



New South Wales Government
Independent Planning Commission

Gateway Determination Review Request – 79, 95, 100 Bells Lane, and 457 Bells Line of Road, Kurmond

Gateway Determination Advice Report

Chris Wilson (Chair)

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State of New South Wales through the Independent Planning Commission 2021

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1 INTRODUCTION

1. On 26 February 2021, the NSW Independent Planning Commission (the **Commission**) received a request from the NSW Department of Planning, Industry and Environment (the **Department**) to provide advice pursuant to section 2.9(1)(c) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* in relation to a Planning Proposal and Gateway Determination in respect of four sites being 79, 95 and 100 Bells Lane, and 457 Bells Line of Road, Kurmond (the **Sites**) within the Hawkesbury Local Government Area (**LGA**).
2. On behalf of the landowners of these Sites (the **Proponent**), Montgomery Planning Solutions lodged a Planning Proposal with Hawkesbury City Council (**Council**) in September 2017, seeking to amend the Hawkesbury Local Environmental Plan 2012 (**HLEP 2012**) to reduce the lot size at the Sites to a minimum of 4,000m² (the **Planning Proposal**). Like a number of other Planning Proposals in the area, the Planning Proposal has been prepared in response to Council's 2015 draft *Kurmond and Kurrajong Investigation Area Structure Plan (draft Kurmond-Kurrajong Structure Plan)*.
3. On 12 February 2018, the Planning Proposal was approved to proceed to Gateway (subject to conditions) by the Sydney Western City Planning Panel as part of a Rezoning Review process, and on 7 May 2018 the Planning Proposal was submitted to the Department for a Gateway Determination.
4. On 23 June 2018, as delegate of the Minister for Planning, the Department issued a Gateway Determination that the Planning Proposal should proceed subject to conditions (the **Gateway Determination**). Amongst other matters, these conditions included the need for additional studies relating to flora and fauna and contamination.
5. On 15 April 2019, Council provided a letter to the Proponent setting out directions for the progression of the Planning Proposal.
6. The Proponent resubmitted the Planning Proposal in September 2019 (current Planning Proposal), which seeks to enable rural residential subdivision of the Sites into 16 lots.
7. On 6 April 2020, following a request from Council for additional time to finalise the draft Planning Proposal, the Department reviewed both the request and the merits of the Planning Proposal, and altered the Gateway Determination to replace an existing condition (condition 1(b)) with a new condition, which reads as follows:

Amend the lot size to a minimum of 1 hectare for 79 and 95 Bells Lane, and 457 Bells Line of Road. Council may increase the lot size above 1 hectare to take into consideration site constraints, ensure compliance with Council's Development Principles for Kurmond Kurrajong area and to ensure Council is satisfied the lot size is suitable for the landscape character of the area.

A lot size map and maximum residential lot yield (restricted lot yield LEP map) is to be prepared for 79 and 95 Bells Lane and 457 Bells Line of Road. 100 Bells Lane is to be removed from this Gateway.
8. The Department altered the Gateway Determination (**Altered Gateway Determination**) because it was considered inconsistent with the objectives of the strategic planning framework established in the *Greater Sydney Region Plan, A Metropolis of Three Cities (Region Plan)* and *Western City District Plan (District Plan)*, which came into effect in March 2018. The Altered Gateway Determination effectively reduces the proposed development yield from 16 to approximately 6 lots.

9. On 10 November 2020, the Proponent sought a Gateway determination review.
10. Mary O’Kane AC, Chair of the Commission, nominated Chris Wilson (Chair), to constitute the Commission Panel providing advice on the review of the Altered Gateway Determination.

1.1 Site and Locality

11. The four Sites are identified in Figure 1 below and are shown in the context of the draft Kurmond and Kurrajong Investigation Area at Figure 2.

Figure 1 Location of Sites (source: SixMaps)



12. The Sites are located on the outskirts of Kurmond Village. When measured from the Kurmond Village Shopping Centre to the closest boundary of each Site, the closest property is 457 Bells Line of Road (approximately 430 metres) and the furthest property is 100 Bells Lane (approximately 1.2 kilometres, or 1.9 kilometres by road).
13. The Sites are all zoned RU1 Primary Production under the HLEP 2012. Surrounding land uses are predominantly zoned RU1 Primary Production or RU4 Primary Production Small Lots. Kurmond Village is zoned B1 Neighbourhood Centre and R2 Low Density Residential with small pockets of RE1 Public Recreation.
14. The Department’s Gateway Report describes the four properties as follows:

457 Bells Line of Road, Kurmond

- Approximately two hectares and has a 170-metre frontage to Bells Line of Road and a 110-metre frontage to Bells Lane.
- Contains a dwelling house, a small dam, cleared pasture and scattered trees.

79 Bells Lane, Kurmond

- Approximately three hectares in area and has a 120-metre frontage to Bells Lane.
- Contains two dwelling houses (attached dual occupancy), cleared pasture, a small dam and scattered trees.

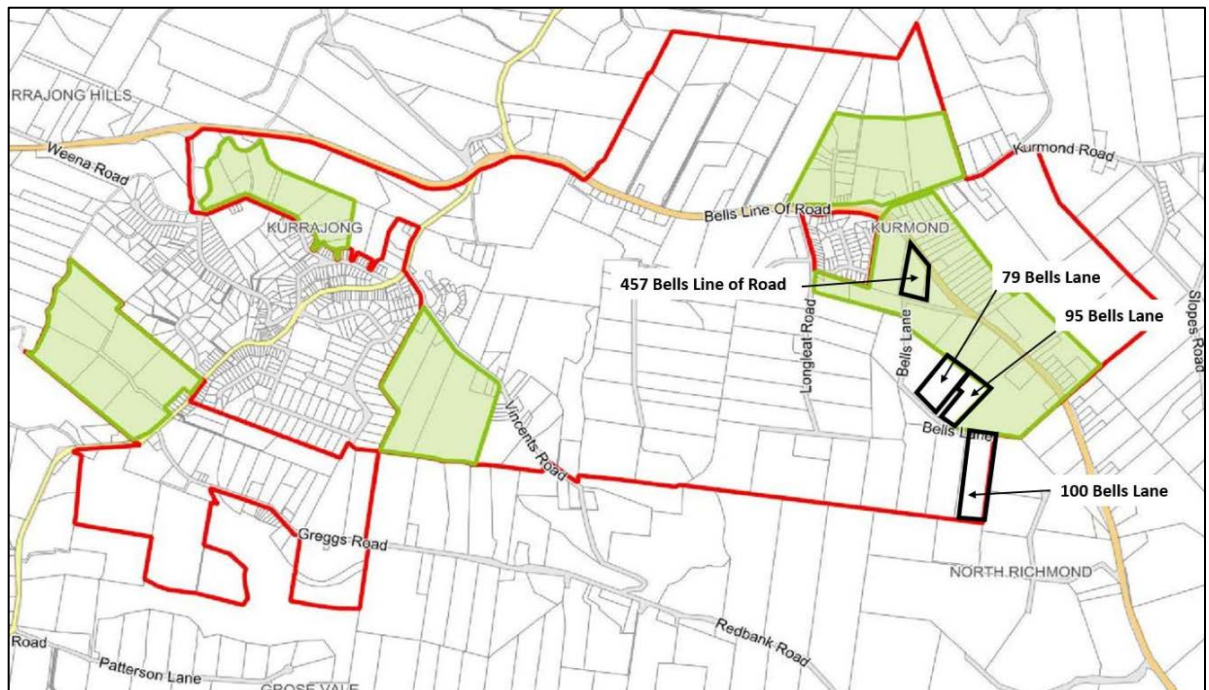
95 Bells Lane, Kurmond

- Approximately 2.5 hectares in area and has an 80-metre frontage to Bells Lane.
- Contains a dwelling house, cleared pasture, two small dams and scattered trees.

100 Bells Lane, Kurmond

- Approximately five hectares in area and has a 127-metre frontage to Bells Lane.
- Contains a dwelling house, three small dams, cleared pasture and scattered trees.

Figure 2 Local context (Draft Kurmond and Kurrajong Investigation Area Structure Plan outlined in red; subject lands outlined in black; areas identified for a 4,000m² minimum lot size shown in green) (source: Department's Gateway Report)



15. The Department's Gateway Report notes that the Sites contain vegetation that is mapped as significant under the HLEP 2012.

1.2 The Planning Proposal

16. The current Planning Proposal (dated September 2019) seeks to reduce the minimum lot size for the four Sites from 10 hectares to a range from one hectare to 4,000m² to facilitate subdivision of the Sites into 16 lots.
17. The Commission notes that the Planning Proposal has a lengthy history. A detailed summary of the Planning Proposal's history is provided at **Appendix A**. In summary, the Planning Proposal was:
- initiated with Hawkesbury Council in January 2015;
 - approved to proceed to Gateway by the Western City Planning Panel in February 2018;
 - submitted to the Department for Gateway in May 2018;

- Gateway Determination was issued by the Department in June 2018, which determined the Planning Proposal should proceed subject to Conditions;
- Council requested the Department extend the timeframe to complete the LEP in November 2019; and
- in April 2020, the Department altered the Gateway Determination.

1.3 Proponent's Request

18. This review of the Altered Gateway Determination was sought by the Proponent.
19. As part of the material considered by the Commission (described at paragraph 22 below), the Commission has reviewed the Proponent's justification for requesting a Gateway determination review. The Proponent's justification states that the Altered Gateway Determination should be reviewed for the following reasons:
 - The planning proposal satisfies the sustainability criteria outlined in the adopted Hawkesbury Residential Strategy 2011;
 - The planning proposal satisfies the development constraint principles for the Kurmond and Kurrajong Investigation Area adopted in 2015;
 - The planning proposal satisfies the Sydney Western City Planning Panel decision of February 2018;
 - The planning proposal satisfies the original Gateway Determination conditions;
 - The planning proposal satisfies the Kurmond and Kurrajong Landscape Character Study;
 - The proposed lot size, layout and yield proposed are the product of five years of critical assessment and working with Council staff to satisfy all relevant strategies;
 - The 1ha lot size imposed by the new Gateway Determination seems arbitrary as the Landscape character study recommends a minimum lot size of 5,000m² for sites within very high priority habitat;
 - In its letter dated 15 April 2019, the Council provided very clear directions to the proponent to allow progression of the proposal. The proponent has satisfied those directions; and
 - While not formally adopted by Council, the latest strategic planning document is the draft Kurmond-Kurrajong Structure Plan.
20. The Proponent requests that a new Gateway Determination be issued in respect of the Sites, with the following minimum lot sizes:
 - Minimum lot size of 1 ha for 100 Bells Lane (maximum yield of three lots);
 - Minimum lot size of 1 ha and 5,000m² for 95 Bells Lane (maximum yield of three lots);
 - Minimum lot size of 5,000m² and 4,000m² for 79 Bells Lane (maximum yield of five lots); and
 - Minimum lot size of 4,000m² for 457 Bells Line of Road (maximum yield of four lots).

2 THE COMMISSION'S CONSIDERATION

2.1 The Commission's Meetings

21. As part of its review, the Commission met with various organisations / persons as set out in Table 1 below. All meeting and site inspection notes have been made available on the Commission's website.

Table 1 – Commission's Meetings

Meeting	Date of Meeting	Transcript/Notes Available on
Site Inspection	11 March 2021	17 March 2021
Council	11 March 2021	16 March 2021
Department	12 March 2021	17 March 2021
Proponent	12 March 2021	17 March 2021

2.2 Material Considered by the Commission

22. In this review, the Commission has carefully considered the following material (the Material):

- the Department's request for Gateway determination review letter, received by the Commission on 26 February 2021;
- the Department's Gateway Report, received by the Commission on 26 February 2021, including the following attachments:
 - Attachment A – Altered Gateway determination, April 2020;
 - Attachment B1 – Gateway determination, June 2018;
 - Attachment B2 – Sydney Western City Planning Panel Rezoning Review Advice, February 2018;
 - Attachment C1 – Gateway Review Request Application Form;
 - Attachment C2 – Proponent Supporting Information Report for Gateway Determination Review;
 - Attachment C3 – Letter from Council requesting updates to the Planning Proposal, April 2019;
 - Attachment C4 – Planning Proposal, September 2019;
 - Attachment C5 – Bushfire Hazard Assessment, September 2019;
 - Attachment C6 – Flora and Fauna Report, September 2019;
 - Attachment C7 – On-site Wastewater Management Report, December 2014;
 - Attachment C8 – Review of RU1 Objectives, January 2019;
 - Attachment D – Council's Gateway review comments;
 - Attachment E – Preliminary Contamination Report, October 2018;
 - Attachment F1 – Planning Proposal submitted for Gateway determination, November 2017;
 - Attachment F2 – Planning Proposal Addendum submitted for Gateway determination, November 2017; and
 - Attachment G – Council's post exhibition report on the draft Kurmond-Kurrajong Structure Plan, June 2020.
- all comments made to the Commission during the meetings outlined in Table 1;
- the *Greater Sydney Region Plan, A Metropolis of Three Cities, 2018 (Region Plan)*;
- *Western City District Plan, 2018 (District Plan)*;
- *Draft Hawkesbury Local Strategic Planning Statement 2040 (Draft LSPS)*;

- *Draft Hawkesbury Rural Lands Strategy*; and
- *Hawkesbury Local Housing Strategy, 2020* (adopted on 8 December 2020).

2.3 Council's View

23. At its meeting with the Commission on 11 March 2021, Council described the history of the Planning Proposal in the context of the changes to the strategic planning framework. Council discussed the interim development constraint principles adopted by Council in 2015 to guide the assessment of individual Planning Proposals located within the draft Kurmond-Kurrajong Structure Plan area, and the status of other relevant local strategic plans.

24. With regard to the subject Planning Proposal, Council in the meeting with the Commission stated:

This proposal itself that ... the Commission has been asked to look at was originally received in January of 2015... The proposal was ... originally lodged ... as a result of ongoing discussions between Council officers and the Applicant. And the changes to that proposal have been informed by a number of things. Obviously, the interim principles that the Council adopted, the works that Council has done in terms of studies associated with the preparation of a Structure Plan and the Gateway review decision as well. And we've essentially progressed to a point where as officers, we were comfortable with the proposal and we were about to commence the public exhibition which was when the amended Gateway was received in April 2020.

25. The Department's Gateway Report notes that the Department sought comment from Council on the Proponent's Gateway determination review request and Council provided comments back to the Department on 8 December 2020. In its response, Council provided comments to each of the points raised in the Proponent's justification for the Gateway determination review, as listed at paragraph 19 above, and were supportive of the Proponent's reasons for the review.

2.4 The Department's Consideration

26. The Department is of the view that the Planning Proposal does not demonstrate strategic merit and demonstrates limited site-specific merit.

27. The Commission notes the Department's view set out in its request for the review received by the Commission on 26 February 2021, which states:

The Department determined this proposal was inconsistent with the objectives of the Metropolitan Rural Area, not supported by an updated strategic planning framework and is inconsistent with section 3.8(2)(a) of the EP&A Act. If the Department reassessed this proposal for Gateway, Gateway may not have been issued.

As the Gateway has been issued by the Department, in conjunction with the Greater Sydney Commission, it permitted the planning proposal to continue. However, the Gateway was altered to reduce the impact of the development...

28. The Altered Gateway Determination provides for a development yield of approximately six lots. The Gateway Report states that 457 Bells Line of Road and 79 and 95 Bells Lane would be able to be subdivided into two lots each (subject to satisfying the other criteria in the condition), and no subdivision potential would be available for 100 Bells Lane.

29. The Commission notes the Department's comment in the Gateway Report that:

The Gateway alteration sought to amend the planning proposal to ensure development was more aligned to the values of the Metropolitan Rural Area by:

- *100 Bells Lane was removed from the proposal as it is not close enough to be considered a logical expansion of the existing Kurmond village.*
- *The proposed minimum lot size for the remainder of the sites be amended to 1 hectare only if and where the proposal can demonstrate buildings can be situated to address slope, vegetation, vehicular access and to minimise visual impact on the scenic qualities of the locality.*
- *It is noted the sites are identified as containing 'Ridgeline Street' and 'Pastoral Valleys' in the Kurmond Kurrajong Landscape Character Study. The proposed minimum lot sizes do not support retaining this character, in particular 'Pastoral Valleys' as lightly sloping open pastures with scattered trees.*

2.5 Strategic Context

30. The four Sites are subject to the Region Plan and District Plan, which came into effect in March 2018.

31. The Commission notes relevant objectives of the District Plan are to protect and enhance scenic and cultural landscapes (Planning Priority W16) and to better manage rural areas by protecting environmental, social and economic values (Planning Priority W17).

32. The Sites are identified within the 'Metropolitan Rural Area' (MRA) under the District Plan, which states:

The Western Parkland City is a place that meets the country and where the Metropolitan Rural Area, Western Sydney Parklands and the national parks and reserves of the Protected Natural Area including the Greater Blue Mountains World Heritage Area frame the city. This unique setting provides the opportunity to derive tourism benefits linked to the District's natural, recreational and agricultural assets.

33. The objectives of the MRA are to maintain and enhance the environmental, social and economic values of the district by contributing to habitat and biodiversity; supporting productive agriculture; maintaining access to mineral and energy resources; sustaining rural towns and villages; and encouraging tourism to the district's assets.

34. With regard to Sydney's future housing needs, the Commission notes the District Plan states:

A Metropolis of Three Cities takes a strategic approach to delivering Greater Sydney's future housing needs within the current boundary of the Urban Area including Growth Areas. Urban development in the Metropolitan Rural Area will only be considered in the urban investigation areas identified in A Metropolis of Three Cities... [to prevent] inappropriately dispersed urban activities in rural areas.

... Rural-residential development is not an economic value of the District's rural areas and further rural-residential development is generally not supported. Limited growth of rural-residential development could be considered where there are no adverse impacts on the amenity of the local area and the development provides incentives to maintain and enhance the environmental, social and economic values of the Metropolitan Rural Area.

35. The Commission understands the Planning Proposal was approved to proceed to Gateway by the Sydney Western City Planning Panel on 12 February 2018, which was prior to the adoption of both the Region and District Plans in March 2018 but after the exhibition of the then draft Region and District Plans.
36. The Commission notes that the Sydney Western City Planning Panel did not require the Proponent to demonstrate consistency with the District Plan. This was discussed with the Department, Council, and the Proponent during their meetings with the Commission.
37. The Commission notes the conditions of the Gateway Determination required the Proponent to update the Planning Proposal to demonstrate consistency with the Region Plan and District Plan. At its meeting with the Commission on 12 March 2021, the Proponent stated that it had addressed this requirement at the time.
38. The key strategic plan governing the preparation of the Planning Proposal was Council's 2015 draft Kurmond-Kurrajong Structure Plan, which identifies specific areas adjoining Kurmond and Kurrajong villages as potentially suitable for a 4,000m² minimum lot size, and the remaining areas as suitable for a one hectare minimum lot size (refer to Figure 2 above).
39. The draft Structure Plan was supported by interim development constraint principles which sought to assist in determining whether rural residential development and the associated lot sizes could be achieved on individual sites within the Investigation Area. The Commission accepts that the draft Structure Plan was a locality-specific rural residential strategy. It was not governed by broader land use policies and was not endorsed by the Department.
40. At its meeting with the Commission on 11 March 2021, Council stated that at its Ordinary Meeting on 23 February 2021, Council resolved not to adopt the draft Structure Plan. Council resolved:
 - *Not adopt the Kurmond-Kurrajong Investigation Area Structure Plan.*
 - *Assess remaining individual planning proposals within the Kurmond-Kurrajong Investigation Area against the interim development constraints principles and the NSW Planning Framework (Sydney Region Plan and Western City District Plan including Metropolitan Rural Area).*
 - *Not encourage the lodgement of additional individual Planning Proposals within the Kurmond-Kurrajong Investigation Area for rural residential development.*
41. The Commission accepts that the progression of the Planning Proposal is now fundamentally governed by the current strategic planning framework outlined above but as considered further in this advice, some weight must be given to Council's initial strategic approach to development in the Kurmond-Kurrajong Investigation Area and the interim development constraints principles adopted by Council.

2.6 Strategic Merit

42. The Commission acknowledges the Department's view that the Planning Proposal is inconsistent with the current strategic planning framework, specifically the values of the MRA, and the principle of housing being located in the right locations.
43. The Department, in the Gateway Report, states that the Proponent:

...has not demonstrated how the proposal protects and enhances the environmental, social and economic values of the rural area as required under Planning Priority W17 Better managing rural areas.

44. The Commission notes the Department's comments in the Gateway Report that the Kurmond-Kurrajong area is not identified as an area suitable for residential intensification, other than natural or organic growth.
45. The Commission also notes Council's comments at its meeting with the Commission:

...in terms of [the] District Plan, obviously there's the Metropolitan Rural Area [which] discusses rural-residential and sort of highlights that it's generally not supported within the metropolitan rural area. So I guess it's not saying it's completely out of the question but as a general rule... we're not looking at widespread rural-residential areas.
46. At its meeting with the Commission on 11 March 2021, Council commented that it does not rely on development within the Kurmond-Kurrajong Investigation Area to achieve its housing targets in the Hawkesbury LGA. Council noted that new housing in the LGA is primarily focused in the north-west growth area.
47. The Commission notes the Proponent's justification for the Gateway determination review, as set out at paragraph 19 above, including its strategic merit justification. The Commission acknowledges the Proponent's view that the "proposed lot size, layout and yield proposed are the product of five years of critical assessment and working with Council staff to satisfy all relevant strategies".

Commission's Finding

48. The Commission agrees with the Department that the current strategic planning framework has evolved significantly since the Planning Proposal was submitted for Gateway Determination in September 2017.
49. The Commission agrees with the Department's comment during its meeting with the Commission regarding the evolution of the strategic planning framework, and the identification of the Sites within the MRA:

...the implication of that identification has evolved over time and it's unfortunate that this planning proposal has been, I guess, caught in some of that policy evolution. But what it has come to mean, and the Council and Applicant have been advised in writing as of last year, is that the Metropolitan Rural Area is clearly not a place for significant residential development within that rural area.
50. The Commission notes that the District Plan generally does not support additional rural-residential development in the MRA and generally accepts the Department's finding that the Planning Proposal does not give effect to the District Plan, in particular Planning Priorities W16 and W17.
51. The Commission also accepts the Department's view noted at paragraph 27 above, that if the Planning Proposal was submitted for Gateway at this time, and assessed against the current strategic planning framework, Gateway would likely not be issued.
52. While the Commission also accepts that the overriding strategic planning objective for the Kurmond-Kurrajong area should be to ensure consistency with the Region and District Plans, specifically the values of the MRA, the Commission considers in this instance, some weight must be afforded Council's former strategic planning approach given:
 - The Planning Proposal was prepared in response to Council's 2015 draft Kurmond-Kurrajong Structure Plan;
 - Preparation of the Proponent's assessment and responses to requests from Council, the Sydney Western City Planning Panel and the Department over a lengthy period of time;

- The Planning Proposal has generally addressed the interim development constraints principles which remain relevant to Council's consideration of residual Planning Proposals within the Investigation Area;
- The Planning Proposal was approved to proceed to Gateway by the Sydney Western City Planning Panel subject to conditions, which have largely been addressed by the Proponent;
- The Minister's delegate issued a Gateway Determination in 2018 (after the release of the Region Plan and District Plan) which determined that the Planning Proposal should proceed generally as is, subject to conditions, which have largely been addressed by the Proponent; and
- The fact that some minor additional development could be achieved on a number of the Sites given:
 - it would not be significant rural-residential development;
 - the key environmental constraints can be addressed; and
 - the principle of natural or organic growth can generally be achieved for a number of the Sites. This is discussed in more detail at section 2.7 below.

2.7 Site Specific Merit

53. The Gateway Report states the Sites are identified within the Kurmond Kurrajong Landscape Character Study, which was commissioned by Council. The Sites are identified as 'ridgeline street' and/or 'pastoral valley' landscape character types. Table 3 of the Gateway Report describes the landscape character and view corridors of each property.
54. The Commission notes the Department's view set out in the Gateway Report:

Upon review of the additional information submitted within the Gateway determination review package, it is concluded the proposal has limited site-specific merit for increased residential development.
55. The Gateway Report does state that there are suitably cleared areas to locate additional dwellings on the Sites (to avoid additional impact to the existing shale sandstone transition forest) and on-site wastewater management areas can be accommodated.
56. The Gateway Report also states that the Proponent would need to undertake additional work to demonstrate that development on the Sites could be located on land with a slope less than 15%.
57. The Commission notes the Proponent's view that the Planning Proposal satisfies:
 - the interim development constraint principles adopted by Council in 2015;
 - the original Gateway Determination conditions; and
 - the *Kurmond and Kurrajong Landscape Character Study*.

Relationship with other Planning Proposals

58. The Commission agrees with the Department's view in the Gateway Report that the Planning Proposal cannot be considered in isolation considering the number of other Planning Proposals in the Kurmond-Kurrajong area.
59. The Commission notes its recent consideration of a separate Gateway determination review request for 42 Bells Lane, Kurmond. The Commission notes that the timing and circumstances around that Planning Proposal differs to the circumstances of this case as that Planning Proposal was submitted for Gateway some years later and had not previously received a Gateway Determination to proceed.

60. It is further noted that the Proponent for this Planning Proposal has substantially satisfied Council's adopted interim development constraints principles for the Kurmond and Kurrajong Investigation Area and the original Gateway Determination conditions.

Commission's Findings

61. The Commission agrees with the Proponent's comments noted at paragraph 57 and finds that the Proponent has largely satisfied Council's interim development constraint principles.
62. The Commission also agrees that the minimum lot size of one hectare proposed by the Department in the Altered Gateway Determination for 457 Bells Line of Road, 79 Bells Lane and 95 Bells Lane would not significantly impact the pastoral valley landscape character of the area.
63. The Commission also accepts that the minimum lot size of one hectare as proposed by the Department in the Altered Gateway Determination better aligns with the existing strategic context established in the Region Plan and District Plan.
64. However, as identified previously, the Commission concludes that some weight in this instance must be afforded to Council's draft Kurmond-Kurrajong Structure Plan and the interim development constraints principles for the Investigation Area which the Proponent has largely addressed.
65. Taking into consideration the principle of natural or organic growth (as it relates to the village of Kurmond), and the constraints analysis undertaken for each Site by the Proponent, the Commission concludes that some minor additional development potential above that recommended in the Altered Gateway Determination is justified.
66. The Commission concludes that a logical reduction of density in relation to the village of Kurmond and environmental capacity of the individual sites would support the following without compromising the values of the MRA:
- 457 Bells Line of Road: minimum lot size of 4,000m² (maximum yield of four lots);
 - 79 Bells Lane: minimum lot size of 9,200m² (maximum yield of three lots);
 - 95 Bells Lane: minimum lot size of one hectare (maximum yield of two lots); and
 - 100 Bells Lane: no change to existing minimum lot size (no additional yield).
67. The Commission is of the view that through additional consultation with Council, this modest increase in yield (refer to Table 2) is justified as detailed below.
68. **457 Bells Line of Road** – is located approximately 430 metres from Kurmond village, and is identified in the draft Kurmond-Kurrajong Structure Plan as potentially suitable for a minimum lot size of 4,000m². It is also located within the 'ridgeline streets' landscape character type, which supports an urban character. Of all four Sites, 457 Bells Line of Road is the most contiguous with Kurmond village and can be considered a more logical expansion of the village and therefore more consistent with the principle of organic growth. Further, it is supported by general adherence to the interim development constraints principles and is consistent with the draft Kurmond-Kurrajong Structure Plan. The Commission recommends a minimum subdivision size of 4,000m² for 457 Bells of Line of Road.

69. **79 Bells Lane** – is located approximately 1 kilometre from Kurmond and was identified in the draft Kurmond-Kurrajong Structure Plan as potentially suitable for a minimum lot size of one hectare. The Site is approximately three hectares in size and contains two dwelling houses, cleared pasture, a small dam and scattered trees. The Site is located within a pastoral valley landscape character type. The Proponent has identified that a three-lot subdivision (9,200m² each lot) could be achieved on site as an alternative to the five-lot subdivision originally proposed.
70. While the Sites' consistency with the principle of natural or organic growth with respect to Kurmond village is debateable, the Commission concludes that with the appropriate siting of any additional dwellings, and the retention of open pastures and scattered trees as far as practicable, that a minimum lot size of 9,200m² could be sustained. It is unlikely to result in additional development along the Bells Lane ridgeline and would not significantly impact the existing pastoral valley landscape character. Generally, the values of the MRA would be maintained. Furthermore, it is supported by adherence to the interim development constraints principles and is generally consistent with the objectives of the draft Kurmond-Kurrajong Structure Plan. Consequently, the Commission recommends a minimum subdivision size of 9,200m² for 79 Bells Lane.
71. **95 Bells Lane** – is located to the east of 79 Bells Lane and marginally further from Kurmond. It was also identified in the draft Kurmond-Kurrajong Structure Plan as potentially suitable for a minimum lot size of one hectare. The Site is approximately 2.5 hectares in size and contains a dwelling house and two dams and is characterised by cleared pastures and scattered trees. Given the size of the Site, the Commission concludes that the Department's recommended minimum of one hectare for this Site is appropriate. It would not result in additional development along the Bells Lane ridgeline and would not significantly impact the existing pastoral valley landscape character. As with 79 Bells Lane, the values of the MRA would generally be maintained. Furthermore, it is supported by adherence to the interim development constraints principles and is consistent with the objectives of the draft Kurmond-Kurrajong Structure Plan. Consequently, the Commission recommends a minimum subdivision size of one hectare for 95 Bells Lane.
72. **100 Bells Lane** – is located approximately 1.2 kilometres from Kurmond or 1.9 kilometres by Road. As identified in Figure 2, it is identified in the far south-east corner of the draft Kurmond-Kurrajong Structure Plan and is identified as potentially suitable for a minimum lot size of one hectare. It is approximately five hectares in area and contains a dwelling house, three small dams, cleared pasture and scattered trees. Despite having addressed the interim development constraints principles and being generally consistent with the objectives of the draft Kurmond-Kurrajong Structure Plan, the Commission concludes that the proposed subdivision of this site is at odds with the newly established strategic planning context and the values of the Metropolitan Rural Area. The further development of 100 Bells Lane cannot be considered as natural or organic growth of Kurmond village, and is not close enough to Kurmond village to be considered a logical expansion of the village. Consequently, consistent with the Altered Gateway Determination, the Commission recommends no further subdivision of this Site.
73. In conclusion, the Commission agrees with the Department's requirement in its amendment to Condition 1(b) of the consent that the Proponent should "...ensure compliance with Council's Development Principles for Kurmond Kurrajong area..."

74. The Commission considers that subject to additional consultation with Council, the Proponent will be able to satisfy any residual interim development constraints principles for 457 Bells Line of Road, 79 Bells Lane and 95 Bells Lane and deliver appropriate planning outcomes at the minimum lot sizes recommended by the Commission.
75. A comparison of the intended minimum lot sizes at the key stages of the Planning Proposal, including those recommended by the Commission, are provided in Table 2 below.

Table 2 – Comparison of intended minimum lot sizes

	457 Bells Line of Road	79 Bells Lane	95 Bells Lane	100 Bells Lane
	<i>2.38 ha</i>	<i>2.76 ha</i>	<i>2.45 ha</i>	<i>5.16 ha</i>
Draft Kurmond and Kurrajong Investigation Area (2015)	4,000m ²	1 ha	1 ha	1 ha
Original Planning Proposal (2017)	4,000m ² (four lots)	4,000m ² (five lots)	4,000m ² (four lots)	4,000m ² (five lots)
Gateway Determination (2018)	<i>Conditions required appropriate minimum lot size be determined</i>	<i>Conditions required appropriate minimum lot size be determined</i>	<i>Conditions required appropriate minimum lot size be determined</i>	<i>Conditions required appropriate minimum lot size be determined</i>
Revised Planning Proposal (2019)	4,000m ² (maximum of four lots)	5,000m ² and 4,000m ² (maximum of five lots)	1 ha and 5,000m ² (maximum of three lots)	1 ha (maximum of three lots)
Amended Gateway Determination (2020)	1 ha (two lots)	1 ha (two lots)	1 ha (two lots)	<i>Removed from Planning Proposal</i>
Independent Planning Commission's Advice	4,000m ² (maximum of four lots)	9,200m ² (maximum of three lots)	1 ha (maximum of two lots)	<i>Remove from Planning Proposal</i>

3 CONCLUSION: THE COMMISSION'S ADVICE

76. The Commission has undertaken a review of the Altered Gateway Determination as requested by the Department. In doing so, the Commission has considered the Material (paragraph 22), submissions by Council and the Proponent and reasons given for the determination in the Department's Gateway Report.
77. The Commission considers the overriding objective for the Kurmond-Kurrajong area should be to ensure consistency with the current strategic planning framework, specifically the values of the MRA. However, the Commission finds that some weight should be afforded to Council's former strategic planning approach for the reasons set out in section 2.7.
78. The Commission's recommendation to the Minister's delegate is that the Altered Gateway Determination issued on 6 April 2020 should not be overturned. However, the Commission finds that the Altered Gateway Determination could be further amended to provide limited additional flexibility to both 457 Bells Line of Road and 79 Bells Lane subject to the conditions imposed on the Altered Gateway Determination.

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a series of loops and a horizontal line at the bottom.

Chris Wilson (Chair)
Member of the Commission

APPENDIX A

Table 3 History of the Planning Proposal (source: Department's Gateway Report)

Date	Description
January 2015	Original Planning Proposal was submitted to Hawkesbury Council.
3 February 2015	Council resolved to undertake Structure Planning within the Kurmond Kurrajong Investigation Area to determine the suitability of the identified lands for large lot residential and/or rural residential development.
28 July 2015	Council resolved to adopt an Interim Policy for development constraint principles for planning proposals in the Kurmond Kurrajong Investigation Area.
November 2016 to March 2017	Draft District Plans publicly exhibited (first exhibition period)
October 2017 to December 2017	Draft District Plans publicly exhibited (second exhibition period)
September 2017	Planning Proposal submitted for Gateway Determination (original Planning Proposal).
November 2017	Addendum to Planning Proposal submitted for Gateway Determination.
12 February 2018	The Planning Proposal was reviewed and approved to proceed to Gateway by the Sydney Western City Planning Panel as part of the Rezoning Review process.
March 2018	The Sydney Region Plan and Western City District Plan came into effect.
7 May 2018	The Planning Proposal was submitted to the Department for Gateway.
23 June 2018	The Gateway Determination was issued and determined the Planning Proposal should proceed subject to conditions.
23 July 2018	Meeting between Council Officers and the Proponent to discuss the Gateway Determination issued by the Department, and the matters that needed to be addressed prior to the Planning Proposal being progressed to exhibition.
23 January 2019	Correspondence from the Proponent to Council providing an amended Planning Proposal.
15 April 2019	Council provided a letter to the Proponent setting out directions for the progression of the Planning Proposal. It is noted that Council confirm the Planning Proposal was amended in accordance with their request.
10 September 2019	At its Ordinary Meeting, Council resolved to place the <i>draft Kurmond Kurrajong Investigation Area Structure Plan 2019</i> on public exhibition.

23 September 2019	Council was due to complete the LEP.
27 September 2019 to 7 November 2019	Council publicly exhibited the <i>draft Kurmond Kurrajong Investigation Area Structure Plan 2019</i> .
October 2019	The Proponent provided additional information to Council, however Council considers it did not address concerns required. Council was awaiting further amendments.
25 November 2019	Council requested the Department extend the timeframe to complete the LEP (due to be finalised by 23 September 2019).
September 2019	The current Planning Proposal was submitted by the Proponent.
6 April 2020	The Department altered the Gateway Determination.
30 June 2020	Council resolved to defer the further consideration of the <i>draft Kurmond Kurrajong Investigation Area Structure Plan</i> until the Local Housing Strategy, Rural Lands Strategy and Local Strategic Planning Statement (LSPS) have been completed.
10 November 2020	Council resolved to adopt the LSPS and send to the Greater Sydney Commission for endorsement.
10 November 2020	The Proponent sought the Gateway Determination Review.
8 December 2020	Council adopted the Hawkesbury Local Housing Strategy and endorsed the draft rural lands strategy to be placed on exhibition.
8 December 2020	Council responded to the Department's request for comments on the Gateway Determination Review.
13 December 2020	The Department extended the timeframe for Council to complete the LEP to 13 December 2020.
18 December 2020 to 15 February 2021	Public Exhibition of Draft Hawkesbury Rural Lands Strategy.
23 February 2021	<p>Council resolved not to adopt the draft Structure Plan and for any remaining Planning Proposals to be considered against the 2015 interim development constraints, and well as the Region Plan and District Plan.</p> <p><u>Council resolution:</u></p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> 1. <i>Not adopt the Kurmond-Kurrajong Investigation Area Structure Plan.</i> 2. <i>Assess remaining individual planning proposals within the Kurmond-Kurrajong Investigation Area against the interim development constraints principles and the NSW Planning Framework (Sydney Region Plan and Western City District Plan including Metropolitan Rural Area).</i> 3. <i>Not encourage the lodgement of additional individual Planning Proposals within the Kurmond-Kurrajong Investigation Area for rural residential development.</i>