

16 June 2021

Office of the Independent Planning Commission NSW
Level 3
201 Elizabeth Street
SYDNEY NSW 2000

Attn: Jane Anderson

Re: Gateway Determination Review – Questions on Notice
Premises: 2 Inverary Drive, Kurmond

Dear Jane,

Reference is made to the Commission's letter of 11 June 2021 requesting additional information in response to questions raised by the Commission at our online meeting of 10 June 2021.

in response to those questions, I am pleased to provide the following:

- Attachment 1: Itemised response addressing Hawkesbury City Councils Interim Policy - Development Principles for the Kurmond Kurrajong Investigation Area;
- Attachment 2: Response to the Hawkesbury Rural Lands Strategy; and
- Attachment 3: Written version of the Proponent's address presented to the Commission on 10 June 2021

Please do not hesitate to contact me should you wish to discuss the above matters or require further information. I look forward to hearing from you.

Yours sincerely,



Glenn Apps
Town Planner

abn 21 142491 631

m PO Box 298 Blaxland NSW 2774

t [REDACTED]

| www.cohesiveplanning.com.au

ITEMISED RESPONSE ADDRESSING HAWKESBURY CITY COUNCILS INTERIM POLICY - DEVELOPMENT PRINCIPLES FOR THE KURMOND KURRAJONG INVESTIGATION AREA

FACTOR	DEGREE OF CONSTRAINT TO DEVELOPMENT	RECOMMENDATION
Physical Environment		
Terrestrial Biodiversity		
Impact of development on threatened or endangered flora and fauna.	Fundamental - major	<p>Legislation applies to threatened and endangered species. OEH concurrence may be required.</p> <p>Removal of significant vegetation is to be avoided</p> <p>Fragmentation of significant vegetation is to be minimised.</p>
<p>Comment: The vegetation on site is confirmed as Shale-Sandstone Transition Forest, an endangered ecological community listed under the Biodiversity Conservation Act (2016). Impacts on this vegetation resulting from the proposal were assessed along with proposed measures to avoid and mitigate impacts including preservation of riparian zones within which rehabilitation works would be completed.</p> <p>As part of the ecological assessment completed by Australian Wetlands Consulting (APC) in late 2020, an assessment using the biodiversity assessment method (BAM) was also completed. Six survey plots were created within five vegetation zones and biometric assessment completed in accordance with the BAM. These results enable comparison with the benchmark condition of the relevant plant community type (PCT) present within the site. These plot locations are shown in the attached figure. Vegetation within the site is mostly regrowth (<30 years old) apart from infrequent mature trees mainly along the main creek corridor and north-south tributary. Vegetation structure is simplified from past grazing with a mid-storey absent apart from along the main creek line and the ground layer being a mixture of native species and pasture grasses.</p> <p>The scores of each BAM plot relative to the PCT benchmark are provided below. These scores show the site is generally in a poorer state than the ideal condition prescribed by the benchmark and the highest score was in Riparian Zone 1 of 77.2 out of 100. Through a revision of the lot configuration at the subdivision stage, impacts on higher quality vegetation can further avoided. Further, a tree survey should be completed to locate individual trees of higher value on the basis of age, size and habitat features and ensure these trees are retained either within reserve/restoration areas or within an appropriate lot layout.</p> <p>On this basis removal of significant vegetation can be avoided and minimised, with mitigation via rehabilitation of riparian corridors and residual impacts offset via the Biodiversity Offset Scheme (BOS).</p> <p>The proposal minimises fragmentation of vegetation by limiting crossings of vegetation corridors to one point only. This will be offset by perimeter planting to enhance corridors.</p>		

Further to the comments above, the vegetation with the highest habitat values will be preserved and enhanced within riparian corridors and consolidated within a single lot to minimise fragmentation. Clearing of regrowth can be reduced through a revised lot configuration which accommodates stands of trees on the north east portion of the site, along with a tree survey to ensure the highest value trees are retained and protected. The generally cleared state of the southern portion of the site (Pastoral Grassland Zone) makes fragmentation a non issue in this area. Loss of regrowth vegetation can be mitigated via rehabilitation of riparian corridors and residual impacts offset via the Biodiversity Offset Scheme (BOS).

Protection of vegetation can be further managed through appropriate positive covenants on title including building envelopes, restrictions on earthworks and easements for the protection of vegetation.

Water Courses and Riparian Areas

<p>Impact of development on water courses and riparian areas.</p>	<p>Fundamental - major</p>	<p>Legislation applies to threatened and endangered species. OEH concurrence may be required.</p> <p>Building envelopes, APZs, driveways and roads (not including roads for the purposes of crossing water courses) are to be located outside of riparian corridors.</p> <p>Road crossings of water courses are to be minimised.</p> <p>Fragmentation of riparian areas is to be minimised.</p>
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Comment: The Planning Proposal involves the creation of a lot for the purposes of restoration and protection of the riparian corridor over the land.

Roads, driveways, building envelopes and APZs are able to be located outside the riparian areas so as to ensure the integrity of the riparian corridors is maintained.

Road crossings are limited to the existing approved crossing point on the adjoining land at 396 Bells Line of Road and a second subdivisional road crossing of the lower order stream that runs north to south over the subject land.

Those measures will ensure the fragmentation of the riparian corridor is minimised.

The “locking up” of the riparian corridors is considered to be an improved outcome for the land noting that agriculture is currently an activity that is permitted without consent and could result in significant damage to vegetation within the riparian corridor over time.

Dams		
Impact of development on aquatic habitat. Proximity of dams to effluent disposal systems.	Fundamental - minor	<p>Legislation applies to threatened and endangered species. OEH concurrence may be required.</p> <p>Remove of dams containing significant aquatic habitat is to be avoided.</p> <p>Minimum required buffer distances for effluent disposal systems is to be adhered to.</p>
<p>Comment: As part of ecological assessments completed in late 2020, assessments were completed of the vegetation and habitat potential of these dams. There are two dams within the site, both are relatively small and dry out periodically. Both dams contain common frog species (e.g. <i>Litoria verreauxii</i>, <i>Crinia signifera</i>; <i>Litoria dentata</i>; <i>Limnodynastes peronii</i>) widespread across the landscape and there is potential that certain microbat species forage over the dams, with Southern Myotis and <i>Myotis macropus</i>, recorded on site.</p> <p>Native macrophytes and sedges are present in the dams and include common species such as <i>Carex appressa</i>, <i>Philydrum lanuginosum</i>, <i>Cyperus polystachyos</i>, <i>Juncus usitatus</i>, <i>Ranunculus spp.</i> and <i>Persicaria spp.</i> and would provide a degree of habitat for amphibians and macroinvertebrates. Dam walls possibly allow nesting and burrowing, though no evidence of habitation was observed during the surveys. It is possible that aquatic species such as turtles, eels and yabbies are present periodically, though the small size, lack of connectivity to other water bodies and intermittent drying out, limits the habitat values for these species.</p> <p>Given there are at least 10 dams on surrounding properties within one kilometre of the site and more than 50 dams within two kilometres, loss of dams in the context of the foraging range of the microbats is considered insignificant. Notwithstanding, there is scope to investigate retaining one or both of the dams as part of the lot reconfiguration.</p> <p>Dewatering of the dam can be carried out by a condition of consent which requires the translocation of endemic aquatic vertebrates.</p> <p>Effluent disposal is able to take place by reticulated systems (see "Wastewater" below) rather than on-site disposal. No impact on dams is envisaged as a result.</p>		
Bushfire Threat		
Impact of the location and management of APZs and perimeter roads.	Fundamental - major	<p>RFS concurrence may be required.</p> <p>Building construction and water supply is to comply with NSW RFS Planning for Bushfire Protection 2006, e.g. APZs and roads.</p>
<p>Comment: The NSW RFS have provided comment to Council as part of the notification process of the Planning Proposal and have raised no objection subject to proper assessment being carried out at the subdivision application stage.</p>		

<p>Any subdivision proposal will be required to satisfy both the need to retain vegetation where possible as well as satisfy bushfire safety requirements. This can be achieved through detailed tree surveys to determine building envelopes and maximise tree retention at the subdivision stage.</p>		
<p>Aboriginal Heritage</p>		
<p>Impact of development on aboriginal heritage items.</p>	<p>Fundamental - moderate</p>	<p>National Parks and Wildlife Act 1974 applies.</p> <p>Council and developers are also to consider relevant provisions of Heritage Act 1977 when preparing and considering development applications.</p>
<p>Comment: No known aboriginal relics are located on the site. Further consideration can be given to this matter at the development application stage subject to the carrying out of ground surveys and investigations to support a development application over the land.</p>		
<p>Land Contamination</p>		
<p>Suitability of land to be developed given potential for land to be contaminated.</p>	<p>Fundamental - minor</p>	<p>Remediation action plans and validation may be required.</p> <p>Council and developers are to consider relative provisions of State Environmental Planning Policy No.55 - Remediation of Land when preparing and considering development applications.</p>
<p>Comment: There are no records to suggest that any activities have occurred on the subject land which would give rise to contamination or surface/groundwater pollution. A contamination assessment accompanies the Planning Proposal. If required, council is able to deal with this matter further at the development application stage.</p>		
<p>Acid Sulphate Soils</p>		
<p>Impact of disturbance of acid sulphate soils on the environment and development.</p>	<p>Fundamental - minor</p>	<p>Development proposals and land class are to be assessed with respect to Clause 6.1 - Acid Sulphate Soils of the LEP 2012.</p> <p>Acid sulphate soils management plans may be required.</p>
<p>Comment: The subject site is within the Acid Sulphate Soils Class 5 category which is the least restrictive of the five classifications. Further consideration can be given to this matter at the development application stage.</p>		

Infrastructure and Services		
Road Network		
Capacity and safety of existing road network.	Fundamental - major	<p>Roads and Maritime Services concurrence may be required.</p> <p>Development contributions are to be levied for road improvements.</p> <p>Council and developers are to consider relevant provisions of State Environmental Planning Policy (Infrastructure) 2007 when preparing and considering development applications.</p>
<p>Comment: Roads and Maritime Services have not requested a developer contribution towards road improvements in the area. There is no current plan in place to require developer contributions for development within the KKIA and as such a voluntary planning agreement will need to be prepared at the development application stage.</p> <p>The subdivision of the adjoining land at 396 Bells Line of Road provides for intersection works at Bells Line of Road. No other access points are proposed to Bells Line of Road. Traffic from the subject land will utilise that intersection. The proponents' traffic consultant has confirmed that the intersection, particularly queuing lanes, have capacity to meet the demands of a subdivision of the adjoining land.</p>		
Wastewater		
Capacity of land to cater for on site effluent disposal.	Fundamental	<p>Sydney Water concurrence may be required.</p> <p>Developers are to demonstrate that wastewater can be disposed of on-site in an environmentally sensitive manner.</p> <p>Alternatively, developers may provide reticulated sewer service to new lots in accordance with relevant licences and/or authority requirements.</p> <p>Clause 6.7 - Essential Services under LEP 2012 applies.</p>
<p>Comment: The adjoining subdivision has been provided with a wastewater pumping station on the subject land. That facility is connected to the treatment facility at North Richmond and has been designed with capacity to provide for a subdivision of the subject land.</p>		

<p>In any event, Clause 4.1D of the LEP 2012 provides that a lot that is unable to be connected to reticulated sewer must be of a minimum size of 4,000m² to enable on-site disposal. Should it be the case that the system does not have capacity to accept wastewater from the subdivision of the subject land, Clause 4.1D would operate to restrict the lot sizes and lot yield.</p>		
<p>Public Transport Services</p>		
<p>Provision of bus service to cater for the needs of incoming population.</p>	<p>Fundamental – moderate</p>	<p>Transport for NSW and RMS concurrence may be required.</p> <p>Possible levying of development contributions for bus services.</p> <p>Clause 6.7 - Essential Services under LEP 2012 applies.</p>
<p>Comment: A bus route follows Bells Line of Road between Richmond railway station and Berambing via Kurrajong. The nearest stop is at Kurmond Road. There is potential to provide a stop adjacent to the land along Bells Line of Road subject to negotiation with the local provider, Busways, subject to there being adequate demand.</p> <p>Transport for NSW have not requested a developer contribution for improvements to bus services.</p>		
<p>Stormwater Drainage</p>		
<p>Quantity and quality of stormwater runoff entering water courses.</p>	<p>Fundamental – moderate</p>	<p>Developers are to demonstrate that stormwater can be captured, treated and released in an environmentally sensitive manner</p> <p>Possible levying of development contributions for stormwater purposes.</p> <p>Clause 6.7 - Essential Services under LEP 2012 applies.</p>
<p>Comment: The provision of stormwater to new lots can be satisfactorily dealt with at the development application stage and by way of conditions of consent. It will be necessary for a development application to be accompanied by engineering plans demonstrating stormwater infrastructure as well as demonstrating how water quality targets are to be met.</p> <p>The adjoining subdivision has been provided with a gross pollutant trap and biofiltration system to clear stormwater of pollutants prior to entering the riparian system. Similar infrastructure is able to be provided as part of any subdivision of the subject land.</p>		

Water Supply		
Provision of reticulated water supply to new lots.	Fundamental – moderate	<p>Sydney Water concurrence may be required.</p> <p>A reticulated water services to be provided to new lots by developers in accordance with relevant authority requirements.</p> <p>Clause 6.7 - Essential Services under LEP 2012 applies.</p>
<p>Comment: The amplification of reticulated water to new lots can be satisfactorily dealt with at the development application stage by way of conditions of consent. It will be necessary for a developer to provide written evidence of the satisfaction of Sydney Water’s requirements prior to release of any Subdivision Certificate.</p>		
Electricity		
Provision of electricity service to new lots.	Fundamental	<p>Electricity provider concurrence may be required.</p> <p>Electricity services are to be provided to new lots by developers in accordance with relevant authority requirements.</p> <p>Clause 6.7 - Essential Services under LEP 2012 applies.</p>
<p>Comment: The amplification of electrical services to new lots can be satisfactorily dealt with at the development application stage by way of conditions of consent. It will be necessary for a developer to provide written evidence of the satisfaction of the electrical service provider’s requirements prior to release of any Subdivision Certificate.</p>		

RESPONSE TO THE HAWKESBURY RURAL LANDS STRATEGY

2.1 Preliminary

The Hawkesbury Rural Lands Strategy was adopted by council on 30 March 2021 and as such was not considered within the planning proposal. The following response to the Hawkesbury Rural Lands Strategy is provided to demonstrate consistency with that Strategy.

The Hawkesbury Rural Lands Strategy was prepared following extensive land use surveys of the LGA.

Those surveys revealed that of the rural lands in the LGA, agriculture comprises 8.3% with rural-residential activities comprising 86.1%.

The Hawkesbury Rural Lands Strategy divides the LGA into *Combined Localities*, and places Kurmond into the "Slopes" Combined Locality (the "**Slopes**"), being those localities rising from the river to the dividing range.

The Slopes has a greater proportion of rural-residential uses and a lower proportion of agricultural uses when compared to the LGA.

Those surveys revealed that of the rural lands in the Slopes, agriculture comprises 4.5% with rural-residential activities comprising 91.9%.

It is apparent from these figures that land within the Slopes is more highly valued for rural-residential uses than agricultural uses. This is likely to be a result of a number of factors, particularly the topography of land and proximity to residential receivers on existing smaller lots that has made the area generally less suitable or attractive to agricultural activities.

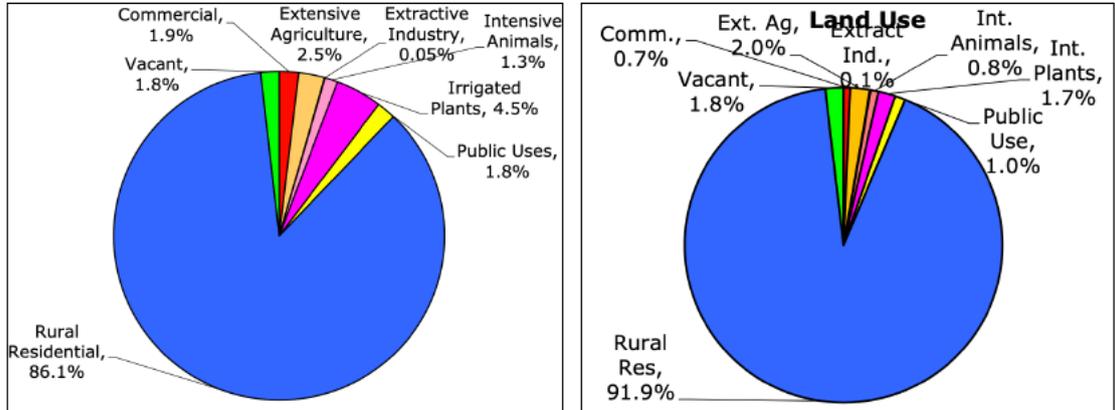


Figure 1: Primary land uses with the LGA (left) compared to primary land uses with the Slopes (right)
Source: Hawkesbury Rural Lands Strategy, Edge Land Planning

The Hawkesbury Rural Lands Strategy identifies Kurmond and Kurrajong each as “Local Centre – Village”.

2.2 Implementation of the Hawkesbury Rural Lands Strategy

The Hawkesbury Rural Lands Strategy sets out an implementation strategy with 4 key categories as follows:

- Growth management
- Rural lands preservation
- Economic development
- Land use planning

Each of these is discussed below.

2.2.1 Growth Management

Recommendation	Comment
Adopt the settlement hierarchy outlined in section 6.5	See 2.3 below.
Urban expansion into the surrounding rural landscape can only occur in accordance with the settlement hierarchy and the recommendations of the Hawkesbury Housing Strategy	<p>The Planning Proposal is considered to be consistent with the Hawkesbury Residential Lands Strategy. The Planning Proposal has been prepared in response to the Hawkesbury Residential Lands Strategy.</p> <p>The Planning Proposal has also been considered against the Strategies and Actions of the Hawkesbury Local Housing Strategy and this is discussed later.</p>

2.2.2 Rural lands preservation

Recommendation	Comment
<p>Adopt the landscape based strategic planning concept in section 6.6.</p> <p>Encourage and promote the farmers of the Hawkesbury LGA</p>	<p>The Hawkesbury Rural Lands Strategy identifies the land as “rural” as opposed to “production” (source: Map 6.4 Hawkesbury Rural Lands Strategy).</p> <p>The zoning of the land is recommended by Hawkesbury Rural Lands Strategy to be RU2 Rural Landscape.</p> <p>The recommendation to promote tourism associated with the river is not relevant to this land.</p> <p>There is nothing to prevent the recommendation to encourage rural</p>

	<p>accommodation such as Bed and Breakfast in existing dwellings from being realised.</p> <p>The recommendation to apply a rural rating rebate to all farmers is not relevant to the subject proposal.</p>
<p>Adopt the let 'the farmers farm' land use conflict concept outlined in section 6.4.1 and discuss this with the relevant State Government Departments</p>	<p>While this is a matter to be raised with relevant agencies, the lack of productive farmland in the vicinity of the land would indicate that this is of more relevance to other areas of the LGA.</p>

2.2.3 Economic development

Recommendation	Comment
<p>Encourage farmers to join the farm gate trail and sell from the farm gate or to sell their produce to those farmers who already have a farm gate sales outlet.</p>	<p>The land does not lend itself to agriculture and the sale of produce via farm gate sales outlets. This recommendation is not considered applicable to the subject land.</p>
<p>Encourage farmers to sell local produce to local shops under the band of Hawkesbury Harvest</p>	<p>As above</p>
<p>Council engage with the Protected Cropping sector and encourage and facilitate the establishment of protected cropping sector in the Hawkesbury LGA.</p>	<p>As above</p>
<p>Encourage the retention and promotion of the existing agricultural sectors of vegetable and turf farming, nurseries, egg production and poultry meat production in the LGA</p>	<p>The subdivision of the land does not prevent the continuation of existing nearby agricultural activities.</p>
<p>Encourage and promote the agricultural processing sector to expand in the LGA as well as attracting other processing industries to establish in the LGA.</p>	<p>Not applicable.</p>
<p>Encourage and promote the horse sector horse studs, polo clubs and the recreational horse riding.</p>	<p>The land does not lend itself to the establishment of equine activities however does not preclude owners from owning or agisting horses in keeping with any policies Council may have for the keeping of animals.</p>
<p>Promote agritourism as a key economic development component of the rural sector, focusing on the Bells Line of Road in Kurrajong Heights to Bilpin, Berambing and surrounding areas.</p>	<p>The land does not lend itself to agriculture or agritourism. This recommendation is not considered applicable to the subject land.</p>

<p>Consider the incentive measures outlined in section 6.4.2 and discuss this with the relevant State Government Departments.</p>	<p>The land does not lend itself to agriculture or agritourism and there is considered little utility for this land in incentivising primary production.</p> <p>Upgrades to infrastructure can be achieved via contributions or voluntary planning agreements. The proposal is expected to contribute via these mechanisms and is able to do so.</p>
<p>Promote the existing farmers markets and encourage them to establish in other settlements.</p>	<p>The Planning Proposal does not hinder the establishment of farmers markets in the Kurmond, Kurrajong or North Richmond centres. An increase in population in proximity to those centres may make the opportunity to establish such ventures more appealing.</p>

2.2.4 Land use planning

Recommendation	Comment
<p>Adopt the changes to the zones as outlined in section 6.7</p>	<p>The Hawkesbury Rural Lands Strategy suggests that an RU2 Rural Landscape zoning may be more appropriate to reflect the rural residential values of the area. Such a zoning would not preclude dwelling houses and associated outbuildings which is the desired outcome of the Planning Proposal and resulting subdivision.</p>
<p>Endorse the changes to the land use definitions and new provisions outlined in section 6.8</p>	<p>The proposed changes to the land use definitions would not be hindered by a development of the land and would likewise not hinder development of the land.</p>
<p>Amend the Hawkesbury DCP as discussed in section 6.4.1</p>	<p>Any proposed changes to the DCP would need to be addressed in development applications over the land, both as part of a subdivision application or development applications for works on the resulting lots.</p>

2.3 Recommended settlement hierarchy

Criterion	Comment
Exclusionary criteria	
Natural Hazards (Bushfire and Flooding)	<p>The NSW RFS have provided comment to Council as part of the notification process of the Planning Proposal and have raised no objection subject to proper assessment being carried out at the subdivision application stage.</p> <p>Any subdivision proposal will be required to satisfy both the need to retain vegetation where possible as well as satisfy bushfire safety requirements. This can be achieved through detailed tree surveys to determine building envelopes and maximise tree retention.</p> <p>The land is free of any flood affectation.</p>
Flood road closures impact.	<p>The North Richmond bridge is subject to closure during heavy flood events. Access is still available to the metropolitan area via the new Windsor Bridge which has been constructed to a higher RL. It is acknowledged that the Windsor Bridge is still capable of inundation during major events as experienced in March 2021.</p> <p>Federal and State governments have also provided a joint commitment of \$500M towards a new bridge over the Hawkesbury River at North Richmond which will not only bypass North Richmond and improve travel times, it will also improve flood resilience by increasing the RL of the road deck over the current bridge.</p>
Prime Agricultural Lands	<p>The Hawkesbury Rural Lands Strategy recognises that the locality does not contain prime agricultural land.</p>
Proximity to agricultural development	<p>The Hawkesbury Rural Lands Strategy notes that any urban rezoning should maintain a buffer to agricultural activities. It is not proposed to rezone the land.</p> <p>An appropriate buffer can be provided to the adjoining nursery through vegetation.</p>

Utility servicing	Utility services will be required to be provided in accordance with Clause 6.7 of the LEP 2012.
Road surface	The subdivision will be accessed via sealed roads.
Community Services and Facilities	The land is within 1km to Kurmond village, 3km to Kurrajong village and 5km to North Richmond. It is considered that the land is well located to a range of community service facilities, particularly those at North Richmond.
Shopping facilities	The land is within 1km to Kurmond village, 3km to Kurrajong village and 5km to North Richmond. It is considered that the land is well located to a range of retail providers.
Slope of land – greater than 20%	The average slope of the land is between 6% and 10%. The slope of the land is consistent with the adjoining land at 396 Bells Line of Road which is approved for subdivision.
Native Vegetation.	Areas of the land that are heavily vegetated and provide the greatest biodiversity and habitat value are to be protected within a 2ha lot.
Management Criteria	
Domestic Effluent Disposal.	The land benefits from reticulated sewer which has been provided to cater for the adjoining subdivision at 396 Bells Line of Road. That wastewater system has been designed and constructed with capacity for a subdivision of the subject land.
Road Alignment and access	The land benefits from a newly constructed intersection to Bells Line of Road which features turning lanes and street lighting. The RMS were satisfied with the design of that intersection, including sight distances.
Traffic Generation	The Hawkesbury Rural Lands Strategy recognises that there may be a need for intersection works or road widening. The land benefits from a newly constructed intersection which has been designed with capacity to cater for the adjoining subdivision

	<p>at 396 Bells Line of Road and a subdivision of the subject land.</p> <p>The land has direct access via that intersection to Bells Line of Road, which is an RMS road. The proposal will not have a measurable increase on traffic within local rural roads.</p>
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2.4 Commentary on “natural or organic growth”

The Hawkesbury Rural Lands Strategy states:

“However, it may be possible to allow for some ‘organic’ growth of some of the settlements by providing for a small amount of growth along the lines of the current population growth of the LGA which is 0.7% per annum over the past 10 years according to the ABS Regional Population Growth database. This would require detailed investigations of each of the settlements in question and should also be done in association with an assessment of the services and facilities available in each settlement. The Hawkesbury Housing Strategy identifies the accommodation of continued incremental growth in rural villages, whilst maintaining the local character and respecting environmental constraints which is supported.”

In this context, it is assumed that “organic” growth refers to smaller scale increases in lots and dwellings as opposed to larger subdivisions. This notion of organic growth is unlikely to result in any growth unless a positive and pro-active approach is taken to allowing lot sizes less than the 10ha minimum that currently applies to the locality.

There are few land holdings that exceed 20ha and could be subdivided to create a new lot.

However, this should not be considered to be at odds with previous strategic documents such as the Hawkesbury Residential Lands Strategy which aims to provide an additional 5,400 dwellings located in existing or expanded urban and village areas where they can access and contribute to existing services and facilities. It is also not considered to be at odds with the recently adopted Hawkesbury Local Housing Strategy that seeks to “*plan for delivery of up to around 4,000 new dwellings 2016 – 2036, while balancing character and environmental considerations*”¹.

Rather, the two strategies can work together where planned growth is focussed to a radius around the village and leaving “organic” growth to be considered on a case-by-case basis outside of that radius.

¹ Page 153 Hawkesbury Local Housing Strategy

The Hawkesbury Rural Lands Strategy continues to state:

“For the reasons noted, the following settlements are not recommended for expansion other than natural or organic growth:

....

- *Kurmond (bushfire prone, slope and lack of service and facilities)”*

It is acknowledged that some land within the locality may be unsuitable for development due to such constraints, however the subject land does not suffer such constraints.

In particular, the NSW RFS have provided comment to Council as part of the notification process of the Planning Proposal and have raised no objection subject to proper assessment being carried out at the subdivision application stage. Indeed, the adjoining development at 396 Bells Line of Road has been able to demonstrate a maximum rating of BAL 29 for those lots containing vegetation which can be addressed at the development stage through the use of appropriate construction techniques and building materials.

The average slope of the land is between 6% and 10% and suitable for development. The slope of the land is consistent with the adjoining land at 396 Bells Line of Road which is approved for a subdivision.

The land is able to be serviced, including reticulated effluent disposal, which is a significant, positive attribute that has been able to be provided by the proponent.

In terms of facilities, the land is located 1km to Kurmond village, 3km to Kurrajong village and 5km to North Richmond. The land is well situated to provide lifestyle lots within proximity to those villages and centres and will contribute to the viability of those villages and centres.

2.5 Commentary on the Hawkesbury Local Housing Strategy

The Hawkesbury Local Housing Strategy was adopted by Council on 8 December 2020. The Hawkesbury Local Housing Strategy sets out a number of Strategies and Actions as follows.

Strategy	Comment
Focus new housing growth in urban release areas	It is agreed that housing growth should be focussed on urban release areas. However, this should not preclude the opportunity for increased lots in proximity to villages to support the viability of those villages on a case by case basis where positive environmental, economic and social outcomes can be achieved.

Maximise the potential of existing urban lands	Not applicable to the subject land .
Increased the supply of smaller dwellings	Not applicable to the subject land as secondary dwellings are not permitted in the zone.
Continue to expand affordable housing options	Not applicable to the subject land as secondary dwellings, group homes and higher density forms of infill housing are not permitted in the zone.
Maintain a long term supply of residential land	Not applicable to the subject land as it does not have a residential zoning.
Develop a programme to monitor housing land supply and housing delivery	Not applicable to the subject proposal.
Continue to work with all levels of government, the community, local services and agencies to address homelessness	Not applicable to the subject proposal.

ATTACHMENT 3

PROPONENT'S WRITTEN ADDRESS PRESENTED TO THE COMMISSION ON 10 JUNE 2021

cohesiveplanning



ADDRESS TO THE
INDEPENDENT
PLANNING
COMMISSION

2 INVERARY DRIVE

KURMOND

10 JUNE 2021

1. **BACKGROUND OF THE PLANNING PROPOSAL**

The Planning Proposal has been prepared in response to the Hawkesbury Residential Land Strategy ("**HRLS**") which was adopted by Council on 10 May 2011.

In particular, the HRLS recommended rural residential development be located within proximity to existing rural villages, services and facilities and comprise low density, large lot rural-residential.

The HRLS also found that rural-residential living is a popular lifestyle choice within the Hawkesbury LGA and particularly the Kurmond and Kurrajong area.

The proposal avails itself of the findings of the HRLS and aims to realise the recommendations of that document.

The subject land is within 1km of the existing village of Kurmond. The proposal seeks to provide large, lot residential development within 1km of the existing village of Kurmond which is consistent with the HRLS.

The Planning Proposal follows a similar Planning Proposal by the same proponent to allow lot sizes of a 2,000m² minimum at 396 Bells Line of Road, which has led to the creation of a prestige estate containing 33 lots.

The subject Planning Proposal seeks a similar outcome, being a prescribed minimum 2,000m² lot size with a larger parcel to contain and protect the riparian corridor through the middle of the site.

The Planning Proposal was supported by Sydney Western City Planning Panel at its meeting of 27 February 2018 where it was concluded that the Planning Proposal demonstrated both strategic and site specific merit. The proposal then moved to a positive Gateway Determination in June 2018.

Over the last 3 years, the Planning Proposal has taken a somewhat protracted course as demonstrated by the timeline. In that time, the Kurrajong Kurmond Structure Plan has been prepared, finalised and then not adopted by Council. I will come to that strategic document later.

2. SITE AND LOCATIONAL CONTEXT

The site is located at 2 Inverary Drive, Kurmond and is legally known as Lot 2 DP 600414.

The subject site is situated in the suburb of Kurmond, and is approximately 5km from the township of North Richmond, 3.5km to Kurrajong village and 1km from Kurmond village.

The site is rectangular with an approximate size of 11 hectares.

The land has a battle-axe frontage to Inverary Drive containing an existing dwelling that is to be excised under any future subdivision of the land.

The site is zoned RU1 Primary Production under the Hawkesbury Local Environmental Plan 2012 ("**HLEP**") and has previously been used for animal grazing.

The site comprises a mix of managed pasture and scattered vegetation. Outside of the riparian corridor, there is no understorey due to grazing other than grasses.

A riparian corridor runs through the centre of the property supporting denser vegetation representative of Shale Sandstone Transition Forest, an endangered ecological community under the Biodiversity Conservation Act 2016.

The land falls gradually from Bells Line of Road, at a level of approximately 88m AHD to a minor watercourse running from north west to south west across the centre of the land between approximately 55m – 50m AHD. The land then rises to the north eastern boundary. The northern and north eastern corners of the land are at approximately 72m AHD.

The land is gently sloping with an average slope of between 6% and 10%.

The broader area predominantly comprises rural residential development. The area is undergoing change, notably the adjoining 13ha lot land at 396 Bells Line of Road for which the lot size controls were similarly amended in January 2017 to allow a minimum lot size of 2,000m².

That subdivision proposes the dedication of new public roads and reticulated sewer which are able to be extended to serve development of the subject land.

Land adjoining the site to the south-west along Bells Line of Road also comprises residential lots of approximately 2,000m². There otherwise a mix of lot sizes in the area ranging from larger rural holdings over 10ha down to lots of 700m² in Silks Road.

A number of non-residential activities front Bells of Line of Road, including restaurants, a child care centre and a veterinary clinic.

Agricultural activity in the locality is limited to a commercial flower nursery located at 211 Slopes Road, North Richmond which adjoins the land to the south east. Otherwise, agriculture in the area is limited to light animal grazing for hobby purposes as opposed to food production. There is no intensive agriculture carried out in the immediate area.

The site is connected by to Richmond which in turn is connected to the metropolitan area by rail and road with convenient access to Windsor, Penrith, Blacktown, Parramatta and The Hills.

3. PROPOSED NUMBER OF LOTS AND LOT SIZE

The indicative lot layout plan (Attachment A3) shows 30 additional lots, however the layout, dimensions and indeed the resulting number of lots has not yet been fixed and will be subject to change to mitigate the impacts of construction and engineering works.

What is not proposed to change in any fundamental way is the provision of vegetation along the site's boundaries and through the middle of the land along the rear boundaries of the proposed lots to provide connectivity across the land.

It is also not proposed to change the general road layout which is accessed from 396 Bells Line of Road to purposely minimise crossing points over existing drainage and vegetation corridors.

The proposed minimum lot size sought by the Planning Proposal is 2,000m². A 2ha lot is proposed to retain the riparian corridor.

The indicative layout proposes the following residential lot sizes:

Lots 2,000 – 2,500m² – 22

Lots 2,500 – 3,000m² - 4

Lots <3,000m² - 3

The final lots comprise the riparian retention lot of 2ha and the excision of the existing dwelling of 4,778m².

4. STRATEGIC MERIT

4.1 Greater Sydney Region Plan 2018 - A Metropolis of Three Cities

Greater Sydney Region Plan 2018 - A Metropolis of Three Cities establishes a plan to manage growth and change in Greater Sydney in the context of social, economic and environmental matters.

The “three cities” approach considers Greater Sydney as 3 spatial areas and although the Hawkesbury area is not within any of the “Three Cities”, it is considered to be well located to support the objectives of the *10 Directions for The Metropolis of Three Cities*.

The Planning Proposal does not hinder the achievement of the objectives of the GSRP or detract from the ability of the plan to be implemented.

4.2 A Plan for Growing Sydney 2014

As the proposal was prepared prior to the implementation of the Greater Sydney Region Plan, it was considered against *A Plan for Growing Sydney*.

This planning proposal represents minor growth north-west of the Hawkesbury River associated with the existing Kurmond village centre. Therefore, the proposal is consistent with the draft North West Subregional Strategy and *A Plan For Growing Sydney*.

4.3 Western Sydney District Plan

The Planning Proposal has been considered against the *Western Sydney District Plan* and is consistent with the relevant priority areas.

Priority Area W17 – Better Managing Rural Areas has been the focus of consideration of the Planning Proposal. While this is one of many priority areas that must be taken into consideration, it is worthwhile focussing on that key area which states:

- *Maintain or enhance the values of the Metropolitan Rural Areas using place-based planning to deliver targeted environmental, social, and economic outcomes including rural residential development.*

Rural-residential development is supported in the MRA where there are no adverse impacts on the amenity of the local area and where development provides incentives to maintain and enhance the environmental, social and economic values of the MRA.

The land is not suitable for agricultural use due to the proximity of the site to residential development and the small size of the lot. For those reasons it is also not suitable for extractive industry.

The value of rural land in this area is in providing lifestyle lots, as noted by the HRLS. The proposal would enhance the social and economic values of this rural zoned land through providing development that contributes to local businesses, and contributes to the demand for schools and other services.

The Planning Proposal also provides for environmental benefits through the retention and management of the riparian corridor and management of bushland.

Otherwise, the proposal is consistent with the relevant Priority Areas of the Plan, specifically:

- W1 – Planning for a city supported by infrastructure;
- W4 - Fostering healthy, creative, culturally rich and socially connected communities;
- W5 – Providing housing supply, choice and affordability, with access to jobs and services;
- W6 - Creating and renewing great places and local centres and respecting the district's heritage; and
- W12 - Protecting and improving the health and enjoyment of the district's waterways;

The Planning Proposal recognises and responds to local characteristics and qualities that people value in proximity to existing rural villages.

4.4 Hawkesbury Residential Land Strategy 2011

The planning proposal was prepared in response to the HRLS, which identified that rural residential living is a popular lifestyle choice within the Hawkesbury LGA.

The Strategy recommended rural residential development be located within proximity to existing rural villages and comprise low density, large lot residential development.

The proposal seeks to advance those objectives.

4.5 Kurmond Kurrajong Structure Plan

Hawkesbury Council subsequently prepared 'Structure Planning – Kurmond and Kurrajong Investigation Area' which was endorsed as an interim policy in July 2015.

That plan identified an area suitable for large lot rural-residential development, if certain fundamental development constraints can be addressed. The subject site is located within this area.

The Structure Plan was not exhibited until September 2019.

Ultimately, in June 2020, Council resolved not to adopt the Structure Plan until such time as its Rural Land Strategy was completed. As such, the Structure Plan should not carry weight in the consideration of the proposal.

Council's response to the Department of 4 March 2021 (Attachment C1) focuses on the Structure Plan for 8 of its 14 pages.

The recommendations for lot sizes made under the Structure Plan therefore no longer carry strategic weight.

However, the proponent recognises the fundamental objectives that underpin the Structure Plan remain relevant matters for consideration and says that the Planning Proposal satisfies those objectives.

In particular:

- Vegetation over the land is able to be preserved through careful planning of roads and infrastructure at the subdivision DA stage;
- Building envelopes are able to be placed over the land under positive covenants to restrict where building can take place;
- Vegetation corridors can be established and protected by positive covenant or by virtue of being within a management lot;
- The topography and adjoining development limits views into the land. The wider pastoral character of the area will not be eroded. Any vistas that take in the land will be dominated by vegetation throughout the site.

5. SITE SPECIFIC MERIT

5.1 Socio-economic Benefits

This location of the land and its proposed purpose of a rural-residential subdivision is consistent with the Hawkesbury Residential Lands Strategy 2011 and the vision of the Greater Sydney Region Plan 2018 - A Metropolis of Three Cities, being to provide large lot, rural residential opportunities in the vicinity of an existing village.

There is a demand for this type of development as the proponent has seen with enquiries and pre-sales of land within the adjoining subdivision. The proposal will

provide rural residential lifestyle lots with main road access, proximity to local services and flood free.

The provision of additional dwellings in proximity to Kurmond and Kurrajong will contribute to local businesses.

5.2 Flora and Fauna Assessment

An Ecological Assessment Report was prepared by Australian Wetlands Consulting, dated December 2020.

That assessment involved significant field work over various seasons and concludes that certain measures would be effective in mitigating impacts of development at the subdivision stage.

- The retention of vegetation, particularly mature trees, where possible;
- Implementing buffers along water courses;
- A vegetation management plan to be prepared at the development application stage;
- Restricting landscaping to endemic trees and shrubs;
- An erosion and sedimentation control plan to be developed at the development application stage;
- Implementation of weed and plant pathogen hygiene procedures during construction to reduce weed infestation;
- Protection of trees during construction;
- A licenced fauna spotter/catcher must be present during vegetation removal;
- An EPBC act referral should be prepared and submitted for the shale sandstone transition forest; and
- A Biodiversity Offset Scheme to be implemented through the development application process.

The indicative lot layout plan makes provision for planting and vegetation retention along the perimeter of the site and along rear lot boundaries through the middle of the so it to maintain habitat connectivity across the land.

it will be proposed to create positive covenants over the lots to ensure the protection of vegetation.

5.3 Provision of Infrastructure

The proposal will require the improvement of infrastructure within the area. The land is not subject to a Section 94 Contributions Plan and it is assumed that a Voluntary Planning Agreement will be entered into between the proponent and Council similar to that for the adjoining subdivision.

5.4 Road Infrastructure

The proposal seeks to provide in the order of 30 additional lots which will access Bells Line of Road via the adjoining subdivision. The intersection works that have been carried out have been designed with capacity to meet the demand of the adjoining subdivision plus a development over the subject land.

The proposal relies on the newly constructed access point to Bells Line of Road and does not create other accesses to that main road.

Roads and Maritime Services have raised no objection to this arrangement.

5.5 Wastewater Disposal

While the area is not currently serviced by reticulated sewer, private sewer infrastructure has been provided to the adjoining subdivision which has capacity to provide for a subdivision of the subject land.

Under clause 4.1D of the Hawkesbury LEP 2012 allotments with onsite treatment systems must not be less than 4,000m². The provision of reticulated sewer to the resulting development supports the proposed 2,000m² lot size.

5.6 Stewardship of the Riparian Corridor

The management and protection of the riparian corridor was a key outcome of the Planning Proposal and subdivision over the adjoining land and so it remains for the subject land.

The protection and restoration of the riparian corridor will be achieved through physical means such as weed removal and revegetation, and management tools such as positive covenants over the lots containing the riparian corridor.

Crossing of the riparian corridor is limited to one crossing point that has been provided within the adjoining subdivision and at a location that did not require significant tree removal. Development of the subject land will not result in a second crossing point.

The adjoining subdivision features a rain garden for bio-filtration of run off, particularly off the roadways. Similar measures will be implemented for the subject land.

5.7 Quality of resulting development

The development that will ultimately take place within a subdivision of the land can be controlled with regard to the form and quality of buildings. In particular, restrictions on title can be imposed regarding residential design and building envelopes. Council has imposed conditions of consent on the adjoining subdivision to this effect which may be replicated on any subdivision consent over the subject land as follows:

Section 88B Instrument – Building Envelopes

An instrument shall be registered on the titles of Lots 10 and 26 pursuant to Section 88B of the Conveyancing Act 1919 restricting the location of dwelling houses to the building envelopes shown on Drawing No. 14820/229 Sheet 1 'Plan of Proposed Subdivision – Riparian' prepared by North Western Surveys and dated 15 December 2016.

Only Council shall be empowered to modify or extinguish this 88B Instrument. The 88B Instrument shall be registered on the titles of the properties prior to the issue of the relevant Subdivision Certificate.

Section 88B Instruments – Residential Design

Instruments shall be registered on the title of the residential lots pursuant to Section 88B of the Conveyancing Act 1919 to establish front and side setback, garage, outbuilding and shed controls, material and finishes, fencing and landscaping controls in accordance with Section 5 of the 'Addendum to Statement of Environmental Effects' prepared by Montgomery Planning Solutions dated 8 January 2018.

Only Council shall be empowered to modify or extinguish the 88B Instruments. The 88B Instruments shall be registered on the titles of the properties prior to the issue of the relevant Subdivision Certificate.

Further restrictions can be imposed to the effect that cut and fill be restricted, and the cumulative size of sheds and outbuildings on each lot be limited to a certain size.

Such covenants are able to be upheld in the planning process as they are not private covenants but are imposed by council through a condition of consent for a planning purpose.

6. CONCLUSION

The Planning Proposal was found to demonstrate strategic merit and site specific merit when considered by the Panel. The proposal has confirmed that it demonstrates strategic merit and site specific merit through supporting material since those original findings.

It is the proponent's view, which I share, that the site is appropriate for a minimum lot size of 2,000m² as considered and endorsed by the Gateway Determination in June 2018.

We have considered the 1ha minimum lot size as suggested by the *Alteration of Gateway Determination* of 3 December 2020 and consider that outcome to be unnecessary to ensure the retention of vegetation over the land.

It is not necessary to impose a 1ha minimum lot size to achieve outcomes that can be met on smaller lots through sensible planning and appropriate controls.

It is also considered that a 1ha minimum may attract owners who are seeking larger lots for hobby farms and as a result, intensify the impact of animals on the land to the detriment of vegetation. A smaller lot size would discourage that from occurring.

The 2,000m² minimum lot size that is sought is simply a minimum lot size. Resulting lot sizes must take into consideration any constraints in the formulation of any subdivision application in order to achieve consent.

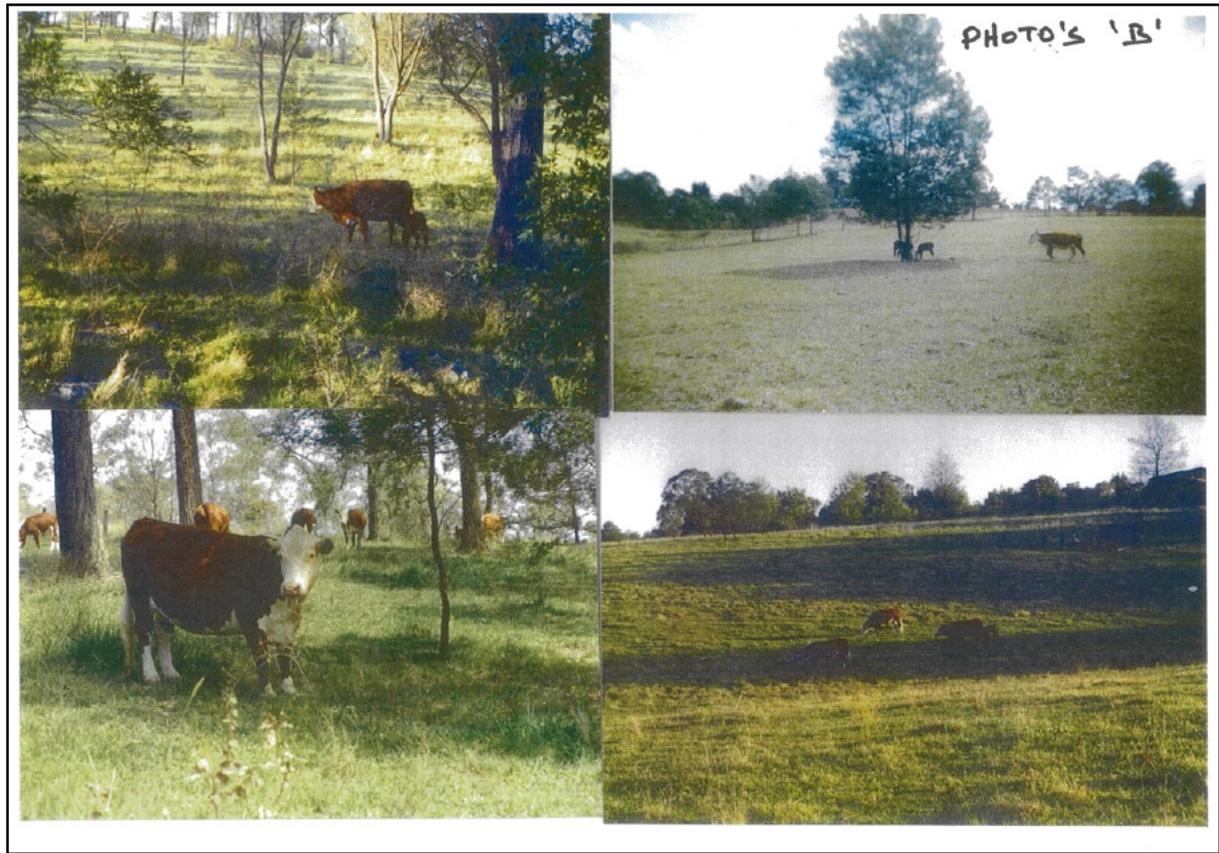
As seen from the subdivision on the adjoining land, it is possible to carry out a well considered rural residential estate that recognises and responds to the values of the MRA, the proposal will enhance the values of this rural area by delivering environmental, social and economic benefits through rural residential development.

Finally, with the announcements on 7 June 2021 of additional funding towards a new river crossing and bypass at North Richmond, the Kurmond and Kurrajong villages are well placed to accept growth where positive environmental, social and economic outcomes can be assured.



Glenn Apps
Town Planner
Cohesive Planning
10 June 2021

Supporting photographs



Photos provided by the land owner of cattle grazing on the land from the 1980s.

BEFORE + AFTER
'E'



ENLACO
 ENGINEERING AND LANDSCAPE COLLECTIVE
 LANDSCAPE ARCHITECTURE AND ENVIRONMENTAL DESIGN
 APRIL 22 057 402 290
 1000 10th Street, Suite 100
 San Francisco, CA 94103

1:1000@A1
 Date: 8/5/15
 Project No: ELC-19051

Design	Drawn	Date	Checked	Permitted	Description
AS	CK	8/5/15	AS	AS	Planning Proposal - Landscapes Character
AS	E	2/28/16			Visual Analysis

2 in

Artist impression of a road alignment purposely allowing for the retention of trees



Photograph taken from adjacent to adjoining restaurant looking east over riparian corridor.