that the items are now amenable and the application can be supported subject to the imposition of conditions.

## RECOMMENDATION

Pursuant to Section 4.16 (1)(b) of the Environmental Planning and Assessment Act, 1979:

- **That** the Hawkesbury Local Planning Panel, exercising the function of the consent authority, grant development consent to DA0364/23 for the demolition of existing residential flat building, construction of new residential flat building comprising three levels, basement car-parking, and associated landscape works on the site of 173 March Street, subject to conditions of consent.

The reasons for the conditions imposed on this application are as follows:

1. To facilitate the orderly implementation of the objectives of the *Environmental Planning and Assessment Act 1979* and the aims and objectives of the relevant Council Planning instrument.
2. To ensure that the local amenity is maintained and is not adversely affected and that adequate safeguards are incorporated into the development.
3. To ensure the development does not hinder the proper and orderly development of the subject land and its surrounds.
4. To ensure the relevant matters for consideration under Section 4.15 of *Environmental Planning and Assessment Act 1979* are maintained.

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## BACKGROUND

### 1. Site Description & Conditions

The subject site encompasses a total site area of 1,176.8m<sup>2</sup> with a Residential flat building consisting of four units currently on the allotment. A review of Council's historical maps reveals that the site has historically been used as a Residential flat building since 1968.

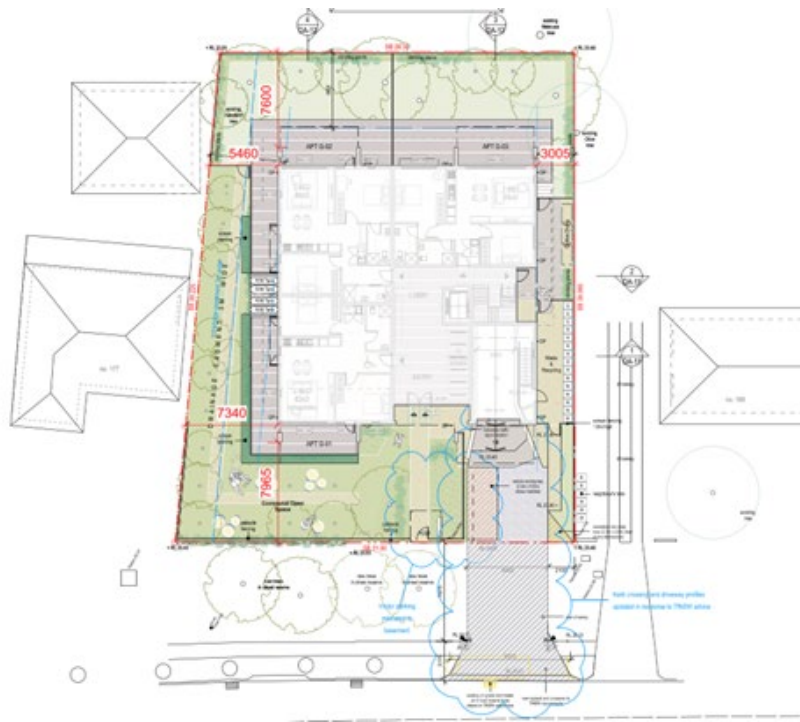
To clarify the location of the application site and specifically that of the subject site, refer to the aerial image and photographs in figures 1-5 below.



**Figure 1. Site location map.**



**Figure 2. Bushfire & Biodiversity values map. Source: Planning Portal**



**Figure 3. Proposed site plan.**



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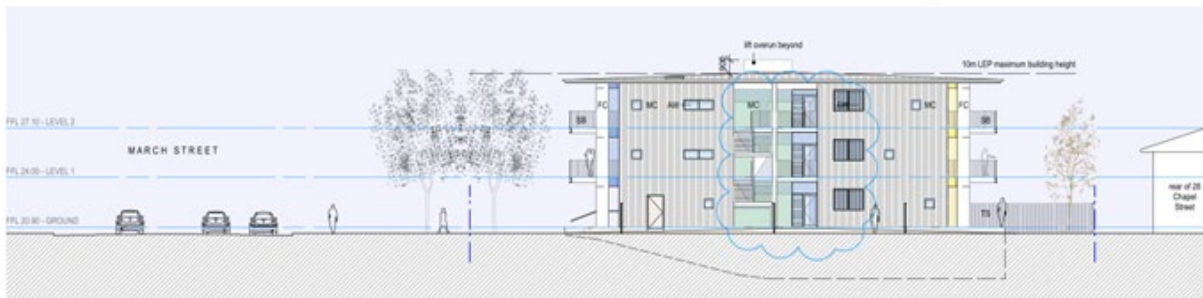


2 South Elevation - Marsh Street  
scale 1:200 at A3



1 North Elevation  
scale 1:200 at A3

Legend  
 AW Aluminum framed door/window  
 FC Compressed fibre cement cladding with Vitrapanel finish  
 MC Metal wall cladding, Colorbond Custom Orb  
 RS Roller shutter  
 SB Steel balustrade with round balusters  
 TS Timber screen, hardwood balustrade



2 East Elevation  
scale 1:200 at A3



1 West Elevation  
scale 1:200 at A3

Legend  
 AW Aluminum framed door/window  
 FC Compressed fibre cement cladding with Vitrapanel finish  
 MC Metal wall cladding, Colorbond Custom Orb  
 RS Roller shutter  
 SB Steel balustrade with round balusters  
 TS Timber screen, hardwood balustrade

Figure 4. Proposed elevations.

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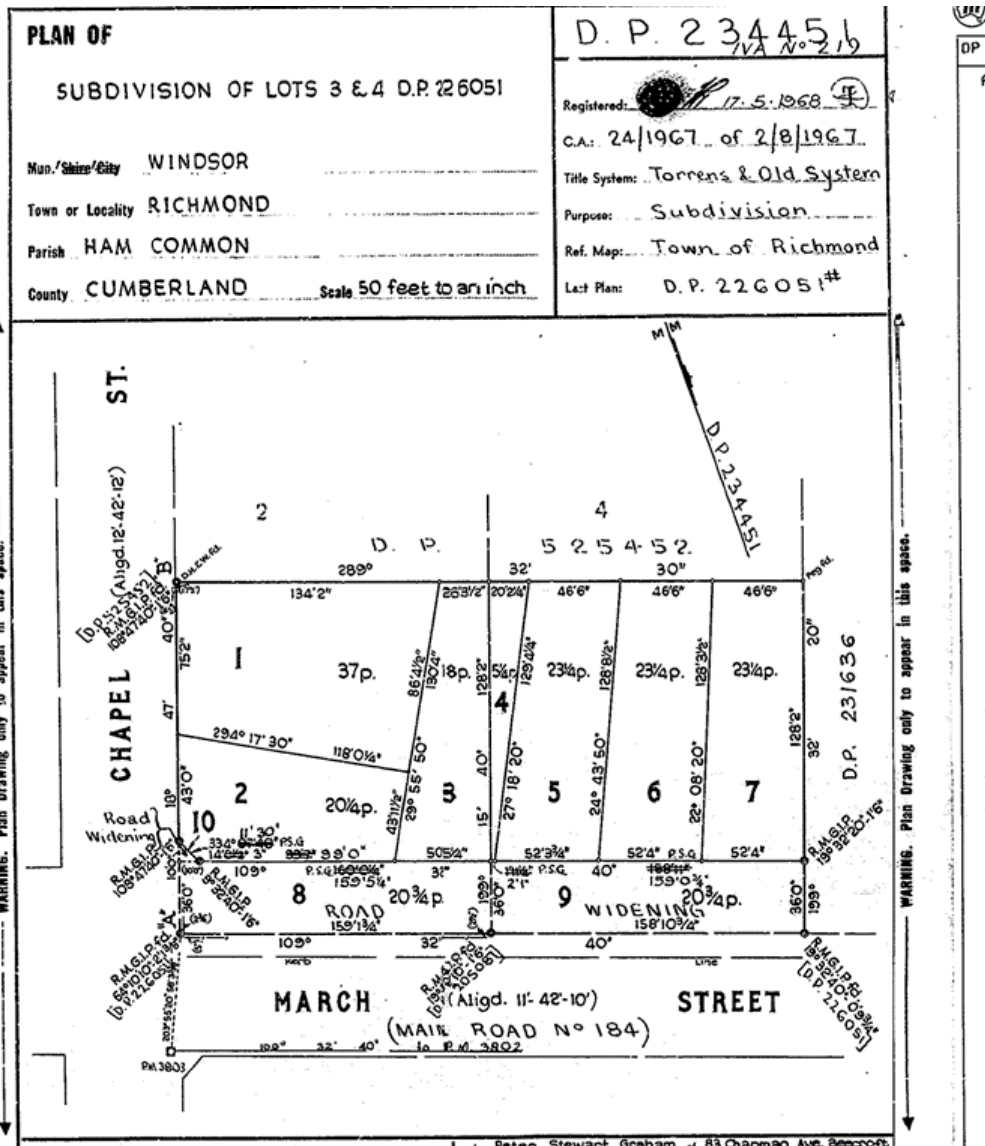


Figure 5. DP 234451

2. Relevant Site History

Date	Comment
30/04/1968	Development of land by the erection thereon of four residential flats approved under 6a/1968
13/08/1968	Four Flats (Brick) approved under BAW0147/68
12/01/1971	Cast Iron Garage approved under BAW0366/70
07/08/2020	PD0046/20 held for the construction of a residential flat building consisting of four additional units.
07/09/2023	Subject application lodged.

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#### 3. The Proposal

The proposal seeks consent for the demolition of the existing residential flat building and the construction of a 3 storey residential flat building accommodating 11 units and basement parking.

The particulars are:

- Demolition of existing structures.
- Construction of a 3-storey residential flat building, to be used for the purposes of general housing, providing a total of 11 self-contained dwellings; consisting of:
  - 11 x two-bedroom dwellings.
- Basement car parking for 13 vehicles, including 2 accessible spaces;
- Associated landscaping works.

#### 4. Relevant Application History

Date	Comment
07/09/2023	Application lodged on the NSW Planning Portal.
07/11/2023	Site visit undertaken.
07/12/2023	TFNSW requested RFI.
11/04/2024	Meeting held with applicant, applicant's planner and owner to discuss the pathway forward for the application noting several issues to the proposed COS, parking layout & Bedroom allocations were raised.
16/05/2024	Preliminary briefing held between Council and EMBECE regarding a Design Review Panel (DRP).
21/05/2024	Applicant issued with Council's DRP report and EMBECE's preliminary review.
27/05/2024	Applicant's response to Council's DRP report and EMBECE's preliminary review provided.
12/06/2024	DRP meeting held. Outcomes of this meeting included the highlighting of COS issues, visitor parking issues and entryway issues.
21/06/2024	Additional information provided.

#### 5. Referrals

Stakeholder	Comment
Engineering	·Supported subject to the imposition of conditions.
Acoustic	·Supported subject to the imposition of conditions.
Waste	·Comments provided.  <i>In terms of the DA below, and going forward for all RFBs DAs, the Resource Recovery Team will require bins to be presented at the kerbside. Unlike other Greater Sydney Councils, we do not use rear-loaders, or runners, or a "collect and return" to the bin bay service. Other Sydney Councils on occasion have allowed a developer to use a private waste contractor ongoing, and have made it a DA condition. In consultation with you, this could be an option for this DA. Let's discuss the best approach for this DA and as a precedent for future DAs,</i>

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Stakeholder	Comment
	<i>realising we only operate a side-lift arm vehicle, and there are no plans to purchase a rear-loader.</i>
<b>External Referrals</b>	
<b>TFNSW</b>	·Concurrence under S138 (non-integrated) of the Roads Act provided.
<b>Department of Defence</b>	·No comments received.

## 6. Environmental Planning Instruments

### 6.1 Overview

The instruments applicable to this application are:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulations 2021;
- Protection of Environment Operations Act 1997
- State Environmental Planning Policy – (Biodiversity & Conservation) 2021
- State Environmental Planning Policy (Resilience & Hazards) 2021
- State Environmental Planning Policy (Transport & Infrastructure) 2021
- State Environmental Planning Policy (Housing) 2021
- Hawkesbury Local Environmental Plan 2012 (LEP 2012)
- Hawkesbury Development Control Plan 2002 (HDCP 2002)
- Hawkesbury Council Flood Policy 2020

### 6.2 State Environmental Planning Policy (Housing) 2021

#### 6.2.1 Chapter 2: Affordable Housing

The development has not been made pursuant to chapter 2 of the SEPP. Accordingly, no affordable housing units are sought or provided under this application.

#### 6.2.2 Chapter 3: Diverse Housing

During the DRP meeting held on the 12th of June 2024, a reference to build to rent housing was made by the applicant. As the application does not meet the provisions of clause 72 (2) & (3), the application is not considered to have been made under the Part 4 Build to Rent Housing under this SEPP.

### **6.2.3 Chapter 4: Design of residential apartment development**

The chapter aims to improve the design of residential apartment development in NSW.

The subject application seeks the development of a three storey residential flat building as defined under clause 144 (3).

It is noted that the Hawkesbury City Council does not have a Design Review Panel (DRP) constituted under clause 145 (2) of the SEPP. Nonetheless, the Council has engaged EMBECE in providing detailed design advice pursuant to clause 147 (1)(a), (b) & (c).

The comments from EMBECE are attached as Appendix 1. Council has summarised the material as follows:

#### **General Comments**

The applicant is to be commended for the objectives of the development which include the following:

- Build to rent and the provision of housing supply.
- Low carbon commitments.
- General principles on siting to create an appropriate built form response and increase opportunities for consolidated landscaping.
- Consideration of the initial design feedback, which has been mostly addressed.

There are only three key items which still need to be considered as further outlined below.

#### **Architectural Character and Materiality**

- Housing SEPP Principle No 1: Context and Neighbourhood Character objectives refer to design which “responds and contributes to its context” and “identifying the desirable elements of an areas existing and future character”.
  - Following the presentation by the applicant, the cladding is generally accepted as a solution.
- HousingSEPPPrincipleNo9: Aesthetics objectives refer to “Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure”.
  - The front elevation and presentation of the middle façade is predominantly a blank wall.
  - Further consideration could be given to the entry to express the residential address and the internal lobby experience.
  - Consideration of the wall treatment above the entry to descale the blank wall.(E.g. texture or screens. Note, pending treatment of the entry level expression, this may not be required.)

#### **Entry (Visitor Car Spaces)**

- The visitor parking is an undesirable outcome for the legibility of the entry and the amenity of the site

- The visitor parking manoeuvring has the potential to conflict with the basement entry
- Following discussions with Hawkesbury Council after the presentation, there could be dispensation for the carparking rates to allow for 1 car space for each apartment and relocate the visitor parking into the basement (spots 12 and 13).
- Removal of the visitor car spaces to the basement will improve the residential entry to the street, remove the conflict of car manoeuvring and better address the Housing SEPP Principle 1

### Communal Open Space

- Housing SEPP Principle 6: Amenity objectives refer to housing amenity which allows for “visual and acoustic privacy.”
  - The location of the primary communal open space to the front of the development along a classified road is not considered a great outcome. It does not offer visual and acoustic amenity to address the Housing SEPP Principle 6.
- Housing SEPP Principle 8: Housing Diversity and Social Interaction objectives refer to “different types of communal open space for a broad range of people.”
  - It is acknowledged that the amended landscaping to the west boundary delivers more seating opportunities
- Communal open space calculations do not comply with the DCP, waste areas, services areas entry circulation have been included in the calculation.
- Consider where an additional communal open space can be allocated to provide a supplementary space for gathering away from the main road and to comply with the total area of communal open space.

### Council’s response:

In response to the DRP report provided to the applicant, the applicant provided an amended package on the 21 June 2024.

The following comments are made with respect to the areas of concern highlighted by EMBECE.

### Architectural Character and Materiality

- A combination of metal and coloured metal cladding has now been incorporated into all facades of the development.
- Face brick has been incorporated into the entry wall.
- Bedroom windows added to South elevation.

**Note:** the changes above to the building façade is satisfactory, though it does not significantly enhance the overall aesthetic of the building.

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Figure 6. Original Elevations submitted as part of DA package.



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**Figure 7. Amended Elevations submitted as part of post DRP package.**

### Entry (Visitor Car Spaces)

- Visitor parking spaces removed from at-grade to basement level.
- It is noted that as a result of this, the parking spaces provided to each dwelling is reduced to one per domicile.

**Note:** Council is supportive of the change. Given the proximity of the site to Richmond Station (700m as the crow flies), the reduction to one parking space per dwelling is reasonable. Further, two visitor spots are maintained to support the 11 dwellings proposed pursuant to Table 1 of the Hawkesbury DCP 2023.



Communal Open Space



**Figure 8. Original COS spaces submitted as part of DA package.**



**Figure 9. Amended COS spaces submitted as part of post DRP package.**

- Per figures 8 & 9, the removal of the at-grade visitor parking spaces has allowed for the expansion of the COS to the driveway boundary.
- Removal of waste room and clothes drying area from COS calculations.

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**Note:** Council and EMBECE have raised concerns with the usability of the COS given its location forward of the building line and fronting a classified road that being March Street. The applicant has not provided justification for the usability of this space but instead chose to address this by way of introduction of a palisade fence running the perimeter of the COS. Further, the main thoroughfare into the building and letterboxes have been included in the common COS calculations. These spaces allude to 19.57m<sup>2</sup> to which, should be excluded from COS calculations. The removal of this space would also exclude space to the West of the pathway from meeting the minimum dimensions of 3m. This entails to the total removal of 48.8m<sup>2</sup> from the COS calculations bringing the overall COS to 245.7m<sup>2</sup> (noting the ADG requirement for COS is 294.2m<sup>2</sup>). A rooftop COS was discussed in both preliminary meetings with the applicant as well as in the DRP meeting to which the applicant has chosen not to incorporate into the design.

This is further discussed below under section 3D of the ADG assessment. Should the panel accept this solution a condition of consent has been recommended requiring the detailing of fencing prior to the issue of a Construction Certificate.

Apartment Design Guide (ADG) Assessment

The SEPP also requires the Consent Authority to take into consideration the requirements of the ADG with regard to the proposed residential apartment building. An assessment under the ADG has been undertaken and discussed below:

Clause	Comment	Compliance		
<b>Part 2 – Developing the controls</b>				
<b>Note:</b> This part explains the application of building envelopes and primary controls including building height, floor space ratio, building depth, separation and setbacks. It provides tools to support the strategic planning process when preparing planning controls. It is used here only to ascertain degrees of compliance with the most applied controls under Parts 3 and 4 later in this table.				
<b>2E Building Depth</b>				
Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line.	<p>The proposed building ranges in depth generally between 7.5m to 8.6m.</p> <p>The proposed building depth allows for appropriately sized rooms with sufficient solar access and natural ventilation. Further, the building will not appear as overly dominant or out of character with the surrounding environment or the desired future character.</p>	<b>Yes.</b>		
<b>2F Building Separation</b>				
<p>Minimum separation distances for buildings up to 4 storeys should be:</p> <ul style="list-style-type: none"> <li>12m between habitable rooms / balconies</li> <li>9m between habitable and non-habitable rooms</li> <li>6m between non-habitable rooms</li> </ul>	<b>Separation</b>	<b>Control</b>	<b>Proposed</b>	<b>Supportable.</b>
	East	12m	7.2m	
	West	12m	10.79m (to adjacent dwelling)	
	Rear (North)	12m	9.1m (6m to Boundary)	
<b>Note:</b> The developments located on 28 Chapel Street (North of the site) and 169A/171A March (West of the site) Street contain residential flat buildings.				

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	<p>These developments have been taken to have potential for redevelopment under the same existing use rights benefiting the subject application.</p> <p>The siting of the development to the East of the site reflect a 6m separation distance noting that the site would not be developed further. In this instance, strict compliance with a 12m eastern setback would inhibit the development of the site noting that the site contains a frontage of 31.9m.</p> <p>To the North, the proposed setback of 6m is appropriate given that should the adjoining site be developed, a separation distance of 12m can be met.</p> <p>To the East of the site, a separation distance of 10.79m has been provided to the existing residential flat building. Council considers the setback as appropriate given the opportunity for further development that the adjoining site benefits from. In this respect, the provision of a 3m boundary setback allows the adjoining property (should they develop in future) to provide a 9m setback, noting the adjoining site benefits from a larger lot depth.</p>	
<b>2G Street Setbacks</b>		
<p>Determine street setback controls relative to the desired streetscape and building forms, for example:</p> <ul style="list-style-type: none"> <li>• Define a future streetscape with the front building line</li> <li>• Match existing development</li> <li>• Step back from special buildings</li> <li>• Retain significant trees</li> <li>• In centres the street setback may need to be consistent to reinforce the street edge</li> <li>• Consider articulation zones accommodating balconies, landscaping etc. within the street setback</li> </ul>	<p>It is considered that the proposed building will define the street frontage for this portion of March Street.</p> <p>The changes above to the building façade are satisfactory, though it does not significantly enhance the overall aesthetic of the building.</p>	<p><b>Yes.</b></p>

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Clause	Comment	Compliance
<ul style="list-style-type: none"> <li>Use a setback range where the desired character is for variation within overall consistency, or where subdivision is at an angle to the street</li> <li>Manage corner sites and secondary road frontages</li> </ul>		
<b>2H Side and rear setbacks</b>		
Test side and rear setbacks with height controls for overshadowing of the site, adjoining properties and open spaces: <ul style="list-style-type: none"> <li>building separation and visual privacy</li> <li>communal and private open space</li> <li>deep soil zone requirements</li> </ul>	Refer to section 2F	<b>Supportable.</b>
<b>Part 3 - Siting the Development</b>		
This part provides guidance on the design and configuration of apartment development at a site scale. Objectives, design criteria and design guidance outline how to relate to the immediate context, consider the interface to neighbours and the public domain, achieve quality open spaces and maximise residential amenity. It is to be used during the design process and in the preparation and assessment of development applications		
<b>3B Orientation</b>		
Building types and layouts respond to the streetscape and site while optimising solar access and minimising overshadowing of neighbouring properties in winter.	The building layout has been orientated to predominantly face March Street and is not out of character with the existing streetscape.	Yes
<b>3C Public domain interface</b>		
Transition between private & public domain is achieved without compromising safety and security and amenity of the public domain is retained and enhanced.	The proposed communal open space forward of the building line does not provide a distinction between private and public domain.  Comments from EMBECE have been provided raising concern with the usability of this space. Whilst the applicant has removed the visitor parking from at grade and into the basement and introduced a palisade fence to address these issues, the main contention of COS location remains.  It is noted that all provision of private open space are compliant under the ADG. It is also noted that Richmond Oval	<b>Supportable subject to conditions.</b>

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	<p>is located 481m<sup>2</sup> from the subject site. In this respect, whilst the usability of the COS on the site is considered to be compromised, there is suitable Public Open Space within the area to support the residents to the site.</p> <p>Should the Panel support the COS orientation, a condition of consent for details of the palisade fence has been recommended.</p>	
<b>3D Communal &amp; public open space</b>		
<p>Provide communal open space with an area equal to 25% of site</p>	<p>Required: 294.2m<sup>2</sup> or 25%</p> <p>Proposed: 245.7m<sup>2</sup> or 20.8%</p> <p>Council has concerns regarding the usability of the proposed communal open space. The proposed communal open space is to cater for a range of age groups and is to provide sufficient area for recreation. As proposed, the landscaped area of the communal open space is predominately occupied by the planting of trees and/or is located within side corridors of the development.</p> <p>Comments from EMBECE have been provided raising concern with the usability of this space. Whilst the applicant has removed the visitor parking from at grade and into the basement and introduced a palisade fence to address these issues, the main contention of COS location remains.</p> <p>Further, the main thoroughfare into the building and letterboxes have been included in the COS calculations. These spaces allude to 19.57m<sup>2</sup> to which, should be excluded from COS calculations. The removal of this space would also exclude space to the West of the pathway from meeting the minimum dimensions of 3m. This entails to the total removal of 48.8m<sup>2</sup> from the COS calculations bringing the overall COS to 245.7m<sup>2</sup> (noting the ADG requirement for COS is 294.2m<sup>2</sup>). A rooftop COS was discussed in both preliminary meetings with the applicant as well as in the DRP meeting to which the applicant has chosen not to incorporate into the design.</p>	<p><b>Supportable subject to conditions.</b></p>

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Clause	Comment	Compliance																											
	<p>It is noted that all provision of private open space are compliant under the ADG. It is also noted that Richmond Oval is located 481m<sup>2</sup> from the subject site. In this respect, whilst the usability of the COS on the site is considered to be compromised, there is suitable Public Open Space within the area to support the residents to the site.</p> <p>Should the Panel support the COS orientation, a condition of consent for details of the palisade fence has been recommended.</p>																												
Minimum 50% of usable area of communal open space to receive direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June.	Shadow diagrams prepared by McGregor Westlake Architects demonstrate the COS a minimum of 2 hours can be facilitated to the COS.	<b>Yes.</b>																											
<b>3E Deep Soil Zone</b>																													
<p>Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.</p> <p>Deep soil zones are to be provided equal to 7% of the site area and with min dimension of 6m for sites areas greater than 1500m<sup>2</sup>.</p>	<p>Required: 82.4m<sup>2</sup> or 7% (with 3m dimensions)</p> <p>Proposed: 285.6m<sup>2</sup> or 24%. (with 3m dimensions)</p>	<b>Yes</b>																											
<b>3F Visual Privacy</b>																													
<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="215 1624 678 1832"> <thead> <tr> <th align="center">Building Height</th> <th align="center">Habitable rooms &amp; balconies</th> <th align="center">Non habitable rooms</th> </tr> </thead> <tbody> <tr> <td align="center">Up to 12m (4 storeys)</td> <td align="center">6m</td> <td align="center">3m</td> </tr> </tbody> </table>	Building Height	Habitable rooms & balconies	Non habitable rooms	Up to 12m (4 storeys)	6m	3m	<table border="1" data-bbox="694 1344 1197 1921"> <thead> <tr> <th></th> <th align="center">Control</th> <th align="center">Proposed</th> </tr> </thead> <tbody> <tr> <td><b>East (Ground Floor)</b></td> <td align="center">6m</td> <td align="center">&gt;3m</td> </tr> <tr> <td><b>East (Level 1-2)</b></td> <td align="center">6m</td> <td align="center">&gt;3m</td> </tr> <tr> <td><b>North (Ground Floor)</b></td> <td align="center">6m</td> <td align="center">&gt;6m</td> </tr> <tr> <td><b>North (Level 1-2)</b></td> <td align="center">6m</td> <td align="center">&gt;6m</td> </tr> <tr> <td><b>West (Ground Level)</b></td> <td align="center">6m</td> <td align="center">&gt;3m</td> </tr> <tr> <td><b>West (Level 1-2)</b></td> <td align="center">6m</td> <td align="center">&gt;6m</td> </tr> </tbody> </table>		Control	Proposed	<b>East (Ground Floor)</b>	6m	>3m	<b>East (Level 1-2)</b>	6m	>3m	<b>North (Ground Floor)</b>	6m	>6m	<b>North (Level 1-2)</b>	6m	>6m	<b>West (Ground Level)</b>	6m	>3m	<b>West (Level 1-2)</b>	6m	>6m	<b>Yes</b>
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<b>3G Pedestrian Access &amp; entries</b>																													

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Pedestrian access, entries and pathways are accessible and easy to identify.	The development proposes a pedestrian entry to the building from March Street.	<b>Yes</b>
<b>3H Vehicle Access</b>		
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	Vehicle access and egress is proposed to be provided towards March Street.  Both Council's development engineers support the entry design subject to the imposition of conditions	<b>Yes</b>
<b>3J Bicycle and car parking</b>		
<p><u>Car parking</u></p> <p>For development on sites that are within 800m of a railway station, the minimum parking for residents and visitors to be as per RMS Guide to Traffic Generating Developments, or Council's car parking requirement, whichever is less.</p>	<p>Eleven (11) car spaces are provided to each dwelling within the proposed basement. It is noted that two (2) of which are accessible spaces.</p> <p>Two (2) visitor spaces are provided within the basement.</p> <p>The proposed variance is sought to address the streetscape issues arisen from locating the visitor parking at-grade. It was recommended that the visitor parking and waste room be consolidated to the basement via expansion however the applicant has not implemented this change citing the changes would make the development "financially unviable".</p> <p>As the financial implications of a development is not a consideration under section 4.15 of the EP&amp;A Act, Council and the DRP has insisted on the removal of the at grade parking spaces.</p> <p>The applicant has responded by way of removing the at grade parking spaces and the relocation of two parking spaces in the basement for visitor parking. No justification was provided from the applicant to supplement the change.</p> <p>Council's Development Control Plan 2023 requires residential flat buildings to accommodate 1 parking space per unit and an addition 0.2 parking spaces per 2-bedroom unit. Further, 1 visitor space is required per 5 units.</p> <p>This would total a parking requirement of 14 residential parking spaces and 3</p>	<b>Yes.</b>

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	<p>visitor spaces are required given that 11 two-bedroom units are proposed.</p> <p>Council has reviewed the application on its merits and notes the following:</p> <ul style="list-style-type: none"> <li>Richmond Station is 700m (as the crow flies) from the subject site.</li> <li>The relocation of visitor parking to the basement achieves a better streetscape presentation.</li> </ul> <p>On balance, with consideration to the merits of the site, strict compliance would only attribute to an additional 3 residential parking spots to residents. In this respect, in consideration to the availability of public transport services, Council notes that the onsite parking arrangement proposed whilst less than optimal, is within acceptable parameters.</p>	
<p><u>Bicycle Parking</u></p> <p>Provide adequate motorbike, scooter and bicycle parking space (undercover).</p>	The proposal provides sixteen (12) bicycle spaces in the ground floor lobby.	<b>Yes</b>
<p><b>Part 4 - Designing the Building</b></p> <p>This part addresses the design of apartment buildings in more detail. It focuses on building form, layout, functionality, landscape design, environmental performance and residential amenity. It is to be used during the design process and in the preparation and assessment of development applications</p>		
<p><b>4A Solar &amp; daylight access</b></p>		
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter.	Ten (10) of the eleven (11) proposed units (90.9%) achieve the minimum 2 hours of solar access during winter solstice. Therefore, the proposed solar and daylight access is considered to be supportable.	<b>Yes.</b>
A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	<p>One (1) of the eleven (11) proposed units (9.1%) does not receive sunlight during the winter solstice.</p> <p><b>Note:</b> unit 2.1 receives sunlight via a fixed roof skylight.</p>	<b>Yes.</b>
<p><b>4B Natural Ventilation</b></p>		
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	All units are naturally cross ventilated.	<b>Yes</b>



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<b>Clause</b>	<b>Comment</b>	<b>Compliance</b>
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	The proposed units do not exceed a depth of 18m.	<b>Yes.</b>
<b>4C Ceiling Heights</b>		
Ceiling height achieves sufficient natural ventilation and daylight access. The development is required to provide 2.7m minimum ceiling heights.	All floors achieve sufficient height.	<b>Yes.</b>
<b>4D Apartment size and layout</b>		
Apartments are required to have the following minimum internal areas with one bathroom:  ·2 bedrooms = 70m <sup>2</sup>	The proposed apartments have the following minimum internal areas:  ·11 x 2 bed units: all units comply	<b>Yes.</b>
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	All of the apartments meet or exceed the minimum requirements.	<b>Yes</b>
Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space).	The kitchens in the proposed units are not located as part of the main circulation space.	<b>Yes.</b>
Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan where the living, dining and kitchen are combined, there is to be a maximum depth of 8m from a window.	No habitable rooms have a depth greater than 6.75m.	<b>Yes.</b>
Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space)	All bedrooms meet this requirement.	<b>Yes.</b>
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	The proposed bedrooms have a minimum dimension of 3m.	<b>Yes.</b>
Living rooms or combined living/dining rooms have a minimum width of:  <ul style="list-style-type: none"> <li>• 3.6m for studio and 1-bedroom apartments</li> <li>• 4m for 2 and 3-bedroom apartments</li> </ul>	Living rooms/combined living/dining area have a minimum 4m width for 2-bedroom units.	<b>Yes.</b>
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	All units exceed a minimum width of 4m internally.	<b>Yes.</b>
<b>4E Private Open Space and balconies</b>		

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Clause			Comment	Compliance						
<p>All apartments are required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th align="center">Dwelling type</th> <th align="center">Min area</th> <th align="center">Min depth</th> </tr> </thead> <tbody> <tr> <td align="center">2 bedroom</td> <td align="center">10m<sup>2</sup></td> <td align="center">2m</td> </tr> </tbody> </table>			Dwelling type	Min area	Min depth	2 bedroom	10m <sup>2</sup>	2m	<p>The proposed apartments have the following minimum balcony areas:</p> <p>· 2 bed units: all units comply</p> <p>All of the apartments also exceed the minimum requirements for balcony depth.</p>	<b>Yes.</b>
Dwelling type	Min area	Min depth								
2 bedroom	10m <sup>2</sup>	2m								
<p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m</p>			<p>Ground level courtyards exceed the required 15m<sup>2</sup> and minimum dimensions.</p>	<b>Yes.</b>						
<b>4F Common circulation and spaces.</b>										
<p>The maximum number of apartments off a circulation core on a single level is 8.</p>			<p>The development proposes a maximum of four (4) units to be accessed from the circulation space on a single level.</p>	<b>Yes.</b>						
<b>4G Storage</b>										
<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided:</p> <table border="1"> <thead> <tr> <th align="center">Dwelling type</th> <th align="center">Storage size volume</th> </tr> </thead> <tbody> <tr> <td align="center">2 bedroom apt</td> <td align="center">8m<sup>3</sup></td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>			Dwelling type	Storage size volume	2 bedroom apt	8m <sup>3</sup>	<p>All units provide 12m<sup>2</sup> of storage. It is noted that 4m<sup>2</sup> is provided inside of the units and 8m<sup>2</sup> is provided within the basement.</p>	<b>Yes.</b>		
Dwelling type	Storage size volume									
2 bedroom apt	8m <sup>3</sup>									
<b>4H Acoustic privacy</b>										
<p>Noise transfer is minimised through the siting of buildings, building layout, and acoustic treatments.</p> <p>Plant rooms, services and communal open space and the like to be located at least 3m away from the bedrooms.</p> <p>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.</p>			<p>Appropriate acoustic privacy will be provided for each apartment. Living rooms and balconies have generally been orientated away from services and plant rooms.</p> <p>Council's Environmental Health (Acoustic) Officer has provided comments in support of the application.</p>	<b>Yes.</b>						
<b>4K Apartment mix</b>										
<p>A range of apartment types with different number of bedrooms (1bed, 2 bed, 3 bed etc) should be provided.</p>			<p>The development has incorporated the following apartment mix:</p>	<b>Yes.</b>						

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	<p>· 11 x 2 bedroom units (100%)</p> <p>Council is generally satisfied with the dwelling mix provided given the dwelling mix currently available within the locality and the proximity of transport nodes to the proposed development.</p>	
<b>4M Facades</b>		
<p>Building facades to provide visual interest, respect the character of the local area and deliver amenity and safety for residents.</p> <p>Building functions are expressed by the façade.</p>	The changes above to the building façade are satisfactory, though it does not significantly enhance the overall aesthetic of the building.	<b>Acceptable.</b>
<b>4N Roof design</b>		
<p>Roof treatments are integrated into the building design and positively respond to the street.</p> <p>Opportunities to use the roof space for residential accommodation and open space are maximised.</p> <p>Roof design incorporates sustainability features.</p>	The development has proposed a relatively flat roof design which is integrated with the overall development. All plant equipment is adequately screened and located toward the centre of the roof.	<b>Yes.</b>
<b>4O Landscape design</b>		
<p>Landscape design contributes to the streetscape and amenity. Landscape design is viable and sustainable.</p> <p>Sites between 850 - 1,500m<sup>2</sup>: 1 large tree or 2 medium trees per 90m<sup>2</sup> of deep soil zone</p>	A total of 438m <sup>2</sup> (37.2% of the site) of deep soil areas (including areas with dimensions of 3m) are proposed.	<b>Yes.</b>
<b>4P Planting on structures</b>		
Appropriate soil profiles are provided.	Soil plantings are generally provided at ground level.	<b>Yes.</b>
<b>4Q Universal design</b>		
Universal design features are included in apartment design to promote flexible housing for all community members. A variety of apartments with adaptable designs are to be provided.	The DRP has not raised contentions for accessible design. This is further supplemented by conditions of consent.	<b>Yes.</b>
<b>4U Energy efficiency</b>		
Development incorporates passive environmental design measures – solar design, natural ventilation etc.	<p>The development complies with solar access and natural ventilation requirements.</p> <p>A BASIX certificate is submitted with the application which indicates that the</p>	<b>Yes.</b>

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	building will meet the energy and water use targets set by the BASIX SEPP.	
<b>4V Water management and conservation</b>		
The development considers Water Sensitive Urban Design elements and incorporates best practice water management measures.	A BASIX certificate is submitted with the application which indicates that the building will meet the energy and water use targets set by the BASIX SEPP.	<b>Yes.</b>
<b>4W Waste Management</b>		
<p>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.</p> <p>Domestic waste is minimised by providing safe and convenient source separation and recycling.</p>	<p>Council is concerned with the efficiency of the waste room. It is noted that there are no waste chutes proposed as part of the development and residents will need to proceed through the lifts/staircases to an external waste bin area.</p> <p>Council's waste services officer has noted that Council's waste collection services can only accommodate for side loading collection.</p> <p>Council raises concern with the amount of individual waste bins that will line March Street during collection periods. At maximum, the development could support twenty-two (22) bins on the site (of which 11 bins would be placed at the kerb during collection periods). With consideration to the residential flat building adjoining the property to the East, which could be redeveloped and intensified, the kerbside would be inundated with bins leading to both a deficient streetscape outcome and also slowing down traffic along March Street.</p> <p>This was not address by the applicant.</p> <p>In this respect, Council is recommending a condition of consent for a private waste contractor to be acquired prior to the issue of a Occupation Certificate for on site waste collection given kerbside collection is not supported from Council's waste collection team.</p>	<b>Supported subject to the imposition of conditions.</b>
<b>4X Building maintenance</b>		
The development incorporates design and material selections that reduce the long-term maintenance obligations.	No objections to the materials proposed were cited by the DRP.	<b>Yes.</b>

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#### 6.3 State Environmental Planning Policy – Biodiversity & Conservation 2021.

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the site. The aims of the plan are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of the non-rural areas of the State through the preservation of trees and other vegetation.

The site is not marked under the purple biodiversity values map.

#### 6.4 State Environmental Planning Policy – Resilience & Hazards 2021

The requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021 apply to the subject site. In accordance with Chapter 4 of the SEPP, Council must consider if the land is contaminated, if it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

The site is not indicated in Council's records as being contaminated. The previously approved use of the site remains as a residential flat building. It is considered that the redevelopment of the site will not give rise to concerns regarding contamination.

In this regard, in accordance with clause 4.6 of the State Environmental Planning Policy (Resilience & Hazards) 2021, the land is considered to be suitable for the proposed development.

#### 6.5. State Environmental Planning Policy – Transport & Infrastructure 2021.

The relevant matters to be considered under Chapter 2 of the SEPP for the proposed development outlined below.

Clause	Comment
<b>Clause 2.48 – Electricity Infrastructure</b>	The proposed development is not considered to be within the vicinity of any electricity infrastructure under clause 2.48 (1).
<b>Clause 2.98 – Development Adjacent to rail corridors</b>	The proposed development does not adjoin in, around or on top of any rail corridors.
<b>Clause 2.119 – Frontage to a classified road</b>	The subject site has frontage to March Street which is a classified road. Council's development engineers have reviewed the application and subject to the imposition of conditions, raises no objections.
<b>Clause 2.120 – Impact of road noise or vibration on non-road development</b>	March Street has an average daily traffic volume of more than 20,000 vehicles per day. As such, clause 2.120 is applicable to the development application. Council's Environmental health (acoustic) officers have reviewed the proposal and raise no objections subject to conditions of consent.

#### 7. Hawkesbury Local Environmental Plan 2012

The relevant matters considered under the HLEP 2012 for the proposed development are outlined below:

##### 7.1. Clause 1.2 Aims of plan.

*(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*

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- *to provide the mechanism for the management, orderly and economic development and conservation of land in Hawkesbury.*
- *to provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production,*
- *to protect attractive landscapes and preserve places of natural beauty, including wetlands and waterways,*
- *to protect and enhance the natural environment in Hawkesbury and to encourage ecologically sustainable development,*
- *to conserve and enhance buildings, structures and sites of recognised significance that are part of the heritage of Hawkesbury for future generations,*
- *to provide opportunities for the provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups in Hawkesbury,*
- *to encourage tourism-related development that will not have significant adverse environmental effects or conflict with other land uses in the locality.*

The proposed development is considered to have been made in consideration of the objectives of the zone.

#### **7.2. Clause 2.3 Zone objectives and Land use table.**

The site is zoned R2 – Low Density Residential under the Hawkesbury Local Environmental Plan 2012. The aims and objectives for the R2 zone in clause 2.3 zone objectives are as follows:

- 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.

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The use of the site is most accurately defined as “Residential Flat Building”. An excerpt of the definition under the Hawkesbury LEP 2012 is provided as below:

**“Residential Flat Building** means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.

It is considered that a Residential Flat Building is considered to be prohibited under an R2 Zone.

It is noted that a GIPA request revealed several consents related to the initial development of a residential flat building on the site (refer to section 3). In this respect, the use of the site as a residential flat building has been demonstrated as lawful and has not ceased for a period of more than twelve (12) months. In this respect, the site benefits from existing use rights under Division 4.11 of the EP&A Act 1979.

Pursuant to section 164 of the EP&A Regulations 2021, an existing use, where demonstrated that it has commenced lawfully, can be enlarged, expanded and intensified subject to development consent.

It is recognised that the permissibility of the site for development of a Residential Flat Building is derived from existing use rights notwithstanding the prohibition of such use under an R2 Low density residential zone.

Clause	Comment
<b>Part 4 – Principal development standards</b>	
<b>Clause 4.1(c) Minimum subdivision lot size</b>	Yes  <b>Note:</b> A condition of consent is recommended for the amalgamation of the two lots.
<b>Clause 4.3 Height of buildings</b>  Control: 10m  Proposed: 10.9m	Acceptable on merit  <b>Note:</b> see below clause 4.6 discussion
<b>Clause 4.6 Exceptions to development standards</b>	See below.
<b>Part 5 – Miscellaneous provisions</b>	
<b>5.1A Development on land intended to be acquired for public purposes</b>	The deposited plans do not demonstrate that the site is or will be subject to future land acquisition.
<b>5.10 Heritage conservation</b>	The site is not considered to be a heritage item nor is it considered to be a heritage item.
<b>5.21 Flood planning</b>	The site is not considered to be subject to flood development controls.
<b>Part 6 – Additional local provisions</b>	
<b>6.1 Acid sulphate soils</b>	The site is considered to fall under class 5 acid sulphates. Suitable conditions of consent will be provided.
<b>6.2 Earthworks</b>	Council’s development engineers have reviewed the proposed earthworks involved do not raise concern with the
<b>6.6 Development in areas subject to aircraft noise</b>	The site is considered to fall within the vicinity of the RAAF base Richmond. A referral to the Department of Defence was made to which no comments were received.



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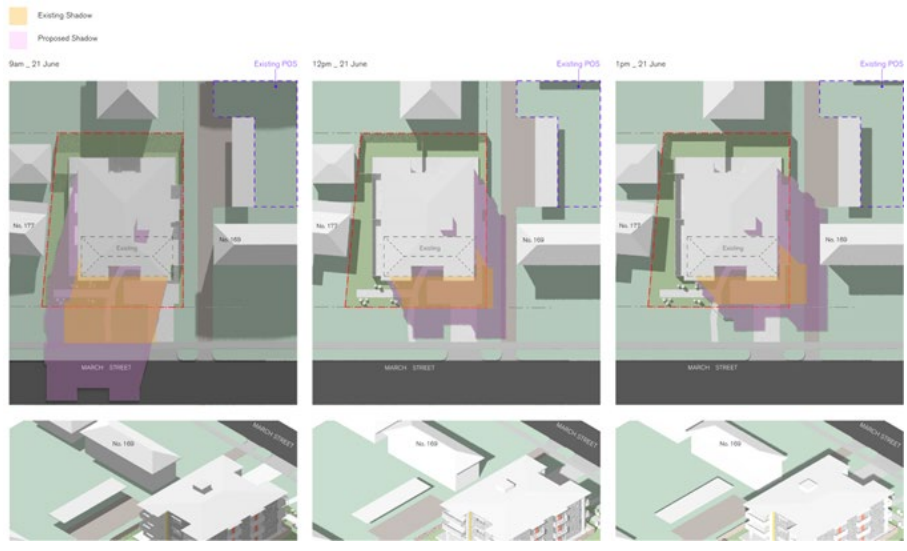
Clause	Comment
<b>6.7 Essential services</b>	No concerns are raised with regard to access to services for emergency services.
<p><b>Clause 4.3 Building Height</b></p> <p>Pursuant to Clause 4.3 Building Height, the proposal seeks to exceed the 10 metre Development Standard by 0.9 metres resulting in an overall height of 10.9 metres which represents a 9% variation.</p> <p><b>Figure 10. Cross section of proposed development.</b></p> <p>As shown within figure 9, the proposed development is made up of three (3) residential floors with a single level of basement parking. The height breach is a result of the lift overrun amounting to 0.9m.</p> <p>Clause 4.6(3) prescribes</p> <p><i>(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:</i></p> <ul style="list-style-type: none"><li><i>• that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i></li><li><i>• that there are sufficient environmental planning grounds to justify contravening the development standard.</i></li></ul> <p>The applicant has submitted a written request seeking variation to the maximum building height prescribed by Clause 4.3, as required by Clause 4.6 of the HLEP2012. Clause 4.6(2) provides that in certain circumstances, consent <i>...may be granted for development even though the development would contravene a development standards imposed by this or any other environmental planning instrument.</i></p> <p>The departure from the maximum building height development standard is supported by a written request from the applicant under Clause 4.6 of the HLEP2012 as follows:</p> <p><i>-The variation to the 11m height restriction is confined to the lift overrun, at the Northern portion of the building and recessed from the floors below.</i></p> <p>The objectives of Clause 4.6 are as follows:</p> <ul style="list-style-type: none"><li><i>• to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i></li><li><i>• to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i></li></ul> <p>In consideration of the variation to Clause 4.3 of the HLEP2012, the following is noted:</p>	

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Clause	Comment
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**Figure 11.** Submitted shadow diagrams prepared by McGregor Westlake Architects.

March street is generally characterised with legacy low high density developments amongst low density single dwellings forming the bulk of the streetscape.

With reference to figures 9 & 10, it can be seen that the lift overrun is located to the centre of the development and shadows cast as a result of the overrun are self-contained.

Objective (a) of the Parramatta Local Environmental Plan 2011 seeks to limit developments to a suitable and contextually consistent building form so as to not dominate the existing & future streetscape.



**Figure 12.** Height of buildings Map (Planning Portal)

Contextually the site is located within an R2 zone characterised by high rise legacy developments amongst new low density development. To the East and North of the subject site lies several legacy residential flat building developments and residential flat building developments. To the South of the site lies several legacy multi-dwelling developments. The site precinct to the South features a mix of R1 - General Residential zones, R3 – Medium Density residential as well as a small portion of the area zoned as E2 – Commercial centre to the West (refer to figure 2).

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Clause	Comment
	<p>The Clause 4.6 statement and justification was considered against the following cases:</p> <p><i>1. Wehbe v Pittwater Council [2007] NSW LEC 827</i></p> <p><i>Wehbe</i> requires that the applicant must argue, and the consent authority must be satisfied, that compliance with the development standard is unreasonable or unnecessary with the following test:</p> <p>Compliance with the development standard is reasonable or unnecessary because</p> <ul style="list-style-type: none"><li>• the objectives of the development standard are achieved notwithstanding non-compliance with the standard;</li><li>• the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;</li><li>• the underlying objective of purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;</li><li>• the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; or</li><li>• "the zoning or particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would be unreasonable or necessary"</li></ul> <p>The objectives of Clause 4.3 are as follows:</p> <ul style="list-style-type: none"><li>• To nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,</li><li>• To minimise visual impact, disruption of view, loss of privacy and loss of solar access to existing development,</li><li>• To require the height of future buildings to have regard to heritage site and their settings,</li><li>• To ensure the preservation of historic views,</li><li>• To reinforce and respect the existing character and scale of low-density residential areas,</li><li>• To maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes.</li></ul> <p><b>The following comments are made in reference to the test set out under <i>Wehbe v Pittwater Council [2007] NSW LEC 827</i></b></p> <p><b>1. Are the objectives of the development standard are achieved notwithstanding non-compliance with the standard.</b></p> <p>The established locality demonstrates a mix of legacy developments as well as new low density developments indicative of the current zoning. The objectives of the development standard seek to introduce numerical standards for the suitable transition in building height amongst zones and</p>

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Clause	Comment
	<p>precincts with reference to objectives (a),(b)&amp;(e) of Clause 4.3 of the Hawkesbury Local Environmental Plan. The proposed development seeks to produce a residential flat building incorporating a lift overrun. It is considered that the lift overrun has a negligible impact upon the streetscape and does not impinge upon the solar access of adjoining properties. It is considered that the objectives of the zone are upheld notwithstanding the numerical non-compliance.</p> <p><b>2.Is the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.</b></p> <p>The underlying objective of Clause 4.3 is to set a numerical standard in achieving an appropriate sense of scale for the locality and its surrounding zones. In this regard, the proposal demonstrates the same quality of appropriateness given the numerical non-compliance.</p> <p><b>3.Would the underlying objective of purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.</b></p> <p>The objectives of Clause 4.3 serve to provide a numerical basis for assessment. It is regarded that the 10m height restriction is the standard height limitation for R2 low density residential zones. Given the site contains a unique opportunity for the redevelopment of a residential flat building, it is not expected that a negative precedent will be set for typical development permitted under the R2 zoning.</p> <p><b>4.Has the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable</b></p> <p>The locality exhibits developments both legacy and new with compliant development heights. As discussed above, the use of the site as a residential flat building is made by way of existing use rights. Naturally a development without such rights will not be able to develop into a RFB under the current R2 zone. In this respect, this development represents the first of redevelopments along March Street. As such, the majority of the building envelope is limited below the 10m height limit with the only variation sought to the lift overrun consisting of 0.9m above the height limit. It is considered that the variation to the lift run is appropriate given that there are no increases in development yield, floor area and the overrun is considered to be ancillary and subservient to the use.</p> <p><b>5.Is “the zoning or particular land” was “unreasonable or inappropriate” so that “a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land” and that “compliance with the standard in that case would be unreasonable or necessary”</b></p> <p>The zoning of the site was introduced after the establishment of use and construction of the RFB. In this respect, the zoning is appropriate for the Council’s vision of the Richmond locality. Notwithstanding, the variation is supported for the reasons provided above.</p> <p><b>Is the exception well founded?</b></p> <p>It is considered that the application on balance seeks to produce suitable housing for the Richmond locality. By extension, the lift overrun is provided to support the eleven (11) units to the site. It is established that this overrun is not visible to the street and does not impinge upon the solar access of adjoining properties.</p> <p>With regard to the above, it is therefore recommended that the Panel accept the applicant’s request for a clause 4.6 variation.</p>

**8. Hawkesbury Development Control Plan 2002**

The Hawkesbury Development Control Plan 2023 was adopted by Council on the 22 November 2022, and commenced on the 24 July 2023.

It revokes and replaces the following Chapters of the Hawkesbury Development Control Plan 2002:

- Car parking & access
- Effluent disposal
- Heritage conservation

It is noted that the requirements of the Apartment Design Guide (ADG) supersede the residential controls contained within the Hawkesbury Development Control Plan 2002.

A summary of the assessment of the application pursuant to the Hawkesbury Development Control Plan 2023 (HDCP 2023) is provided below:

Clause	Compliance
<b>Chapter 5: Traffic, access street design and parking</b>	
<b>4.1 Off street parking rates</b>	Supportable.  <b>Note:</b>  <b>1.1.1:</b> 1 parking space per unit plus 0.2 parking spaces per 2 bedroom dwelling = 14 spaces required. It is noted that 11 spaces are provided.  <b>Note:</b> refer to ADG discussion above.  <b>1.1.2:</b> no tandem parking is sought.  <b>1.1.3:</b> noted  <b>1.1.4:</b> no loading areas are sought.  <b>1.2.1:</b> no loading areas are sought.  <b>1.2.2:</b> n/a  <b>1.2.3:</b> n/a  <b>1.2.4:</b> noted  <b>1.3.1:</b> noted  <b>1.3.2:</b> n/a  <b>1.3.3:</b> n/a  <b>1.4.1:</b> a monetary contribution is not sought.  <b>1.5.1:</b> 11 parking spaces are required.

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	<p><b>Note:</b> refer to ADG discussion above.</p> <p><b>1.6.1:</b> no mechanical stackers are sought.</p>
<p><b>4.2 Parking design requirements.</b></p>	<p>Compliant subject to the imposition of conditions.</p> <p><b>Note:</b></p> <p><b>2.1.1:</b> noted.</p> <p><b>2.2.1:</b> a waiting bay has been provided to assist in on-site manoeuvring. Council engineers have reviewed the application and raises no objections subject to the imposition of conditions.</p> <p><b>2.2.2:</b>n/a</p> <p><b>2.2.3:</b> noted.</p> <p><b>2.2.4:</b> a buffer of 2.1m has been provided.</p> <p><b>2.2.5:</b> noted.</p> <p><b>2.2.6:</b> noted.</p> <p><b>2.2.7:</b> noted.</p> <p><b>2.3.1:</b> noted.</p> <p><b>2.3.2:</b> a loading zone is not sought.</p> <p><b>2.3.3:</b> a loading zone is not sought.</p> <p><b>2.3.4:</b> n/a</p> <p><b>2.3.5:</b> noted.</p> <p><b>2.3.6:</b> n/a</p> <p><b>2.4.1:</b> basement parking is sought.</p> <p><b>2.4.2:</b> basement parking is sought. In this respect, landscaping is not considered appropriate under this section.</p> <p><b>2.5.1:</b> noted.</p> <p><b>2.6.1:</b> noted.</p> <p><b>2.6.2:</b> a continuous path has not been marked. A condition of consent has been recommended.</p> <p><b>2.6.3:</b> complies.</p> <p><b>2.7.1:</b> noted.</p>

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<b>Clause</b>	<b>Compliance</b>
	<p><b>2.8.1:</b> n/a</p> <p><b>2.9.1:</b> bicycle parking has been provided to the ground floor lobby.</p> <p><b>2.9.2:</b> noted.</p> <p><b>2.9.3:</b> n/a</p> <p><b>2.10.1:</b> noted. Unclear how PowerPoints will be accessed for charging. A condition of consent will be recommended to this effect.</p> <p><b>2.10.2:</b> n/a</p> <p><b>2.11.1:</b> n/a</p>
<b>4.3 Road/access design requirements.</b>	<p>Council's development engineers have reviewed the below and raise no objections subject to the imposition of conditions.</p> <p><b>Note:</b></p> <p><b>3.1.1:</b> noted.</p> <p><b>3.2.1:</b> noted.</p> <p><b>3.2.2:</b> noted.</p> <p><b>3.3.1:</b> noted.</p> <p><b>3.4.1:</b> noted.</p> <p><b>3.5.1:</b> noted.</p> <p><b>3.6.1:</b> noted.</p> <p><b>3.7.1:</b> noted.</p> <p><b>3.8.1:</b> noted.</p>

**9. Development Contributions**

Pursuant to Council's adopted 7.12 contributions plan, a development contribution of \$50,270.00 is required to be paid prior to the issue of a construction certificate.

A condition of consent has been recommended.

**10. EP&A Regulations 2021**

Applicable regulation considerations for compliance with the Building Code of Australia, PCA appointment and notice of commencement of works, sign on work sites, critical stage inspections and records of inspection will be covered under the recommended conditions of consent.

**11. The likely impacts of the development**

Council has considered the merits of the proposal and does not raise contentions with the proposal for the reasons as above. Whilst design opportunities were not addressed by the applicant, the proposed development in its current form provides sound demonstration of ADG qualities and objectives.

**12. Suitability of the Site**

The proposed development seeks to produce suitable housing arrangements to the Richmond locality. Given the site's proximity to parks and suitable public transport nodes, the variations to COS and parking spaces are considered appropriate with respect to the two (2) bedroom makeup of the dwelling mix. In this respect, the impacts of the built form are suitably addressed.

**13. Public Consultation**

In accordance with Council's community participation plan 2019, the Development Application was notified from the 10th of November 2023 to the 24th of November 2023.

In response, Council has received one submission from the owner of the development site. This submission has not been counted per Council's adopted community participation plan given the proponents relationship to the development application.

**14. Public Interest**

The proposed development is considered to have met the aims of an R2 low density residential zone and the relevant sections of Council's development control plan. In this respect, Council does not raise concern with the proposed development being against the public interest.

**15. Conclusion**

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal *is not* suitable for the site and *is not* in the public interest. Therefore, it is recommended that the application be *refused*.

**Attachments**

**AT - 1** S4.15 Report & Recommended Conditions - *(Distributed under separate cover)*.

**AT - 2** Plans used during assessment - *(Distributed under separate cover)*.

**AT - 3** Clause 4.6 Request- *(Distributed under separate cover)*.

oooO END OF REPORT Oooo



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#### 2.1.3. DA0407/22 - 10 Woodlands Road, Wilberforce - (96329)

Directorate: City Planning

#### DEVELOPMENT INFORMATION

<b>Development Application No.</b>	<b>DA0407/22</b>
<b>Date Received</b>	11/11/2022
<b>Proposal</b>	Designated Development – Livestock Processing Industries.
<b>Estimated Cost</b>	\$3,444,000.00
<b>Legal Description</b>	Lot 3 DP 260028 & Lot 2 DP 260028
<b>Property Address</b>	No.10 Woodlands Road WILBERFORCE NSW 2756
<b>Area</b>	4,011m <sup>2</sup>
<b>Zoning</b>	E4: General Industrial
<b>Applicant</b>	Mr MT Attard
<b>Owner</b>	Mr MT Attard
<b>Exhibition Dates</b>	11 January 2023 to 10 February 2023 8 March 2023 to 6 April 2023
<b>Submissions</b>	Nil

#### EXECUTIVE SUMMARY

The application seeks the development of a poultry processing plant at the subject site at No.10 Woodlands Road, Wilberforce.

The proposed development seeks to process approximately 18,520 tonnes of livestock per year. Pursuant to Section 4.10 of the Environmental Planning and Assessment Act 1979, the application is identified 'Designated Development' under Clause 31 in Schedule 3 of the Environmental Planning and Assessment Regulation 2021. Consequently, the application was accompanied with an Environmental Impact Statement which addressed the requirements of the Secretary's Environmental Assessment Requirements issued by the Department of Planning and Section 192 of the Environmental Planning and Assessment Regulation 2021.

The site is zoned E4 General industrial under the Hawkesbury Local Environmental Plan 2012. The use of the site is most accurately defined as "Livestock Processing Industry" which is permitted with consent in the E4 zone.

In accordance with Clause 8 and 8A in Schedule 1 of the Environmental Planning and Assessment Act 1979 and the Hawkesbury Community Participation Plan 2019, the Development Application was placed on advertising and notification for 28 days from the 8 March 2023 to 6 April 2023. Council had not received any submissions in response to the proposal.

The application is identified as 'Nominated Integrated Development' pursuant to Section 4.46 of the Environmental Planning and Assessment Act 1979 of which, the application was referred to Environmental Protection Authority (EPA) pursuant to Section 43 for the purposes of a Scheduled

Activity in the Protection of the Environment Operations Act 1997. The EPA have provided their General Terms of Approval.

The proposal was referred to Council's building and engineering team who have raised no concerns with the proposal subject to the imposition of conditions.

The subject application has been assessed having regard to the applicable legislation and planning instruments and it is concluded that the proposed development can be supported, subject to the imposition of conditions.

### RECOMMENDATION

Pursuant to Section 4.16 (1)(b) of the Environmental Planning and Assessment Act, 1979:

A. **That** the Hawkesbury Local Planning Panel, exercising the function of the consent authority, grant development consent to DA0407/22 for the Livestock Processing Industries on the site of 10 Woodlands Road, Wilberforce, subject to conditions of consent.

The reasons for the conditions imposed on this application are as follows:

1. To facilitate the orderly implementation of the objectives of the *Environmental Planning and Assessment Act 1979* and the aims and objectives of the relevant Council Planning instrument.
2. To ensure that the local amenity is maintained and is not adversely affected and that adequate safeguards are incorporated into the development.
3. To ensure the development does not hinder the proper and orderly development of the subject land and its surrounds.
4. To ensure the relevant matters for consideration under Section 4.15 of *Environmental Planning and Assessment Act 1979* are maintained.

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### BACKGROUND

The subject site encompasses a total site area of 4,011m<sup>2</sup> with a single storey dwelling house currently on the allotment. A review of Council's historical maps reveals that the site has historically been used as an industrial premise for the repair and manufacture of pallets approved under DA0013/05.

To clarify the location of the application site and specifically that of the subject site, refer to the aerial image and photographs in figures 1-5 below.

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**Figure 1. Site location map.**



**Figure 2. Bushfire & Biodiversity values map. Source: Planning Portal**

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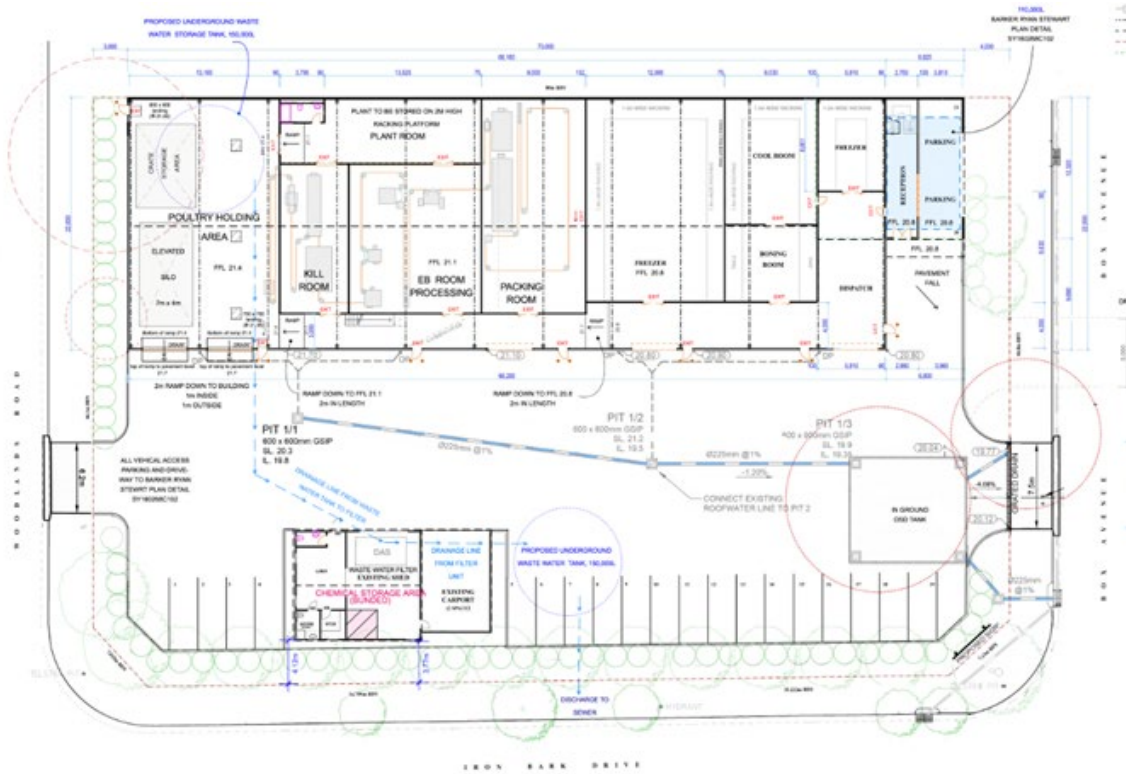


Figure 3. Proposed site plan.

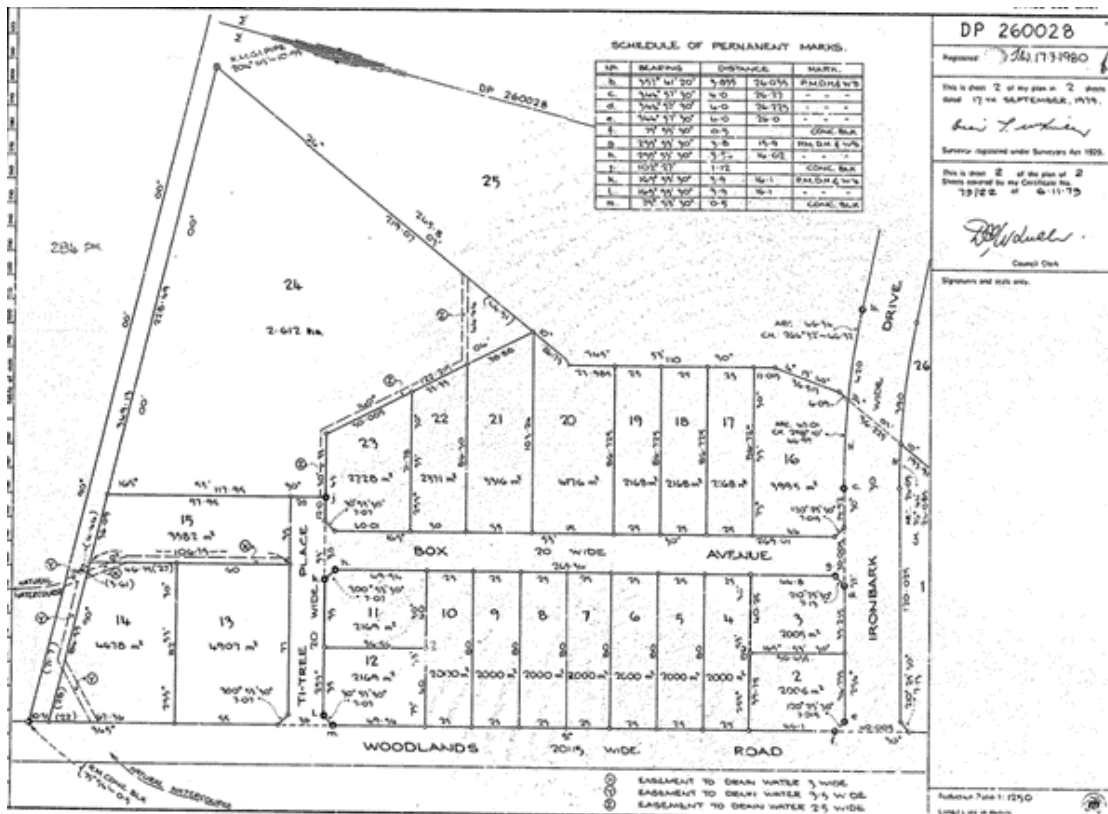


Figure 4. DP 260028

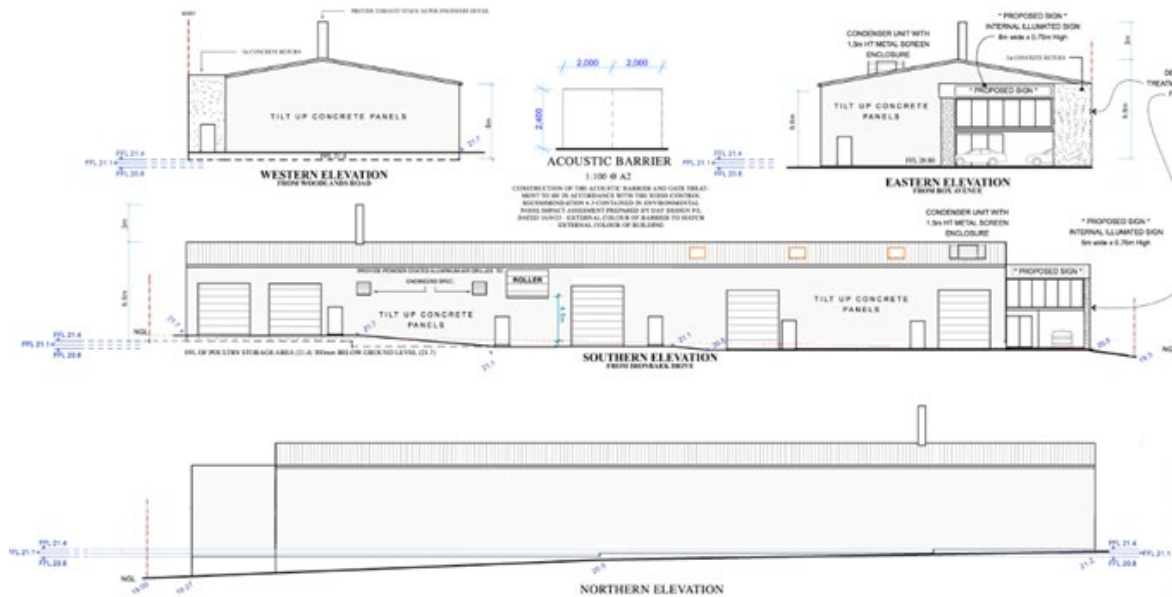


Figure 5. Proposed elevations.

1. Relevant Site History

Date	Comment
29/10/1996	First use application for a mechanical repair site.
07/01/2005	Change of use to manufacturing and repair of pallets.
11/11/2023	Subject application lodged.

2. The Proposal

The proposed development seeks the approval for the following.

- Construction of a New Poultry Processing Plant
  - 1,706m<sup>2</sup> of Gross Floor Area providing for live bird storage, processing, chilling, freezing, and dispatch facilities;
  - 203m<sup>2</sup> of Ancillary administration amenities and office space;
- Relocation and construction of a new accessway from Woodlands Road;
- Construction of a new staff carparking area for 23 vehicles;
- Site landscaping and screening vegetation;
- Use of the existing building for a workshop and amenities;
- Removal of the existing temporary buildings and structures;
- 1x pylon sign (measuring at 2.4m x 1.2m x 3m) located on the corner of Box Avenue and Ironbark Drive; and

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- 2x flush awning signs (measuring at 8m x 0.75m and 5m x 0.75m) along Box Avenue's frontage.

The proposed livestock processing unit would have the following operational details:

<b>Development Details</b>	<b>Proposed</b>
Animals to be processed	Chicken and occasionally other poultry and game including rabbits, pigeons, quails, and turkey.
Processing per day (live weight)	50,000kg
Processing per day (birds)	20,000 birds @ 2.5kg each (approx.)
Hours of operation	24 hours a day, 7 days a week.
Employees	Site Manager – 1 Full Time – 4 Labour Hire – 20 maximum (Casual)

**3. Relevant Application History**

<b>Date</b>	<b>Comment</b>
11/11/2022	Application lodged on the NSW Planning Portal.
06/03/2023	Additional information requested from Council.
04/04/2023	Additional information requested from EPA.
17/05/2023	Additional information provided to address Council's RFI.
08/01/2024	Request for withdrawal made to applicant.

**4. Referrals**

<b>Stakeholder</b>	<b>Comment</b>
Engineering	·Supported subject to the imposition of conditions.
Building	·Supported subject to the imposition of conditions.
Environmental Health	·Supported subject to the imposition of conditions.
External Referrals	
Environmental Protection Authority	·General terms of approval provided.



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#### 5. Environmental Planning Instruments

##### 5.1 Overview

The instruments applicable to this application are:

- Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulations 2021;
- Protection of Environment Operations Act 1997
- State Environmental Planning Policy – (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Hawkesbury Local Environmental Plan 2012 (LEP 2012)
- Hawkesbury Development Control Plan 2002 (HDCP 2002)
- Hawkesbury Council Flood Policy 2020

##### 5.2 Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulations 2021;

The proposed development seeks to process approximately 18,520 tonnes of livestock per year. Pursuant to Section 4.10 of the Environmental Planning and Assessment Act 1979, the application is identified 'Designated Development' under Clause 31 in Schedule 3 of the Environmental Planning and Assessment Regulation 2021. Consequently, the application was accompanied with an Environmental Impact Statement which addressed the requirements of the Secretary's Environmental Assessment Requirements issued by the Department of Planning and Section 192 of the Environmental Planning and Assessment Regulation 2021.

The contents of the EIS have been assessed against the relevant clauses under Division 5 Environmental Impact Statements as follows.

Clause	Comment
Clause 190 Form of environmental impact statement  (1) An environmental impact statement must contain the following information—  (a) the name, address and professional qualifications of the person who prepared the statement,  (b) the name and address of the responsible person,  (c) the address of the land—	The EIS has provided the requirements under section 3 & 5 of the EIS. An addendum to the EIS has been provided to provide the professional qualifications of the author.

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Clause	Comment
<p>(i) to which the development application relates, or</p> <p>(ii) on which the activity or infrastructure to which the statement relates will be carried out,</p> <p>(d) a description of the development, activity or infrastructure,</p> <p>(e) an assessment by the person who prepared the statement of the environmental impact of the development, activity or infrastructure, dealing with the matters referred to in this Division.</p> <p>(2) The person preparing the statement must have regard to—</p> <p>(a) for State significant development—the State Significant Development Guidelines, or</p> <p>(b) for State significant infrastructure—the State Significant Infrastructure Guidelines.</p> <p>(3) An environmental impact statement must also contain a declaration by a relevant person that—</p> <p>(a) the statement has been prepared in accordance with this Regulation, and</p> <p>(b) the statement contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure, and</p> <p>(c) the information contained in the statement is not false or misleading, and</p> <p>(d) for State significant development or State significant infrastructure—the statement contains the information required under the Registered Environmental Assessment Practitioner Guidelines.</p>	
<p>Clause 191 Compliance with environmental assessment requirements</p> <p>The environmental impact statement must comply with the environmental assessment requirements notified under section 176 or the Act, section 5.16(4).</p>	<p>The EIS has demonstrated compliance with clause 176 of the Environmental Planning and Assessment Regulations 2021. To this effect, the applicant has adequately addressed the requirements of those SEARs.</p>
<p>Clause 192 Content of environmental impact statement</p>	<p>The EIS addresses the requirements of this clause under section 10.</p>



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Clause	Comment
<p>(1) An environmental impact statement must contain the following—</p> <p>(a) a summary of the environmental impact statement,</p> <p>(b) a statement of the objectives of the development, activity or infrastructure,</p> <p>(c) an analysis of feasible alternatives to the carrying out of the development, activity or infrastructure, considering its objectives, including the consequences of not carrying out the development, activity or infrastructure,</p> <p>(d) an analysis of the development, activity or infrastructure, including—</p> <p>(i) a full description of the development, activity or infrastructure, and</p> <p>(ii) a general description of the environment likely to be affected by the development, activity or infrastructure and a detailed description of the aspects of the environment that are likely to be significantly affected, and</p> <p>(iii) the likely impact on the environment of the development, activity or infrastructure, and</p> <p>(iv) a full description of the measures to mitigate adverse effects of the development, activity or infrastructure on the environment, and</p> <p>(v) a list of the approvals that must be obtained under another Act or law before the development, activity or infrastructure may lawfully be carried out,</p> <p>(e) a compilation, in a single section of the environmental impact statement, of the measures referred to in paragraph (d)(iv),</p> <p>(f) the reasons justifying the carrying out of the development, activity or infrastructure, considering biophysical, economic and social factors, including the principles of ecologically sustainable development set out in section 193.</p>	
<p>Clause 193 Principles of ecologically sustainable development</p>	<p>Suitable justification with regard to the reasons for development have been provided in section 13 of the EIS.</p>

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<b>Clause</b>	<b>Comment</b>
<p>(1) The principles of ecologically sustainable development are the following—</p> <p>(a) the precautionary principle,</p> <p>(b) inter-generational equity,</p> <p>(c) conservation of biological diversity and ecological integrity,</p> <p>(d) improved valuation, pricing and incentive mechanisms.</p> <p>(2) The precautionary principle is that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.</p> <p>(3) In applying the precautionary principle, public and private decisions should be guided by—</p> <p>(a) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and</p> <p>(b) an assessment of the risk-weighted consequences of various options.</p> <p>(4) The principle of inter-generational equity is that the present generation should ensure the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations.</p> <p>(5) The principle of the conservation of biological diversity and ecological integrity is that the conservation of biological diversity and ecological integrity should be a fundamental consideration.</p> <p>(6) The principle of improved valuation, pricing and incentive mechanisms is that environmental factors should be included in the valuation of assets and services, such as—</p> <p>(a) polluter pays, that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement, and</p> <p>(b) the users of goods and services should pay prices based on the full life cycle of the costs of providing the goods and services, including the</p>	

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Clause	Comment
<p>use of natural resources and assets and the ultimate disposal of waste, and</p> <p>(c) established environmental goals should be pursued in the most cost effective way by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.</p>	
<p>194 Publication of environmental impact statements - the Act, s 5.8</p> <p>(1) The notice required under the Act, section 5.8(1) must also contain the following—</p> <p>(a) the following heading in capital letters and bold type—</p> <p><b>“ASSESSMENT OF ENVIRONMENTAL IMPACT OF (a title description of the proposed activity and its location)—PUBLIC EXHIBITION”</b></p> <p>(b) a brief description of the proposed activity and its locality,</p> <p>(c) the name of the proponent,</p> <p>(d) the website on which the environmental impact statement will be published,</p> <p>(e) a statement that a person may, before the specified closing date, make written representations to the determining authority about the proposed activity.</p> <p>(2) The notice must be published on the NSW planning portal.</p> <p>(3) The period during which the environmental impact statement may be inspected begins on the day on which the notice is first published on the NSW planning portal.</p> <p>(4) An environmental impact statement must be published on—</p> <p>(a) the website of the determining authority for the activity, and</p> <p>(b) the website of the council of each area affected by the activity.</p>	<p>The EIS was published to the NSW Planning Portal on the 29/09/2022. Per Clause 5.8 of the Environmental Planning and Assessment Act 1979, the application was notified under Council's Community participation plan. It is noted that under clause 194 of the Environmental Planning Regulations, the notice is to be made on the Planning Portal. The Planning Portal however contains a limitation on the number of characters that can be used in a heading to which, the requirements of 194 (a) seeks to be required. Nonetheless, the Planning Portal contains a record of the application being notified from the 23rd of December 2022 to the 27th of January 2023.</p> <p>In this respect, given that Council has suitably advertised the application per its Community Participation Plan it is considered that the requirements of this clause have been met.</p>

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Clause	Comment
<p>196 - Reports about activities under the Act, Div 5.1</p> <p>(1) A determining authority for an activity must prepare a report on an activity for which an environmental impact statement has been prepared.</p> <p>(2) The report must be prepared as soon as practicable after a decision is made by the determining authority to—</p> <p>(a) carry out or refrain from carrying out the activity, or</p> <p>(b) approve or disapprove the carrying out of the activity.</p> <p>(3) The report must consider and comment on each of the following matters—</p> <p>(a) the environmental impact statement,</p> <p>(b) any representations duly made about the proposed activity,</p> <p>(c) the effects of the proposed activity on the environment,</p> <p>(d) the proponent's proposals to mitigate adverse effects of the activity on the environment,</p> <p>(e) findings and recommendations relating to the proposed activity arising from the following—</p> <p>(i) a report by the Planning Secretary under the Act, section 5.8,</p> <p>(ii) advice given by the Minister under the Act, section 5.9,</p> <p>(iii) a public hearing by the Independent Planning Commission.</p> <p>(4) The report must also contain—</p> <p>(a) full details of the determining authority's decision on the proposed activity, and</p> <p>(b) if the authority has granted approval to the carrying out of the activity—any conditions or modifications imposed or required by the</p>	<p>A report prepared by the determination authority (that being the Hawkesbury Local Planning Panel) will be prepared pursuant to the requirements of this clause.</p>

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<b>Clause</b>	<b>Comment</b>
authority in connection with the carrying out of the activity.  (5) The determining authority must—  (a) make the report public as soon as practicable after it is completed, and  (b) send a copy of the report to the council of each area that is, or would have been, affected by the activity.  (6) Subsection (5) does not apply to the extent of a direction given by the Independent Planning Commission under the Act, Schedule 2, clause 5 that prohibits or restricts the publication of the report.	

**5.3 Protection of the Environment Operations Act 1997**

The Protection of the Environment Operations Act 1997 (The POEO Act) defines the following category of activity as scheduled development pursuant to Section 43(b).

<b>Activity</b>	<b>Criteria</b>
Slaughtering or processing animals	Capacity to slaughter or process more than 750 tonnes live weight per year.

In this respect, the proposed development has a capacity to process more than 18,250 tonnes of poultry in which the proposed development is identified 'Designated Development' under Clause 31 in Schedule 3 of the Environmental Planning and Assessment Regulation 2021. Moreover, the application is identified as 'Nominated Integrated Development' pursuant to Section 4.46 of the Environmental Planning and Assessment Act 1979 of which, the application was referred to Environmental Protection Authority (EPA) pursuant to Section 43 for the purposes of a Scheduled Activity in the Protection of the Environment Operations Act 1997. The EPA have provided their General Terms of Approval.

**5.4 Biodiversity Conservation Act 2016**

Pursuant to Clause 7.7 (2), where a proposed development is likely to significantly affect threatened species, the application is to be accompanied by a Biodiversity Assessment Report.

To this effect, the applicant has provided a preliminary BDAR report prepared by LandEco Dated 09/07/2024. The report notes that the removal of vegetation will require the retirement of credits.

A condition of consent has been recommended regarding the retirement of credits.

**5.5 State Environmental Planning Policy – Biodiversity & Conservation 2021**

An assessment of the relevant chapters of the SEPP are provided as below.

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#### 5.5.1 Chapter 2 Vegetation in Non-Rural Areas

Per Clause 2.10 (2) and as discussed earlier the applicant has provided a preliminary BDAR report prepared by LandEco Dated 09/07/2024.

A condition of consent has been recommended regarding the retirement of credits.

#### 5.5 State Environmental Planning Policy – Resilience & Hazards 2021

The requirements of the State Environmental Planning Policy (Resilience and Hazards) 2021 apply to the subject site. In accordance with Chapter 4 of the SEPP, Council must consider if the land is contaminated, if it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

The site is not indicated in Council's records as being contaminated. A review of historical mapping has also revealed that the site has not been previously developed outside of an industrial use. In this regard, in accordance with clause 4.6 of the State Environmental Planning Policy (Resilience & Hazards) 2021, the land is considered to be suitable for the proposed development.

#### 5.4. State Environmental Planning Policy – Transport and Infrastructure 2021.

The relevant matters to be considered under Chapter 2 of the SEPP for the proposed development outlined below.

Clause	Comment
<b>Clause 2.48 – Electricity Infrastructure</b>	The proposed development is not considered to be within the vicinity of any electricity infrastructure under Clause 2.48(1).
<b>Clause 2.98 – Development Adjacent to rail corridors</b>	The proposed development does not adjoin in, around or on top of any rail corridors.
<b>Clause 2.119 – Frontage to a classified road</b>	The proposed development does not front a classified road.
<b>Clause 2.120 – Impact of road noise or vibration on non-road development</b>	The subject site does not adjoin a classified road.

#### 6. Hawkesbury Local Environmental Plan 2012

The relevant matters considered under the HLEP 2012 for the proposed development are outlined below:

##### 6.1. Clause 1.2 Aims of plan.

*(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*

- to provide the mechanism for the management, orderly and economic development and conservation of land in Hawkesbury.*
- to provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production,*

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- *to protect attractive landscapes and preserve places of natural beauty, including wetlands and waterways,*
- *to protect and enhance the natural environment in Hawkesbury and to encourage ecologically sustainable development,*
- *to conserve and enhance buildings, structures and sites of recognised significance that are part of the heritage of Hawkesbury for future generations,*
- *to provide opportunities for the provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups in Hawkesbury,*
- *to encourage tourism-related development that will not have significant adverse environmental effects or conflict with other land uses in the locality.*

The proposed development has generally satisfied the objectives of the clause.

#### 6.2. Clause 2.3 Zone objectives and Land use table.

The site is zoned E4 – General industrial under the Hawkesbury Local Environmental Plan 2012. The aims and objectives for the E4 zone in clause 2.3 zone objectives are as follows:

- *To provide a range of industrial, warehouse, logistics and related land uses.*
- *To ensure the efficient and viable use of land for industrial uses.*
- *To minimise any adverse effect of industry on other land uses.*
- *To encourage employment opportunities.*
- *To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.*

The use of the site is most accurately defined as “Livestock processing industry”. The development is defined under the Hawkesbury LEP 2012 as follows:

**“Livestock processing industry means a building or place used for the commercial production of products derived from the slaughter of animals (including poultry) or the processing of skins or wool of animals and includes abattoirs, knackeries, tanneries, woolscours and rendering plants**

It is considered that the proposed development is permitted with consent on the site.

Clause	Comment
<b>Part 4 – Principal development standards</b>	
<b>Clause 4.3 Height of buildings</b>	<p>It is noted that the site has no prescribed height limit. The submitted architectural denote that the proposed development has a total building height of 12.5m.</p> <p>It is to be noted that the building incorporates an exhaust stack to a height of 3m and therefore a majority of the building remains to a height of 9.5m. It is considered that the proposed development is suitable for the locality in consideration to the setbacks provided.</p>

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Clause	Comment
<b>Clause 4.6 Exceptions to development standards</b>	A Clause 4.6 variation is not proposed.
<b>Part 5 – Miscellaneous provisions</b>	
<b>5.1A Development on land intended to be acquired for public purposes</b>	The deposited plans do not demonstrate that the site is or will be subject to future land acquisition.
<b>5.10 Heritage conservation</b>	The site is not considered to be a heritage item nor is it considered to be a heritage item.
<b>5.21 Flood planning</b>	The site is not considered to be subject to flood development controls.
<b>Part 6 – Additional local provisions</b>	
<b>6.1 Acid sulphate soils</b>	The site is considered to fall under class 5 acid sulphates. Suitable conditions of consent will be provided.
<b>6.2 Earthworks</b>	Council's development engineers have reviewed the proposed earthworks involved do not raise concern with the
<b>6.6 Development in areas subject to aircraft noise</b>	The site is not considered to fall within the vicinity of the RAAF base Richmond.
<b>6.7 Essential services</b>	No concerns are raised with regard to access to services for emergency services.

**7. Hawkesbury Development Control Plan 2002**

A summary of the assessment of the application pursuant to the Hawkesbury Development Control Plan 2023 (HDCP 2023) is provided below:

Clause	Compliance
<b>Chapter 5: Traffic, access street design and parking</b>	
<b>4.1 Off street parking rates</b>	Supportable.  <b>Note:</b> off street parking requirements for livestock processing unit are to be considered on merit. The proposed development facilitates the 20 off street parking spaces. Given the plan of management seeks five (5) permanent staff at one time and up to twenty (20) casual staff, the parking arrangements are considered to be appropriate given that there are ample on street parking spaces along Box Avenue and Woodlands Road.
<b>4.2 Parking design requirements.</b>	Compliant subject to the imposition of conditions.  <b>Note:</b> the proposed development is generally compliant with this section of the DCP.
<b>4.3 Road/access design requirements.</b>	Council's development engineers have reviewed the below and raise no objections subject to the imposition of conditions.

A consideration of Part D Chapter 2 of the Hawkesbury Development Control Plan 2002 is provided below.



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Clause	Compliance
<b>Chapter 2 Industrial</b>	
<b>Clause 2.2 Building setbacks</b>	Yes  <b>Note:</b> the proposed development is bounded by Box Avenue, Woodlands Road & Iron Bark Drive. In this respect, a setback of 4.2m is provided to the Box Avenue, 26m to Iron Bark Drive & 13.1m to Woodlands Road.  These setbacks are considered to be appropriate in managing the bulk and scale perceivable from the street.
<b>Clause 2.4 Building Design &amp; Construction</b>	Yes  <b>Note:</b> the proposed finishes and materials sought are suitable given the industrial use of the site proposed. The EPA have reviewed the application and provided conditions under their General Terms of Approval document.
<b>Clause 2.5 Fencing</b>	Yes  <b>Note:</b> the fencing sought under this application is appropriate given the use as a livestock processing unit.
<b>Clause 2.7 Environmental Issues</b>	Yes  <b>Note:</b> the application is considered to fall under the category of designated development due to the amount of livestock sought to be processed on site. As such, the application has been referred to the Environmental Protection Agency to which have provided conditions to address the requirements of this clause.  Council's Environmental Health Officers have reviewed the application and raise no concerns subject to the imposition of conditions.

#### 8. Development Contributions

Pursuant to Council's adopted 7.12 contributions plan, a development contribution of \$34,440.00. A condition of consent has been recommended.

#### 9. The Regulation 2021

Applicable regulation considerations for compliance with the Building Code of Australia, PCA appointment and notice of commencement of works, sign on work sites, critical stage inspections and records of inspection would have been covered under the recommended conditions of consent should the application have been recommended for approval.

#### 10. The likely impacts of the development

The proposed development seeks the introduction of a poultry processing farm to the site of 10 Woodlands Road, Wilberforce. The development is classed as designated development pursuant to clause 31 of Schedule 3 under the Environmental Planning and Assessment Regulation 2021. As such, the application has been accompanied by the Secretary's Environmental Assessment Requirements (SEAR). It is considered that the Environmental Impact Statement (EIS) prepared by Urban City dated January 2024, addresses the requirements of the SEARs and Section 192 of the Environmental Planning and Assessment Regulations 2021.

Further, the Environmental Protection Agency has provided their general terms of conditions to which form the conditions of consent.

The application has been complimented by a suitable Plan of Management to which will form part of the conditions of consent. It is anticipated therefore that the proposed development will be suitable for the site.

#### **11. Suitability of the Site**

The subject site is zoned as E4 General Industrial under the Hawkesbury Local Environmental Plan 2012 under which a Intensive livestock processing facility is permissible. The proposed development has been assessed against the requirements of Council's LEP & DCP as well as the requirements of the EPA.

The EIS has noted that the intent of the relocation of the poultry processing unit from Withers Road, North Kellyville to Wilberforce has been sought due to the development of the surrounding area for residential purposes. As such, the proposed development has incorporated best practice arrangements for animal welfare, biosecurity and measures to minimise the impacts to the surrounding locality.

With the Poultry industry growing at a rate of 1.2% year on year, the application seeks to address the need for poultry processing in both the Greater Sydney and National stage.

The EIS further notes that a number of external government agencies were consulted in preparation of the SEARs. All of the requirements of these state agencies are considered to have been suitably addressed. A suitable plan of management has been supplied with the application to which a condition of consent has been recommended.

Given the use of the site as a livestock processing industry is a permissible use within the E4 General Industrial zone, it is considered that the development, in consideration of the assessment of alternatives under section 13.3 of the EIS, is compatible with the zone and meets the objectives of the zone.

It is considered that the proposed development in its current form is acceptable subject to the imposition of conditions.

#### **12. Public Consultation**

In accordance with Council's community participation plan 2019, the Development Application was notified from the 8th of March 2023 to the 6th of April 2023. Council has not received any submissions to date in response to the proposal.

#### **13. Public Interest**

The proposed development is considered to have failed to meet the aims of a E4 General Industrial zone and the relevant sections of Council's development control plan. In this respect, Council cannot consider the application to be in the public interest.

#### **14. Conclusion**

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal *is* suitable for the site and *is* in the public interest. Therefore, it is recommended that the application be approved subject to the imposition of conditions.

**HAWKESBURY LOCAL PLANNING PANEL**

**2. REPORTS FOR DETERMINATION**

**Meeting Date:** 18 July 2024

**Attachments**

**AT - 1** S4.15 Assessment Report & Recommended Conditions - *(Distributed under separate cover).*

**AT - 2** Plans used during assessment - *(Distributed under separate cover).*

**AT - 3** Clause 4.6 Request - *(Distributed under separate cover).*

**oooO END OF REPORT Oooo**



# Hawkesbury Local Planning Panel Meeting

## End of Business Paper

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