

## HAWKESBURY LOCAL PLANNING PANEL CLOSED SESSION MEETING

### Reports for Advice

Meeting Date: 18 October 2018

**Item: 010**                      **CP - Planning Proposal to Amend the Hawkesbury Local Environmental Plan 2012 - 42 Bells Lane, Kurmond - (95498, 124414, 136641)**

**Directorate:**                City Planning

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#### PLANNING PROPOSAL INFORMATION

**File Number:**                      LEP009/16  
**Property Address:**                42 Bells Lane, Kurmond  
**Applicant:**                          Glenn Falson Urban and Rural Planning Consultant  
**Owner:**                              KG Michael  
**Date Received:**                    23 March 2016  
**Current Minimum Lot Size:**      10 Hectare  
**Proposed Minimum Lot Size:**    4,000m<sup>2</sup>  
**Current Zone:**                      RU1 Primary Production  
**Site Area:**                          2.992ha

**Key Issues:**                      ♦ Hawkesbury Residential Land Strategy 2011  
   ♦ Kurmond Kurrajong Investigation Area  
   ♦ Kurmond Kurrajong Landscape Character Study

**Recommendation:**                That the Hawkesbury Local Planning Panel

1.    Provide advice on the planning proposal to amend the Hawkesbury Local Environmental Plan (LEP) 2012 to enable subdivision of the subject site into lots with a minimum lot size of 4,000m<sup>2</sup>.
2.    Recommend that Council forward the planning proposal to the Greater Sydney Commission, requesting a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

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#### PURPOSE OF THE REPORT:

The purpose of this report is to seek advice from the Hawkesbury Local Planning Panel on an applicant initiated planning proposal to amend the Hawkesbury LEP 2012 by enabling the subdivision of the subject site into five lots with a minimum lot size of 4,000m<sup>2</sup>.

#### EXECUTIVE SUMMARY:

Council has received a planning proposal from Glenn Falson Urban and Rural Planning Consultant (the Applicant) which seeks to amend the *Hawkesbury Local Environmental Plan 2012* to enable the subdivision of Lot 40 DP 7565, 42 Bells Lane, Kurmond into five lots with a minimum lot size of 4,000m<sup>2</sup>.

This report provides an overview of the background associated with the Hawkesbury Residential Land Strategy 2011, Kurmond Kurrajong Investigation Area and the planning proposal. The report seeks advice from the Hawkesbury Local Planning Panel with respect to the planning proposal prior to the matter being formally considered by Council.

**RECOMMENDATION SUMMARY:**

This report seeks advice from the Hawkesbury Local Planning Panel with respect to the planning proposal to enable the subdivision of the subject site into five lots with a minimum lot size of 4,000m<sup>2</sup> prior to the matter being considered by Council. Further the report seeks support from the Hawkesbury Local Planning Panel to recommend that Council forward the planning proposal to the Greater Sydney Commission, requesting a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

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**REPORT:**

**Context and Background**

The planning proposal was received on 23 March 2016. There after the planning proposal has previously been reported to Council, with the following resolutions:

31 January 2017 Ordinary Meeting

*That:*

*Council refuse the preparation of the planning proposal for 42 Bells Lane, Kurmond as:*

- 1. There is insufficient infrastructure to support this proposal.*
- 2. The proposal is inconsistent with SREP 20 as development should not reduce the viability of agricultural land or contribute to suburban sprawl.*

14 February 2017 Ordinary Meeting

*That the resolution from the Council Ordinary Meeting of 31 January 2017 in relation to Item 6 concerning CP - Planning Proposal to Amend the Hawkesbury Local Environment Plan 2012 - 42 Bells Lane, Kurmond be rescinded.*

And Further

*That Council defer the matter in relation to the Planning Proposal to amend the Hawkesbury Local Environment Plan 2012 relating to 42 Bells Lane, Kurmond, pending completion of studies which will determine the total lot yield in Kurmond-Kurrajong Investigation Area and a report explaining the impact of that yield on relevant infrastructure be considered by Council and the adoption of a long term policy for development in the locality.*

The purpose of this section of the report is to provide the Panel with background material in terms of the Hawkesbury Residential Land Strategy 2011, and ongoing Structure Planning processes associated with the Kurmond Kurrajong Investigation Area, and in particular highlights details of recent relevant studies, including:

- Kurmond and Kurrajong Landscape Character Study
- Ecological/Biodiversity Mapping
- Commercial/Retail Findings – Kurmond and Kurrajong.

This section also provides a chronology of relevant dates relating to the Kurmond Kurrajong Investigation Area, including details of all individual planning proposals within the Investigation Area.

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The report also highlights a series of next steps in respect of the Kurmond Kurrajong Investigation Area Structure Planning process, and other recommendations from identified matters within the studies.

#### *Housing Context*

Whilst Structure Planning for the Kurmond Kurrajong Investigation Area was commenced in 2015, it is important to understand the context in which this ongoing strategy work is being undertaken. This is also the case for the review of the Residential Land Strategy that Council has resolved to undertake.

#### *Metropolitan Context*

Planning for future residential uses in the Hawkesbury Local Government Area (LGA) needs to consider how the LGA itself, and the wider district and region, is expected to grow and change over the next few decades.

This requires Council to work within the strategic planning direction set by the NSW Government and the Greater Sydney Commissions for:

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

#### *Greater Sydney Region Plan*

The Greater Sydney Region Plan forecasts that between 2016 and 2036, the Western City District is expected to grow by 740,000 people in 2016 to 1.1 million people by 2036. This equates to a need for nearly 40,000 new homes in 2016-2021 alone, and nearly 185,000 new homes between 2016 and 2036. Of this, the Western City District Plan sets a five-year housing target for Hawkesbury LGA of 1,150 new homes between 2016 to 2021.

However, further work is required to understand the housing and economic impacts of the growing population, with Hawkesbury LGA expected to grow from around 67,000 people in 2016 to just over 85,000 people by 2036.

The Greater Sydney Region Plan also notes that flooding in the Hawkesbury-Nepean Valley is one of the most significant natural hazards in Greater Sydney. It states that if the 1867 flood - where the river level reached 19.7 metres at Windsor - were repeated today, 12,000 residential properties would be impacted, 90,000 people would need evacuation and damages would cost an estimated \$5 billion.

#### *Western City District Plan*

The Western City District Plan collectively classes Richmond and Windsor as a strategic centre, recognising its expanded role as a hub for retail and commercial services; major health facilities including the Notre Dame University medical teaching campus. The Plan also identifies a growing tourism opportunity, focused on colonial history, rural character, agriculture and environmental assets including the Greater Blue Mountains World Heritage area, the Hawkesbury River and the surrounding agricultural lands.

The Plan sets a baseline target of 12,000 jobs by 2036 (up from 10,300 in 2016) with a higher target of 16,500 jobs.

The existing aerospace and defence activities at RAAF Base Richmond is a hub of logistics support for the Australian Defence Force. Over 450 aerospace workers work within the precinct for the Royal Australian Air Force, United States Air Force, Northrop, Airbus Group Australia Pacific, Lockheed Martin, Standard Aero, GEAviation, L3 Aviation Products and CAE.

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Combined, the RAAF Base, Western Sydney University Hawkesbury campus, TAFE NSW Richmond, and a new STEM ( Science, Technology, Engineering and mathematics) Secondary School will complement business activities around the Badgerys Creek Aerotropolis that will be focused on the planned Western Sydney Airport.

#### *North West Growth Area*

Part of Hawkesbury LGA is within the North West Growth Area, an area designated by the NSW Government as suitable for large scale Greenfield land releases. In the case of Hawkesbury, the release areas are also located within a relatively short distance of the Richmond rail line.

#### *Western Sydney City Deal*

Hawkesbury City Council is involved in the Western Sydney City Deal, a 20-year agreement between the Australian and NSW governments and Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, Liverpool, Penrith and Wollondilly councils that will optimise the opportunity of the new airport and focus on connectivity; jobs; skills and education; planning and housing; liveability and environment; and governance.

Western Sydney Airport will also create international and domestic tourism opportunities. This will have a positive influence on the Hawkesbury's visitor economy by better connecting visitors to the places like the Hawkesbury Regional Gallery, heritage areas including the Macquarie towns, visitor experiences such as the Hawkesbury Farm Gate Trails, and exceptional landscapes and waterways.

The Hawkesbury's unique landscape also offers rich soils for agricultural production that can in turn lead to export opportunities that will link to Badgerys Creek Airport. The Western Sydney University at Hawkesbury Campus and AgriPark Research Centre provide tertiary education in medical and forensic science, animal science, natural science, sustainable agriculture and food security with world-class research facilities in grasses, pastures, legumes, insects and ecology.

Hawkesbury LGA is, therefore, ready to face the future, which a rich and diverse economy and expected population growth that can be optimised to bring more opportunities and services to more people.

#### *Hawkesbury Housing and Employment Strategy*

In response to these issues and opportunities, Council needs to develop detailed housing and employment strategies.

In the case of housing, planning that focuses housing development in the right locations:

- Within the areas of the North West Growth Area located within Hawkesbury
- Near existing transport connections or centres
- Within easy access of future job locations
- Within existing urban areas with good access to existing services such as education, health and commercial services that minimise risks associated with flooding and bushfires.

In the case of employment, planning that focuses economic development in the right locations, that build on:

- The areas natural advantages, its rich soils and associated agricultural lands, its areas of natural beauty and wilderness
- Its strengths, the cluster of aerospace, education, research and employment activities between Windsor and Richmond

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- Richmond and Windsor as a strategic centre, recognising its expanded role as a hub for retail and commercial services; major health facilities including the Notre Dame University medical teaching campus
- Growing tourism opportunities, focused on colonial history, rural character, agriculture and environmental assets including the Greater Blue Mountains World Heritage area, the Hawkesbury River and the surrounding agricultural lands.

The following has been provided by way of background with respect to the Kurmond Kurrajong Investigation Area.

#### Background in Chronological Order

<b>10 May 2011</b>	<p>Hawkesbury Residential Land Strategy adopted by Council.</p> <p>The Residential Land Strategy mapped certain areas within the Local Government Area to investigate the potential for General, Low Density or Medium Density residential zonings. The Residential Land Strategy also provided the category to identify investigation areas for future development within and on the periphery of rural villages.</p>
<b>5 February 2013</b>	<p>Council resolved to carry out investigations within the “Kurmond Village large lot residential/rural-residential Investigation Area”.</p> <p>These investigations were to determine the suitability of the identified lands for large lot residential and/or rural residential development.</p>
<b>24 June 2014</b>	<p>Council resolved to review the area for investigation identified by Council on 5 February 2013 and determined that this was to be the first area to have a development/structure plan prepared.</p>
<b>3 February 2015 Mayoral Minute</b>	<p>Council resolved to suspend acceptance of new planning proposals under the Hawkesbury Residential Land Strategy until the key implementation actions of the Residential Land Strategy, in particular structure planning and development contribution planning had been completed for the Kurmond Kurrajong Investigation Area, or 31 July 2015.</p> <p>Planning proposals that had already been received by Council were to continue to be processed. Those planning proposals, in accordance with previous resolutions of Council were not to proceed to gazettal until the relevant structure plan or S94 Plan was in place.</p> <p>The identified structure and development contributions planning was to be given priority.</p>
<b>31 March 2015</b>	<p>Council resolved to adopt the Investigation Area to enable structure planning and development contributions planning for the purposes of large lot residential/ rural-residential development within the Kurmond and Kurrajong area.</p>
<b>28 July 2015</b>	<p>Council resolved that the development principles and local planning approach outlined in the report be adopted as an Interim Policy for the purpose of structure planning within the Kurmond and Kurrajong Investigation Area.</p> <p>Council’s resolution of 3 February 2015 was maintained for Kurmond and Kurrajong. Council resolved to suspend acceptance of new planning proposals under the Hawkesbury Residential Land Strategy until 30 November 2015.</p>

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<b>24 November 2015</b>	A progress report was presented to Council on the Kurmond Kurrajong Investigation Area and to inform Council of the status of other planning proposals within the Investigation Area.
<b>30 August 2016</b>	A further progress report was provided to Council where it was resolved to defer the item for the consideration of the new Council.
<b>26 November 2016</b>	<p>Council resolved:</p> <p><i>That:</i></p> <ol style="list-style-type: none"><li><i>1. Council receive the results of the Kurmond and Kurrajong Investigation Area Survey.</i></li><li><i>2. Council Staff identify a number of specific areas (based upon Constraints Mapping, survey results and the preferred approach as outlined in this report) for possible, but not certain, development of additional large lot residential/rural-residential development throughout the Investigation Area and some residential development up to, but not within, the existing villages of Kurmond and Kurrajong.</i></li><li><i>3. The identified areas be further consulted with the community regarding future development.</i></li><li><i>4. The results of that further consultation be reported to Council.</i></li><li><i>5. Council not accept any further planning proposal applications within the Kurmond and Kurrajong investigation area until such time as the structure planning as outlined in this report is completed. Council receive a progress report on the structure planning prior to July 2017.</i></li><li><i>6. Council continue processing the planning proposals within the investigation area that have received support via a Council resolution to proceed to a Gateway determination and any planning proposals currently lodged with Council as at 29 November 2016.</i></li></ol>
<b>30 May 2017</b>	<p>Council reaffirmed its previous resolution in relation to new Planning Proposals within the Investigation Area, which read as follows:</p> <p><i>Council not accept any further planning proposal applications within the Kurmond and Kurrajong Investigation Area until such time as the structure planning as outlined in this report is completed.</i></p>
<b>13 April 2018</b>	Clouston Associates were commissioned to undertake a Landscape Character Study of Kurmond and Kurrajong.
<b>31 July 2018</b>	Report to Council informing the progress of the Kurmond Kurrajong Investigation Area including the Kurmond Kurrajong Landscape Character Study prepared by Clouston Associates.

#### *Hawkesbury Residential Land Strategy 2011*

On 10 May 2011 Council adopted the Residential Land Strategy. The aims of the current Residential Land Strategy are to:

- Accommodate between 5,000 to 6,000 additional dwellings by 2031, primarily within the existing urban areas as prescribed in the Department of Planning and Infrastructure's (DP&I) North West Subregional Strategy;
- Preserve the unique and high quality natural environment of the LGA;

- Accommodate changing population, which presents new demands in terms of housing, services and access;
- Identify on-going development pressures to expand into natural and rural areas, as well as new development both in and around existing centres;
- Identify physical constraints of flood, native vegetation and bushfire risk; and
- Ensure that the appropriate infrastructure is planned and provided to cater for future development.

The Residential Land Strategy does not rezone land or approve development of areas or localities. Rather it establishes a planning framework to assist in the implementation of the above aims and is to be used to guide the preparation and assessment of rezoning proposals (Planning Proposals).

The Residential Land Strategy contains the following commentary and criteria regarding large lot residential / rural residential development.

#### ***“2.10 Strategy for Rural Village Development***

*The Hawkesbury Residential Development Model focuses on future residential development in urban areas and key centres. However, the importance of maintaining the viability of existing rural villages is recognised. As such, the Hawkesbury Residential Strategy has developed a strategy for rural residential development.*

*Future development in rural villages should be of low density and large lot dwellings, which focus on proximity to centres and services and facilities. Rural village development should also minimise impacts on agricultural land, protect scenic landscape and natural areas, and occur within servicing limits or constraints.”*

#### ***“3.3.8 Role of Rural Residential Development***

*Rural residential developments have historically been a popular lifestyle choice within Hawkesbury LGA. However, rural residential development has a number of issues associated with it including:*

- *Impact on road networks;*
- *Servicing and infrastructure;*
- *Access to facilities and services;*
- *Access to transport and services;*
- *Maintaining the rural landscape; and*
- *Impacts on existing agricultural operations.*

*Whilst this Strategy acknowledges rural residential dwellings are a part of the Hawkesbury residential fabric, rural residential dwellings will play a lesser role in accommodating the future population. As such, future rural development should be low density and large lot residential dwellings.*

*Future rural residential development, that is large lot residential dwellings, will be required to:*

- *Be able to have onsite sewerage disposal;*
- *Cluster around or on the periphery of villages;*
- *Cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within a 1km radius); and*
- *Address environmental constraints and have minimal impact on the environment.”*

***“6.5 Rural Village Development Criteria***

*While the majority of future residential development will occur within existing residential areas or on the periphery of existing urban areas and corridors, it is recognised that there is a need to maintain the ongoing viability of rural villages. Future development within rural villages should be primarily low density and large lot residential dwellings.*

*Additionally all future low density and large lot residential development in rural villages must:*

- *Be able to have onsite sewerage disposal;*
- *Cluster around or on the periphery of villages;*
- *Cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within 1km radius);*
- *Address environmental constraints and with minimal environmental impacts; and*
- *Within the capacity of the rural village.”*

Council has resolved to review the Residential Land Strategy, and strategy work in this respect is guided by the Housing Context that was outlined earlier in this report. There are a number of ongoing requisite studies to complete this review, including, but not limited to:

- Flood
- Bushfire
- Ecological/Biodiversity
- Agriculture/Rural Lands
- Town Centres
- Landscape Assessments
- Retail
- Recreation and Open Space
- Transport
- Employment Lands
- Community Facilities
- Conservation Areas
- Population and Employment Targets.

***Kurmond Kurrajong Investigation Area***

The Kurmond Kurrajong Investigation Area was not identified within the Residential Land Strategy. However, the Investigation Area was identified by considering the location criteria provided within the Residential Land Strategy (i.e. “within 1km radius” and “cluster around or on the periphery of villages”), undertaking a desk top survey of matters such as slope, existing vegetation, existing road layout and accesses, and zone and property boundaries.

Figures 1, 2, 3 and 4 below illustrates the Kurmond Kurrajong Investigation Area



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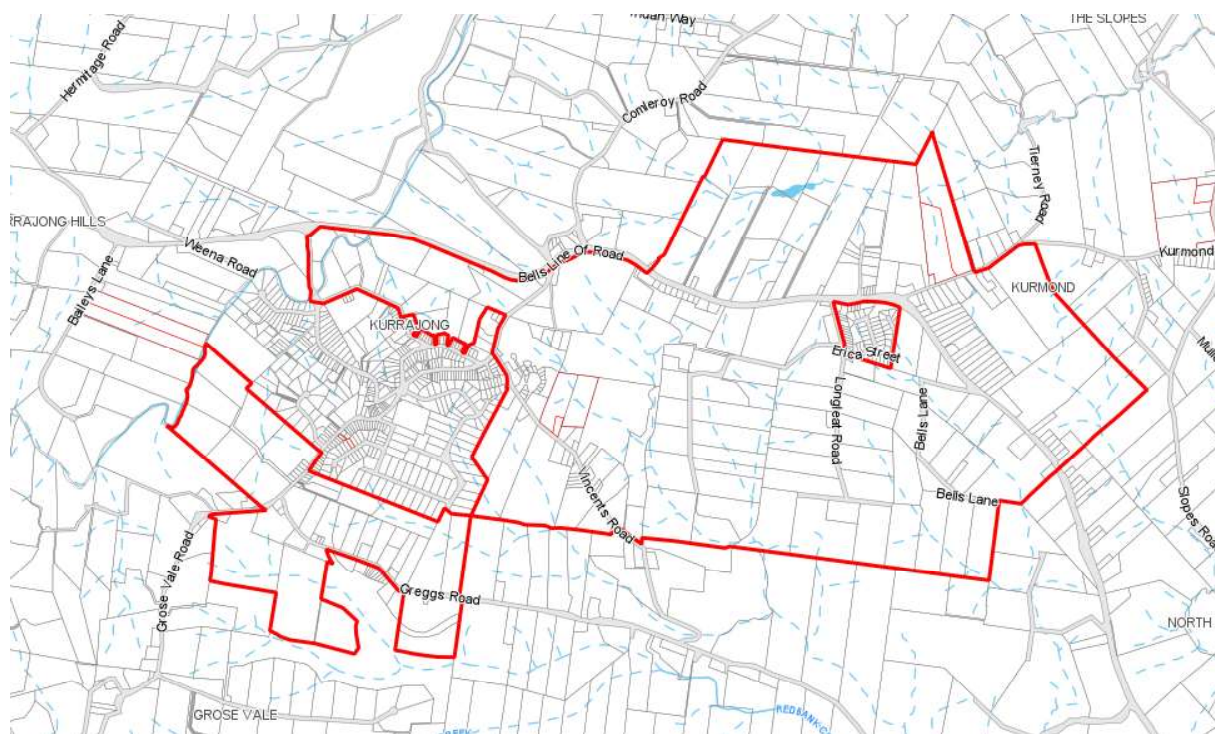


Figure 1: Kurmond Kurrajong Investigation Area

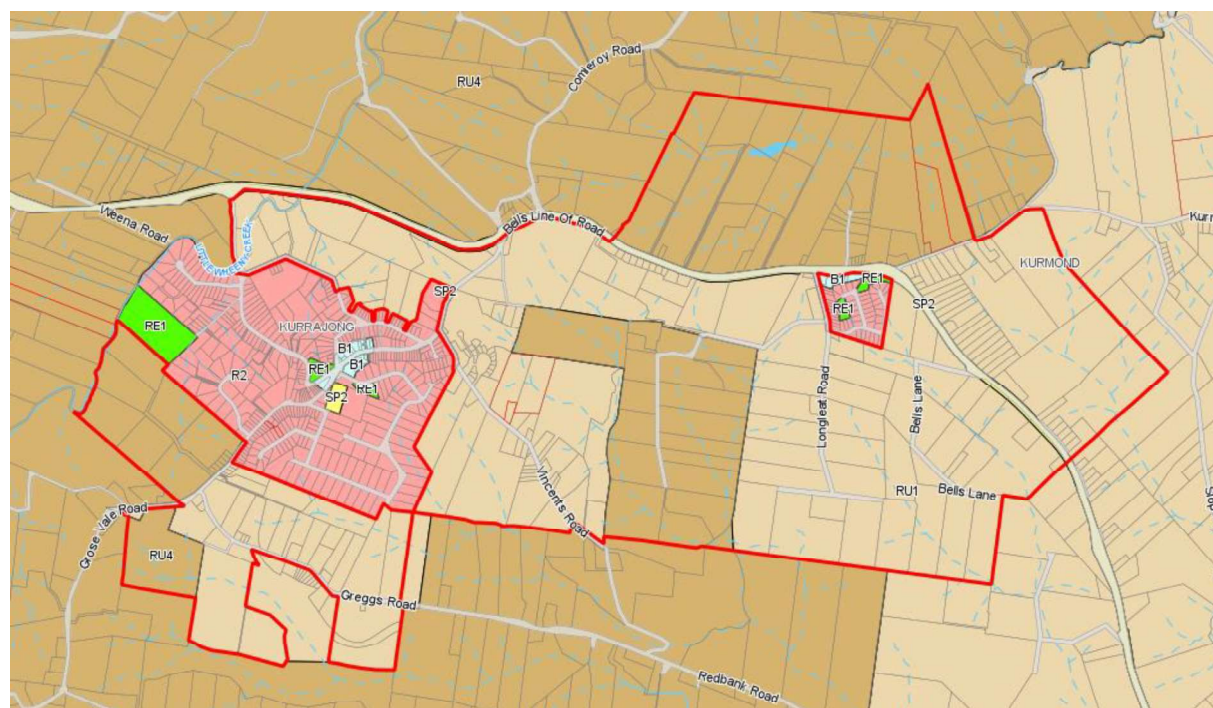


Figure 2: Existing Zoning Map Kurmond Kurrajong Investigation Area



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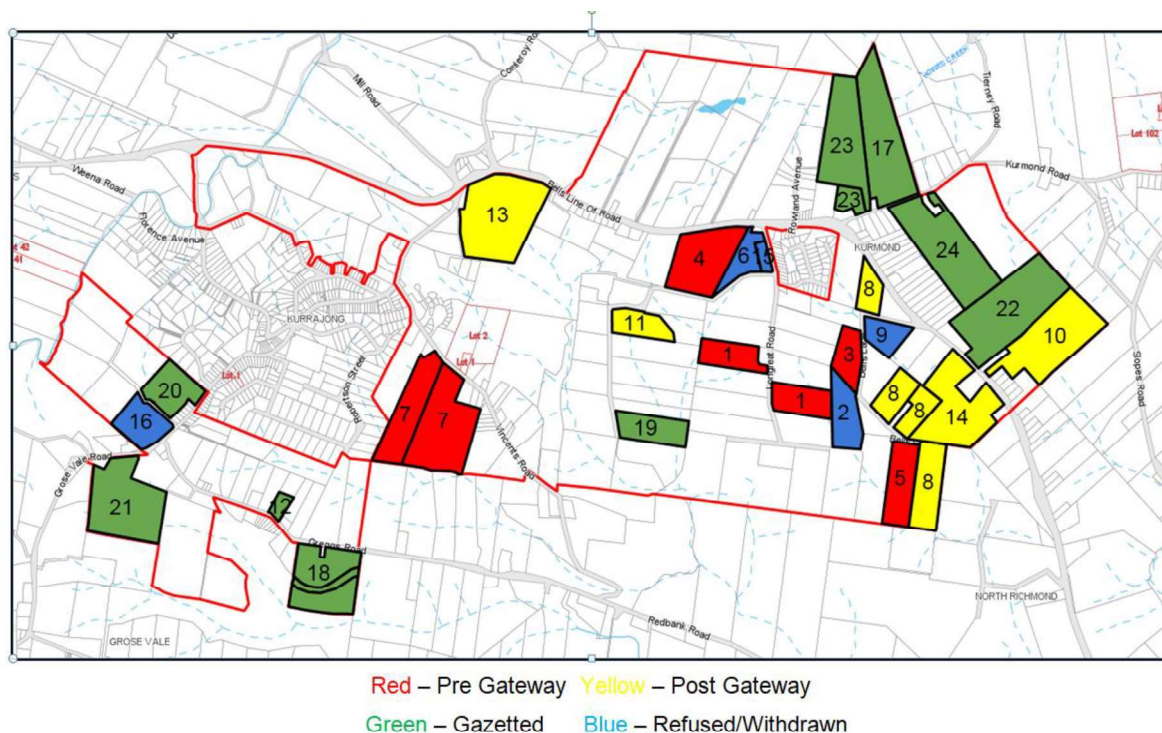
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**Figure 3: Lot Size Map of Kurmond Kurrajong Investigation Area**

### Previous and Current Planning Proposals

Figure 4 and Table 1 below summarises the details and status of previous and current planning proposals within the Kurmond Kurrajong Investigation Area.



**Figure 4: Previous and Current Planning Proposals within the Kurmond Kurrajong Investigation Area**

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**Table 1 - Details and Status of Previous and Current Planning Proposals within the Kurmond Kurrajong Investigation Area**

No on Map	Application No	Date Received	Address	Proposed number of Lots	Status of the Planning Proposal
1	LEP017/16	28/11/2016	49 and 56 Longleat Road, Kurmond	10	Applicant advised of Council's resolutions and requested to provide advice as to how they wish to proceed (defer, withdraw, report to Council).
3	LEP009/16	23/03/2016	42 Bells Lane, Kurmond	5	Planning proposal deferred until adoption of policy for KKIA at Ordinary Meeting of 14 February 2017.
4	LEP007/16	09/02/2016	535 Bells Line of Road, Kurmond	2	Applicant requested 8 June 2017 that the planning proposal be deferred.
5	LEP006/16	09/02/2016	98 Bells Lane, Kurmond	4	Planning proposal deferred until adoption of policy for KKIA at Ordinary Meeting of 14 February 2017.
7	LEP003/16	21/01/2016	36 and 42 Vincents Road, Kurrajong	6	Applicant advised of Council's resolutions and requested to provide advice as to how they wish to proceed (defer, withdraw, report to Council).

Current Planning Proposals within Kurmond Kurrajong Investigation Area Post-Gateway.

No on Map	Application No	Date Received	Address	Proposed number of Lots	Status of the Planning Proposal
8	LEP002/15	30/01/2015	79, 95 & 100 Bells Lane, Kurmond	18	Gateway determination issued 23 June 2018.
10	LEP005/14	23/12/2014	2 Inverary Drive, Kurmond	41	Gateway determination issued 28 June 2018.
11	LEP010/16	11/04/2016	74 Longleat Lane, Kurmond	2	Gateway determination issued 23 September 2016. Public exhibition to commence.
13	LEP006/14	18/08/2014	631 Bells Line of Road, Kurrajong	10	Council deferred the matter pending the results of the Comprehensive Traffic Study 11 April 2017.
14	LEP009/13	14/11/2013	377 Bells Line of Road, Kurmond	6	Matter deferred by Council.

Planning Proposals within Kurmond Kurrajong Investigation Area Gazetted, Refused or Withdrawn.



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No on Map	Application No	Date Received	Address	Proposed number of Lots	Status of the Planning Proposal
6	LEP005/18	09/02/2018	3 Longleat Road, Kurmond	2	Applicant withdrew planning proposal 26 June 2018.
12	LEP004/18	03/02/2018	452 Greggs Road, Kurrajong	2	Gazetted 8/08/2018.
2	LEP016/18	18/11/2018	72 Bells Lane, Kurmond	-	Determined by JRPP to not proceed to Gateway 28 March 2018.
	LEP001/18	19/01/2018	1041 Grose Vale Road, Kurrajong	-	Withdrawn on 4 October 2018.
9	LEP007/14	24/12/2014	3 Bells Lane, Kurmond	-	Withdrawn on 18 December 2017.
18	LEP003/14	09/09/2014	431 and 431A Greggs Road, Kurrajong	8	Gazetted 18 August 2017.
17	LEP002/14	30/05/2014	1420 Kurmond Road, Kurmond	11	Gazetted 23 June 2017.
19	LEP007/13	28/10/2013	136 Longleat Lane, Kurmond	4	Gazetted 9 December 2016.
20	LEP004/13	25/03/2013	1059A Grose Vale Road, Kurrajong	9	JRPP appointed as RPA. Gazetted 9 June 2017.
21	LEP003/13	20/02/2013	1026 Grose Vale Road, Kurrajong	2	Gazetted 16 October 2015.
22	LEP001/12	25/10/2012	398 Bells Lane of Road, Kurmond	37	Gazetted 27 January 2017.
23	LEP11-001/12	01/08/2012	1442 and 1442A Kurmond Road, Kurmond	13	Gazetted 9 June 2017.
24	LEP89005/10	15/12/2010	1411 Kurmond Road, Kurmond	5	Gazetted 16 January 2015.

Whilst work in relation to the Kurmond Kurrajong Investigation Area has been ongoing, the ability to move forward with relevant strategy work and undertake an effective 'whole to part' process has been severely constrained by the acceptance of multiple individual planning proposals.

### Commercial/Retail Findings - Kurmond and Kurrajong

Leyshon Consulting was commissioned by Council to undertake a commercial/retail assessment of the existing villages of Kurmond and Kurrajong. The paper provided by Leyshon Consulting provided a summary of the key observations following a review of relevant data and an inspection of the Kurmond and Kurrajong villages.

The key observations included:

- Kurmond and Kurrajong centres draw their resident-based sales/business from a common residential catchment.
- A population of 9,086 certainly would be sufficient to support a much larger provision of retail floor-space in both centres than the amount of retailing which currently exists.
- The population of the Kurmond and Kurrajong areas exhibits above average socio-economic characteristics which is usually indicative of an area having an above average demand for retail floor-space.
- Analysis of 2016 census data indicates the population of Kurmond and Kurrajong and surrounding areas broadly can be described as somewhat older, higher proportion of married persons, higher proportion of traditional families, lower proportion of tertiary educated persons, higher proportion of trade qualified persons, higher proportion of people born in Australia, low unemployment rate and well above average median household income.
- There is sufficient population in the areas surrounding the Kurmond and Kurrajong villages to support a much larger provision of retailing and associated services than currently exists. The fact that both centres remain relatively small, however, is likely to be a function of their location, history and topography as well as competition from larger centres such as North Richmond, Richmond and Windsor.

- That no clear need exists for strategies to be adopted to increase the residential population surrounding the two villages in order to either underwrite their viability or to support a greater range of retail floor-space and services than each currently contains.

The commercial/retail assessment recommended that the Kurmond and Kurrajong village centres do not need significant public capital expenditure at present. It is considered Council's approach should be based on the concept of applying a 'light touch' as the village centres appear to be working well at this time.

The assessment further recommended some greater attention to kerbside landscaping within the centre to be considered.

#### *Environmental Assessment*

Council's LEP 2012 biodiversity and corridor layer covers a wide area of remnant vegetation as well as existing and potential biodiversity connectivity. It includes areas of small patches of vegetation in properties as well as large tracts of vegetation with state conservation priority across multiple ownerships.

Since the development of the layer, a wide variety of more recent biodiversity conservation guidelines, planning documents and policies have evolved that require Council consideration in its provision of regulatory requirements and operational management.

Council must be adequately informed in order to be ready to effectively respond to the recent comprehensive changes to NSW biodiversity legislation. This includes Council's assessment of development proposals that require mandatory biodiversity offsetting for specified development thresholds.

Additionally, since the LEP 2012 biodiversity mapping, the extant area of remnant vegetation will have changed, primarily through clearance in intensively developed areas.

To support decision making arising from these changes it is required to develop a suite of strategic biodiversity planning tools and supporting information. A biodiversity prioritisation framework identifies the relative conservation significance of areas of native habitat across private and public land tenures which provides an overarching basis for strategic planning products. Prioritisation of biodiversity across the LGA will allow, not only an improved planning decision framework, but will also support a range of other financial, administrative and operational decisions and activities.

Council is undertaking this wider project in order to provide an initial biodiversity prioritisation framework and a suite of supporting tools for further development to improve and inform Council decision making and strategic planning.

Key objectives of the initial stage of the project include:

- Collate and review relevant biodiversity information to support decision making, including update of extant vegetation mapping
- Identify relevant criteria and associated information / data for the development of a biodiversity prioritisation framework
- Prepare an initial biodiversity prioritisation dataset for discussion with Council
- Assess a number of pilot sites to test the initial outcomes of the prioritisation framework

The framework and tools will take into account new legislation, use updated mapping of biodiversity values and ultimately reflect Council and community priorities to achieve effective long-term conservation outcomes.

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The approach to prepare the initial prioritisation framework and mapping includes:

- Review of existing background information and data suitable for use in the process which has included:
  - Vegetation community and condition mapping
  - Species records and predictive habitat modelling
  - Drainage / riparian and wetland areas
  - Lands identified for conservation
- Update extent of latest vegetation mapping
- Habitat corridor analysis
- Develop criteria for prioritisation framework
- Data analysis and prioritisation mapping
- Validate prioritisation framework with pilot sites

Whilst the final version of this initial work is nearing completion, relevant information is included in the Kurmond Kurrajong Landscape Character Study included as an attachment.

#### *Landscape Character Study for the Kurmond Kurrajong Investigation Area*

In order to appropriately inform the Structure Planning process for the Kurmond Kurrajong Investigation Area, and individual planning proposals that have not been finalised, Clouston Associates were commissioned to prepare a Landscape Character Study of Kurmond and Kurrajong. The purpose of the Study is to provide a landscape character assessment of Kurmond and Kurrajong that determines what aspects of the streetscapes, landscapes and buildings are positively contributing to make the area identifiable and unique. This Study also directs recommendations for appropriate locations, typical lots sizes and desired built form character for future development in the Investigation Area.

The Kurmond and Kurrajong Landscape Character Study prepared by Clouston Associates is provided as Attachment 1.

The Kurmond Kurrajong Landscape Character Study has recommended that the critical next steps to progress the study's recommendations include:

- Complete landscape character study and establish related controls
- Pursue consolidation of rural zoning (potentially R5 – Large Lot Residential)
- Update controls on rural lot sizes
- Engage stakeholders in urban design upgrade concepts for the two villages
- Establish relevance of outcomes to other rural areas of the council

It is also recommended in the Study that the approach adopted for the study could be readily applied to all rural areas in the Hawkesbury LGA.

These recommendations are supported, in addition to the provision of relevant controls that:

- Retain existing landscape qualities
- Provide additional landscaping to enhance landscape character, views and vistas
- Provide sufficient setbacks between vegetation and buildings to ensure fire safety
- Accommodate on-site sewerage detention and management.

#### *Next Steps for Kurmond Kurrajong Investigation Area*

Work in relation to the Kurmond Kurrajong Investigation Area has been ongoing, with the ability to move forward with relevant strategy work and undertake an effective 'whole to part' process having been severely constrained by the acceptance of multiple individual planning proposals.

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Recent work associated with the Kurmond Kurrajong Investigation Area has included the following associated studies:

- Kurmond and Kurrajong Landscape Character Study
- Ecological/Biodiversity Mapping
- Commercial/Retail Findings – Kurmond and Kurrajong.

The recommendations from those studies is that the critical next steps to progress the Structure Planning process include:

- Complete landscape character study and establish related controls
- Pursue consolidation of rural zoning (potentially R5 – Large Lot Residential)
- Update controls on rural lot sizes
- Engage stakeholders in urban design upgrade concepts for the two villages
- Establish relevance of outcomes to other rural areas of the LGA.

It was also suggested that the approach adopted could be readily applied to all rural areas in the Hawkesbury LGA.

These recommendations are supported, in addition to the provision of relevant controls that:

- Retain existing landscape qualities
- Provide additional landscaping to enhance landscape character, views and vistas
- Provide sufficient setbacks between vegetation and buildings to ensure fire safety
- Accommodate on-site sewerage detention and management.

Following consideration of an Update on the Kurmond Kurrajong Investigation Area, Council resolved:

*That:*

1. *Council receive the Kurmond and Kurrajong Landscape Character Study prepared by Clouston Associates.*
2. *Council agree to proceed to the next steps in the structure planning process, including preparation of a planning proposal to amend relevant planning controls for further consideration by Council.*
3. *Council engage with relevant stakeholders to work through the findings of the Kurmond Kurrajong Landscape Character Study.*
4. *The approach adopted in relation to the Kurrajong-Kurmond Landscape Character Study, including the retail assessment of relevant centres, be applied to all rural areas of the Local Government Area.*

As such Officers are moving forward with both the Structure Planning process and processing of individual planning proposals received by Council prior to 26 November 2016.

### Planning Proposal

The planning proposal seeks to amend the Hawkesbury LEP 2012 in order to permit the subdivision of the subject site into five lots.

The planning proposal aims to achieve this by amending the relevant Lot Size Map of the Hawkesbury LEP 2012 in order to provide a minimum lot size of 4,000m<sup>2</sup>. The applicant also suggests that an appropriate provision be included in the Hawkesbury LEP 2012 to limit the maximum number of lots created by future subdivision of the subject site to five lots.

A concept plan for a proposed five lot subdivision is shown in Figure 5 below. The areas of the proposed lots in the concept plan are shown in Table 2. This plan has been provided for discussion

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purposes only in relation to the potential lot yield of the subject site, and the proposed minimum lot sizes, and as such does not form part of the planning proposal.

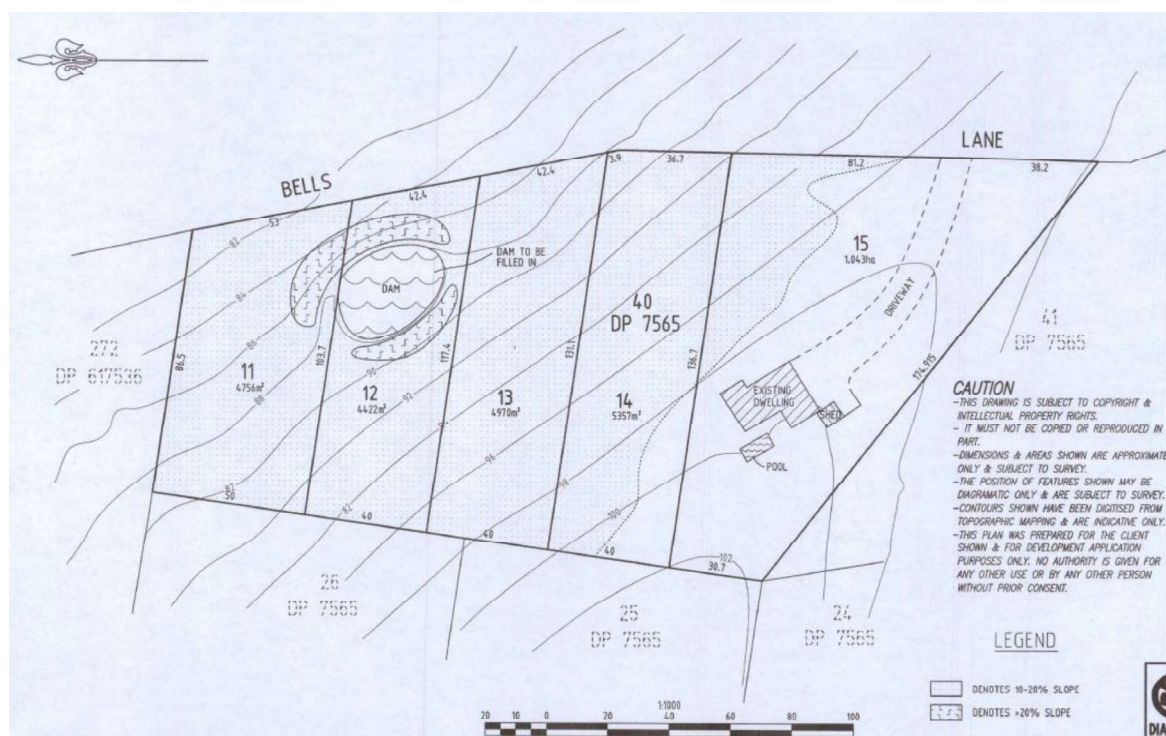


Figure 5: Conceptual Subdivision Plan  
(Not for adoption)

Table 2: Areas of proposed lots (Not for adoption)

Lot Number	Area
11	4,756m <sup>2</sup>
12	4,422m <sup>2</sup>
13	4,970m <sup>2</sup>
14	5,357m <sup>2</sup>
15	1.043ha

The planning proposal has identified particular environmental matters which may have consequences for the future subdivision and development of the subject site, including bushfire protection, wastewater disposal and flora/fauna. However, detailed reports have not been provided to demonstrate that these matters are not prohibitive to future development.

Where it is determined that more detailed information is required a recommendation can be made to the Department of Planning and Environment that detailed specialist reports be provided prior to notification of the proposal. The 'Gateway' determination will confirm the information (which may include studies) and consultation required before the planning proposal and resultant amendment to the Hawkesbury LEP 2012 can be finalised.

### Subject Site and Surrounds

The subject site is Lot 40 DP 7565, 42 Bells Lane, Kurmond. It has an area of 2.992ha and is irregular in shape with an approximate road frontage of 298 metres and average depth of 113 metres.

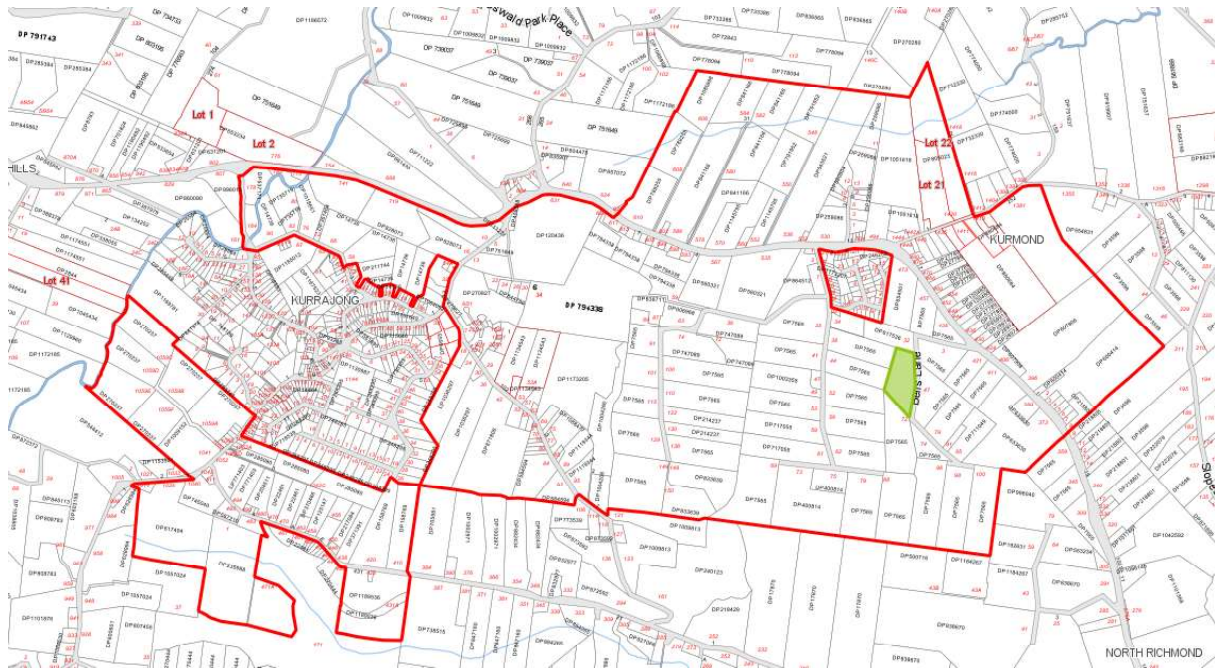


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The subject site is located within the Kurmond and Kurrajong Investigation Area as shown in Figure 6 below.



**Figure 6: Site Location within Kurmond Kurrajong Investigation Area**

The subject site is currently zoned RU1 Primary Production under the Hawkesbury LEP 2012, with the current minimum lot size for subdivision of this land being 10ha.

The subject site is used for rural residential purposes and contains an existing dwelling, outbuilding, pool and dam. Figure 7 below provides an aerial view of the subject site.



Figure 7: An aerial view of the subject site

The subject site is shown as being bushfire prone (Bushfire Vegetation Category 3) on the NSW Rural Fire Service's Bushfire Prone Land Map.

The entire subject site is shown as being within Class 5 Acid Sulfate Soils on the Acid Sulphate Soils Planning Maps contained within the Hawkesbury LEP 2012. Acid Sulfate Soil Classification 5 represents a relatively low chance of acid sulphate soils being present on the subject site.

The subject site is shown as being Agriculture Land Classification 3 on maps prepared by the former NSW Department of Agriculture.

The subject site contains 'Significant Vegetation' as identified on the Terrestrial Biodiversity Map of the Hawkesbury LEP 2012. Vegetation on the subject site is generally located around the existing dam and at the rear of the dwelling house.

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

The land varies in height from approximately 80 metres AHD along the Bells Lane road frontage to 102 metres AHD at the rear of the subject site. Based on Council's slope mapping, the subject site contains some land having slopes in excess of 15% surrounding the dam.

Properties immediately to the north, south, east and west of the subject site are all similarly zoned RU1 Primary Production. Further to the west and southwest, land is zoned RU4 Primary Production Small Lots. The current minimum lot size applicable for the subdivision of the immediate surrounding properties is 10ha.

Land surrounding the subject site consists of lots having sizes that predominantly range between 1ha and 10ha. The immediate surrounding area of the subject site is predominantly characterised by rural residential uses.

### **Applicant's Justification of the Planning Proposal**

The applicant's justification for the planning proposal is summarised as follows:

- *The proposed subdivision is consistent with the Hawkesbury Residential Land Strategy (HRLS).*
- *The subject site is located within the Kurmond/Kurrajong Investigation Area and is included in an investigation area map prepared by Council.*
- *The preliminary site investigations reveal that the subject site is capable of subdivision into approximately five lots that would be consistent with other lands in the vicinity, and would form an appropriate component of village expansion at Kurmond.*
- *The proposed lot sizes are capable of containing on-site wastewater disposal systems and are appropriate in terms of bushfire control and vegetation and flora/fauna management.*

### **Hawkesbury Residential Lands Strategy**

The Hawkesbury Residential Land Strategy (HRLS) seeks to identify residential investigation areas and sustainable development criteria.

The HRLS contains the following commentary and criteria regarding large lot residential/rural residential development:

#### ***"2.10 Strategy for Rural Village Development***

*The Hawkesbury Residential Development Model focuses on future residential development in urban areas and key centres. However, the importance of maintaining the viability of existing rural villages is recognised. As such, the Hawkesbury Residential Strategy has developed a strategy for rural residential development.*

*Future development in rural villages should be of low density and large lot dwellings, which focus on proximity to centres and services and facilities. Rural village development should also minimise impacts on agricultural land, protect scenic landscape and natural areas, and occur within servicing limits or constraints."*

The planning proposal can be considered as a large lot residential development on the fringe of the Kurmond Village.

Section 6.5 of the HRLS outlines rural village development criteria and states:

#### ***"6.5\_Rural Village Development Criteria***

*While the majority of future residential development will occur within existing residential areas or on the periphery of existing urban areas and corridors, it is recognised that there is a need to maintain the ongoing viability of rural villages. Future development within rural villages should be primarily low density and large lot residential dwellings.*

*Additionally all future low density and large lot residential development in rural villages must:*

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- *Be able to have onsite sewerage disposal;*
- *Cluster around or on the periphery of villages;*
- *Cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within 1km radius);*
- *Address environmental constraints and with minimal environmental impacts; and*
- *Within the capacity of the rural village."*

The above criteria has been refined by Council and mapped to avoid confusion. This work resulted in the mapping of the Kurmond/Kurrajong Investigation Area. In this regard the mapping work has addressed the "within 1km radius" criteria.

The ability to dispose of effluent on site is discussed in later sections of this report.

The subject site is on the fringe of the Kurmond Village, and is within the mapped Kurmond/Kurrajong Investigation Area.

Relevant environmental constraints are discussed in later sections of this report.

### **Council Policy - Rezoning of Land for Residential Purposes - Infrastructure Issues**

On 30 August 2011, Council adopted the following Policy:

*"That as a matter of policy, Council indicates that it will consider applications to rezone land for residential purposes in the Hawkesbury LGA only if the application is consistent with the directions and strategies contained in Council's adopted Community Strategic Plan, has adequately considered the existing infrastructure issues in the locality of the development (and the impacts of the proposed development on that infrastructure) and has made appropriate provision for the required infrastructure for the proposed development in accordance with the sustainability criteria contained in Council's adopted Hawkesbury Residential Land Strategy.*

#### *Note 1:*

*In relation to the term "adequately considered the existing infrastructure" above, this will be determined ultimately by Council resolution following full merit assessments, Council resolution to go to public exhibition and Council resolution to finally adopt the proposal, with or without amendment.*

#### *Note 2:*

*The requirements of the term "appropriate provision for the required infrastructure" are set out in the sustainability matrix and criteria for development/settlement types in chapter six and other relevant sections of the Hawkesbury Residential Land Strategy 2011."*

Compliance with the HRLS has been discussed previously in this report. It is considered that the planning proposal is consistent with Council's Community Strategic Plan (CSP) as discussed later in this report.

### **Council Policy - Our City Our Future Rural Rezonings Policy**

This Policy was adopted by Council on 16 May 1998 and had its origin in the Our City Our Future study of the early 1990's.

Since the time of adoption, this Policy has essentially been superseded by subsequent amendments to *Hawkesbury Local Environmental Plan 1989*, the *Draft North West Subregional Strategy*, the *DWDP*, the *Hawkesbury Residential Land Strategy*, the *Hawkesbury Community Strategic Plan*, the

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commencement of the Hawkesbury LEP 2012, and the DP&E's Gateway Determination system for dealing with planning proposals. As a result this Policy will be proposed for review in the near future.

The Policy is repeated below with responses provided by the Applicant, and officer comments provided where relevant.

**a) Fragmentation of the land is to be minimised**

Applicant's Response The land is within an area identified within Council's subsequent Residential Land Strategy as having urban potential. Fragmentation of this land is envisaged by this subsequent strategy.

**b) Consolidation within and on land contiguous with existing towns and villages be preferred over smaller lot subdivision away from existing towns and villages.**

Applicant's Response The proposal is consistent with this principle.

**c) No subdivision along main roads and any subdivision to be effectively screened from minor roads.**

Applicant's Response The site does not front a main road.

**d) No subdivision along ridgelines or escapements.**

Applicant's Response The site is not on a ridgeline or in an escarpment area.

**e) Where on site effluent disposal is proposed, lots are to have an area of at least one (1) hectare unless the effectiveness of a smaller area can be demonstrated by geotechnical investigation.**

Applicant's Response The lots will vary in size down to a minimum of approximately 4,420m<sup>2</sup>. This is larger than the size of allotment (4,000m<sup>2</sup>) that is indicated generally by Council as being the minimum to contain on-site effluent disposal in later studies (e.g. Kurrajong Heights, Wilberforce and within Hawkesbury LEP 2012 generally).

Officer Comments The planning proposal is not accompanied by a wastewater feasibility assessment demonstrating that the proposed lot sizes have the capacity to accommodate an on-site sewage management system. However, in consideration of the size and location of relatively unconstrained land within each proposed lot, it is anticipated that each proposed lot is capable of supporting the on-site disposal of wastewater. This can be confirmed with the submission of a wastewater feasibility assessment following a 'Gateway' determination.

The DP&E will consider this as part of their 'Gateway' determination, and if required will request further information/consideration of this matter.

**f) The existing proportion of tree coverage on any site is to be retained or enhanced.**

Applicant's Response The subdivision does not propose removal of vegetation. It is proposed that a small dam be filled in and there is some vegetation around that dam. It is possible that this vegetation can be retained or be replaced in a more suitable location.

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#### Officer Comments

The removal of native vegetation will be required for the removal/filling in of the existing dam on proposed Lots 11 and 12. This vegetation is located within an area identified as 'Significant Vegetation' on the Terrestrial Biodiversity Map of the Hawkesbury LEP 2012. However, following a site inspection, it is considered that the dam and associated vegetation does not provide significant habitat due to its limited size, composition and condition, and impacts from the use of the land for cattle grazing. This can be confirmed by the submission of a flora and fauna assessment following a 'Gateway' determination.

- g) **Any rezoning proposals are to require the preparation of environmental studies and Section 7.11(previously S94) Contributions Plans at the applicant's expense.**

#### Applicant's Response

The rezoning process has altered since this policy of Council. The Gateway process will dictate whether further studies are required. It is noted that Council has embarked on preparing a S7.11 Plan which will apply to this Planning Proposal if finalised by the time of completion of the proposal. Otherwise a Voluntary Planning Agreement can be entered into so that an amount approximating what might be levied under S7.11 can be provided for roads and other community infrastructure.

#### Officer Comments

As per the DP&E's guidelines for planning proposals, the Applicant has identified the relevant environmental considerations for the proposal, including flora and fauna, watercourses, on-site effluent disposal and bushfire. Whilst specialist reports addressing these matters have not been provided, the need for further information/consideration will be a matter for the DP&E to determine as part of their 'Gateway' process. In this regard, it is recommended that a flora and fauna assessment, bushfire assessment and wastewater feasibility assessment be requested following a 'Gateway' determination.

The need for a Section 7.11 Contribution Plan or a Voluntary Planning Agreement (VPA) can be determined and further discussed with the Applicant if this planning proposal is to proceed.

- h) **Community title be encouraged for rural subdivision as a means of conserving environmental features, maintaining agricultural land and arranging for the maintenance of access roads and other capital improvements.**

#### Applicant's Response

The proposal is for a 'normal' Torrens Title subdivision. Due to the size of the site, long road frontage and proposed lot layout there is no significant advantage to having a Community Title subdivision.

#### Officer Comments

The form of title for a subdivision is a matter for consideration with a development application for any subdivision where the most appropriate form of titling can be determined dependant on the need for the preservation of particular environmental features, and whether appropriate access arrangements to future allotments can be provided.

### **Assessment of Consistency with Ministerial Direction under Section 9.1(previously S117)**

Planning Proposals are required to demonstrate consistency with Section 9.1 Ministerial Directions under the NSW Environmental Planning and Assessment Act 1979. The attached planning proposal

contains a detailed review of the proposal against all the relevant Section 9.1 Directions. Below are the key directions associated with this planning proposal.

***Direction 1.2 Rural Zones***

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

The planning proposal seeks an amendment to the Lot Size Map of the Hawkesbury LEP 2012 and does not propose any changes to the current RU1 Primary Production zoning. As a consequence, the planning proposal will result in an increase in the density of land. The Applicant states:

*"The proposal is considered to be of minor significance only in terms of impact on the available rural zones and rural/agricultural lands. The site has not been used for any form of meaningful rural/agricultural use for many years and is currently required to be mechanically slashed to keep grass and weed infestation at bay.*

*Due to the location of the site adjacent to dwellings on small lots and the relatively small size of the lot, the land is not conducive to productive agricultural use.*

*As the proposal is for limited large lot housing lots and is of minor significance the proposal does not warrant the preparation of a specific rural study. This is particularly the case noting Council's Residential Strategy that identified sites such as this for village expansion."*

This inconsistency will be considered by the DP&E as part of their Gateway Determination. Based on previous Gateway Determinations issued by the DP&E, it is expected that the DP&E will consider any inconsistency with this Direction to be of minor significance.

***Direction 1.3 Mining, Petroleum Production and Extractive Industries***

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

In accordance with the provisions of this Direction, it is proposed that the Department of Industry be consulted following a Gateway Determination.

***Direction 3.4 Integrating Land Use and Transport***

Planning proposals must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of Improving Transport Choice - Guidelines for planning and development (DUAP 2001).

In summary this document seeks to provide guidance on how future development may reduce growth in the number and length of private car journeys and make walking, cycling and public transport more attractive. It contains 10 "Accessible Development" principles which promote concentration within centres, mixed uses in centres, aligning centres with corridors, linking public transport with land use strategies, street connections, pedestrian access, cycle access, management of parking supply, road management, and good urban design.

The document is very much centres based and not readily applicable to consideration of a rural residential planning proposal. The document also provides guidance regarding consultation to be undertaken as part of the planning proposal process and various investigations/plans to be undertaken. It is recommended that if this planning proposal is to proceed, Council seek guidance from the DP&E via the 'Gateway' process regarding the applicability of this document. Based on



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previous 'Gateway' determinations issued by the DP&E, it is expected that the DP&E will consider any inconsistency with this Direction to be of minor significance.

#### **Direction 4.1 Acid Sulfate Soils**

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

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

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

#### **Direction 4.4 Planning for Bushfire Protection**

The subject site is shown as being bushfire prone, containing Vegetation Category 3 on the NSW Rural Fire Service's Bushfire Prone Land Map. This Direction requires consultation with the NSW Rural Fire Service following receipt of a 'Gateway' determination, compliance with Planning for Bushfire Protection 2006, and compliance with various Asset Protection Zones, vehicular access, water supply, layout, and building material provisions.

#### **Direction 6.3 Site Specific Provisions**

The objective of this Direction is to discourage unnecessary restrictive site specific planning controls. The planning proposal proposes an amendment to the Lot Size Map of the Hawkesbury LEP 2012 in addition to a provision in the LEP to restrict the lot yield from subdivision of the subject site. The DP&E have previously allowed similar restrictions on subdivision lot yields with the inclusion of Clause 4.1G – Restriction on the number of lots created by subdivision of certain land in the Hawkesbury LEP 2012. It will be a matter for the DP&E to determine if this inconsistency is justifiable.

#### **Direction 5.10 Regional Plans**

This Direction requires planning proposals to be consistent with a Regional Plan that has been released by the Minister for Planning. Under the *Greater Sydney Commission Act 2015*, A Plan for Growing Sydney is deemed to be the Regional Plan for the Greater Sydney Region. The planning proposal is consistent with this Regional Plan as discussed previously within this report.

#### **State Environmental Planning Policies**

The State Environmental Planning Policies of most relevance are *State Environmental Planning Policy (SEPP) No. 44 – Koala Habitat Protection*, *State Environmental Planning Policy (SEPP) No. 55 - Remediation of Land*, *Sydney Regional Environmental Plan (SREP) No. 9 - Extractive Industry (No 2- 1995)*, and *(SREP) No. 20 - Hawkesbury - Nepean River (No.2 - 1997)*.



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#### **State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44)**

The Applicant advises:

*"State Environmental Planning Policy 44 – Koala Habitat Assessment is applicable. A formal assessment of the site against this Policy has not been done however would be included in any subsequent flora/fauna report required. However there is no evidence of koalas on site and the site does not appear to contain "core habitat" as defined by SEPP44."*

The aim of this SEPP is to "encourage the proper conservation and management of natural vegetation that provide habitat for koalas". In this regard, the presence of 'core koala habitat', as defined by this SEPP can be investigated as part of a flora and fauna assessment following a 'Gateway' determination.

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

This SEPP requires consideration as to whether or not land is contaminated, and, if so is it suitable for future permitted uses in its current state or does it require remediation. The SEPP may require Council to obtain, and have regard to, a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

The Applicant states that:

*"The land has not been used for any intensive agricultural use or any other use that would suggest that remediation is required. There is no obvious evidence of surface or groundwater pollution. It is not believed that any geotechnical investigations need to be carried out for the planning proposal to proceed. Investigations could take place if required at the time of the hydraulic assessment for effluent disposal."*

The Applicant also states that the subject site "has been cleared in the past for grazing activities." The DP&E's Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land identifies agricultural activities as a land use that may cause contamination. It is considered that the grazing of livestock creates a low potential/risk of land contamination and this matter can be considered in greater detail as part of any future development applications for subdivision of the land. Notwithstanding this, the need for further investigations as part of this planning proposal will be considered by the DP&E as part of their 'Gateway' determination.

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

The primary aims of SREP 9 are to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of regional significance and to ensure consideration is given to the impact of encroaching development on the ability of extractive industries to realise their full potential. The subject site is not within the vicinity of land described in Schedule 1 and 2 of the SREP nor will the proposed development restrict the obtaining of deposits of extractive material from such land.

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

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

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Specifically the SREP encourages Council to consider the following:

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

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

It is considered that the future use of the proposed additional lots for large lot residential purposes will be able to comply with the relevant provisions of the SREP or be able to appropriately minimise adverse impacts.

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

On 28 July 2015 Council adopted the following development principles to be taken into consideration in the assessment of planning proposals within the Kurmond and Kurrajong Investigation Area:

1. Essential services under Hawkesbury LEP 2012 and fundamental development constraints are resolved;
2. Building envelopes, asset protection zones (APZs), driveways and roads are located on land with a slope less than 15%;
3. Removal of significant vegetation is avoided;
4. Fragmentation of significant vegetation is minimised;
5. Building envelopes, APZs, driveways and roads (not including roads for the purposes of crossing watercourse) are located outside of riparian corridors;
6. Road and other crossings of water courses is minimised;
7. Fragmentation of riparian areas is minimised; and
8. Removal of dams containing significant aquatic habitat is avoided.

In response to these development principles the following matters are of particular relevance:

#### ***Topography***

The land varies in height from approximately 80 metres AHD along the Bells Lane road frontage to 102 metres AHD at the rear of the subject site. Based on Council's slope mapping, the subject site contains some land having slopes in excess of 15% surrounding the existing dam as shown in Figure 8.

Figure 8 illustrates the proposed lots in relation to the slopes of the subject site.

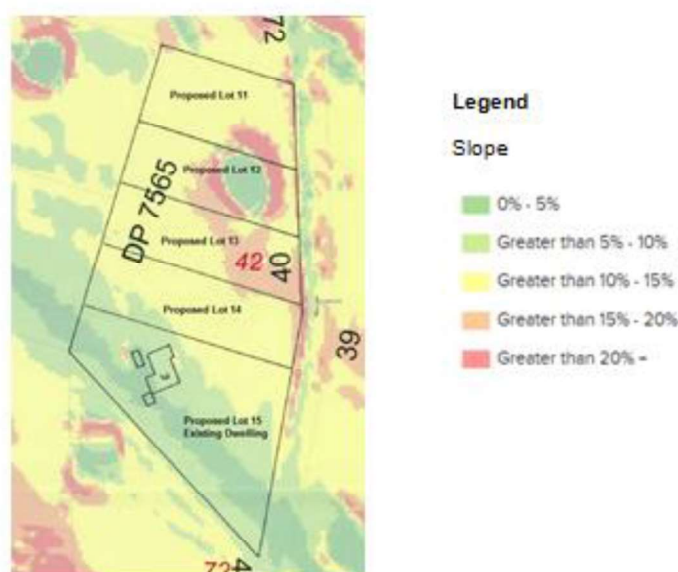


Figure 8: Slope Analysis

This slope analysis highlights that:

- access from Bells Lane to proposed Lots 11, 12, 13 and 14 will need to traverse land that has a slope in excess of 15%. This generally consists of a narrow strip of land that appears to be partly on the subject site and partly within the Bells Lane road reserve; and
- a driveway to a building area on proposed Lot 13 will need to cross land having a slope in excess of 15-20%.

It is also noted that earthworks for the filling of the dam may provide land slopes less than 15% to accommodate access and/or a building platform on proposed Lot 12.

The adopted development principles require building envelopes, asset protection zones (APZs), driveways and roads to be located on land with a slope less than 15%.

The identified inconsistencies with this requirement are considered to be able to be resolved through the reconsideration of lot orientation and/or access points/arrangements, and the appropriate design of 'crossover' access to the proposed lots. In light of these potential solutions, it is considered that the subject site has a potential of being subdivided into five lots.

### Ecology

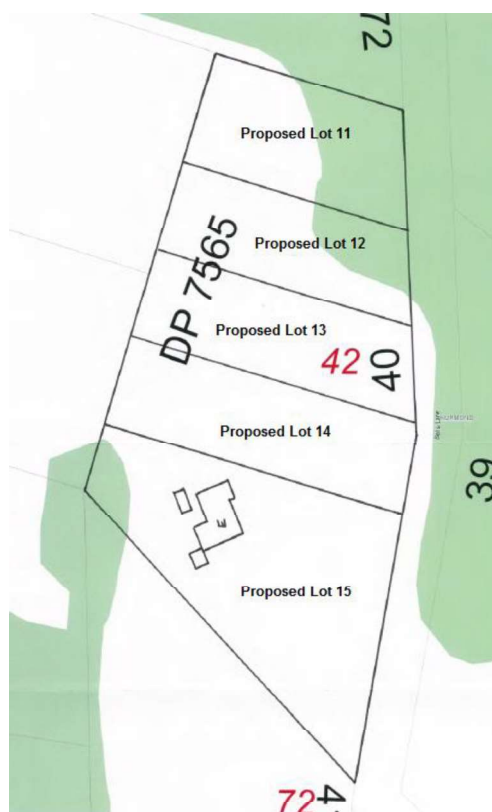
The planning proposal is not accompanied by a flora and fauna survey and assessment report, and the Applicant provides the following information on flora and fauna on the subject site:

*"The site is included in the Terrestrial Biodiversity Map within Council's LEP2012. The map indicates that approximately 8% of the site is classified as "significant vegetation" with the remainder classified as clear of "significant vegetation". However, an inspection of the aerial photo of the site reveals that the area noted as "significant" is in fact a few trees around a small dam and some scattered shade trees the majority of which do not have a continuous canopy.*

*It may be appropriate that a formal report on flora/fauna of the site is carried out to assist in final subdivision design however this assessment (and cost) would be more appropriate if identified through the 'Gateway' process of the Department of Planning and*

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Figure 9 shows the areas of the subject site which contain significant vegetation. Figure 10 shows the corresponding vegetation that is located in these areas.



### Figure 9: Mapped Significant Vegetation on Subject Site



**Figure 10: Aerial Photo of Subject Site**

The aerial photo in Figure 10 shows that each proposed lot contains a cleared area suitable for a dwelling house.

The filling of the dam will result in the removal of vegetation located in an area nominated as 'Significant Vegetation'. Investigations have not been carried out to determine the ecological value of the existing dam or its surrounding remnant vegetation. However, following a site inspection, it is expected that the dam and associated vegetation does not provide significant habitat due to its limited size, composition and condition, and the impacts from the use of the land for cattle grazing. This can be confirmed by the submission of a flora and fauna assessment following a 'Gateway' determination.

#### ***Access and Transport***

The subject site is accessed via Bells Lane which is connected to Bells Line of Road to the north-east. Public transport is limited to the Westbus Route 680 service between Richmond and Bowen Mountain and Route 682 service along Bells Line of Road between Richmond and Kurrajong. The Route 682 service operates every 30 minutes during peak periods. Given the limited frequency of services, future occupants of the proposed subdivision will most likely rely upon private vehicles for travel and transportation purposes.

The planning proposal is not supported by a traffic impact statement and the cumulative impact of similar proposals that may occur in the future has not been taken into consideration by the planning proposal. It is considered that this is a matter for Council and Roads and Maritime Services (RMS) to address with the outcome being incorporated into relevant planning proposals and/or developer contribution plans. Discussions have commenced between Council and RMS with the initial advice from RMS being for Council to focus any future traffic study associated with the Kurmond and Kurrajong Investigation Area on the existing and proposed intersections with Bells Line of Road within the investigation area and its immediate surrounds and not necessarily on bridge or river crossings.

## HAWKESBURY LOCAL PLANNING PANEL CLOSED SESSION MEETING

### Reports for Advice

Meeting Date: 18 October 2018

In previous reports to Council dealing with other planning proposals within the vicinity of Kurmond and Kurrajong it has been noted that Council has received petitions from residents west of the Hawkesbury River concerned about rezoning of land for residential purposes in the absence of required infrastructure upgrades. It is considered that this is a fundamental matter to be dealt with by Council prior to the finalisation of any planning proposals in the locality as the cumulative impact of these types of development could be unacceptable if no traffic improvements are made. In response to this issue the Applicant states:

*"It is envisaged that if this Planning Proposal were to proceed a contribution would be levied on the subdivision for each additional lot created to assist in implementation of traffic and other infrastructure in the locality. Alternatively, the landowner could enter into a Voluntary Planning Agreement with Council. An amount approximating what might come from the S94 Plan can be levied on the resultant subdivision if the S94 Plan has not at that time been implemented."*

On 10 November 2015 Council considered a report on VPAs for the Kurmond and Kurrajong Investigation Area and resolved as follows:

*"That:*

- 1. Council agree to offers to enter into negotiations for Voluntary Planning Agreements in the Kurrajong/Kurmond Investigation Area in the absence of an adopted Section 94 developer contributions plan.*
- 2. Any Voluntary Planning Agreement for this locality to be based on CPI adjusted cash contributions on a per lot release basis consistent with the offers discussed in this report.*
- 3. Negotiations for draft VPAs should include consideration of a Clause to terminate the VPA once the Section 94 Plan is adopted with no retrospective provisions should the amended contributions be different to the VPA contribution amount.*
- 4. To reinforce Council's previous resolutions planning proposals that have completed public exhibition are not to be reported to Council for finalisation until a Section 94 Plan is adopted or the report is accompanied by a draft Voluntary Planning Agreement that is proposed to be placed on public exhibition."*

The Applicant's suggestion of a VPA is consistent with the above Council resolution. If the planning proposal is to proceed further discussions will be held with the Applicant and land owner regarding the preparation of a draft VPA.

### **Bushfire Hazard**

The subject site is shown as being bushfire prone (Bushfire Vegetation Category 3) on the NSW Rural Fire Service's Bushfire Prone Land Map.

The planning proposal is not accompanied by a bushfire assessment report. Given the subject site is identified as bushfire prone, the planning proposal will be referred to the NSW Rural Fire Service (RFS), being the responsible authority for bushfire protection for comment should Council resolve to proceed with the planning proposal and receive a 'Gateway' determination advising to proceed with the planning proposal from DP&E.

### **Agricultural Land Classification**

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

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

Given the proximity of the subject site to surrounding rural residential properties, and the size and slope of the subject site and its proximity to the Kurmond Village, it is considered that it is unlikely the subject site could support a commercially sustainable agricultural enterprise.

### **Services**

The Applicant advises that the subject site has access to electricity, telecommunication, garbage and recycling services but does not have access to a reticulated sewerage or reticulated water system.

The planning proposal is not accompanied by a wastewater feasibility assessment or any other relevant statement or study. As the subject site does not have access to a reticulated sewerage system, future development will be dependent upon appropriate on-site sewage management systems. The Applicant contends that each proposed lot is of sufficient size to dispose of on-site effluent. Whilst the sizes of the proposed lots as a whole may be adequate, the constraints of the land within each proposed lot, such as dams, significant vegetation and slope, need to be considered, and ultimately reduces the 'useable' area of the proposed lots for this purpose.

For the above reasons it is recommended that a wastewater feasibility assessment be requested to confirm the suitability of each proposed lot for on-site effluent disposal. The DP&E will consider this as part of their 'Gateway' determination, and if required can request further information/consideration of this matter.

### **Heritage**

The subject site is not identified as a heritage item in Schedule 5 Environmental Heritage of the Hawkesbury LEP 2012, is not located within a conservation area, and is not subject to any heritage order or within the immediate vicinity of any identified heritage item.

### **Section 7.11 (previously S94) Contributions or a Voluntary Planning Agreement**

Should the planning proposal proceed it will be subject to either a Section 7.11 Developer Contributions Plan (S7.11 Plan) or a VPA.

The Applicant has acknowledged that if the planning proposal is to proceed further, preparation of a Section 7.11 Developer Contributions Plan or a draft VPA to support the required infrastructure upgrade in the locality as a consequence of the development would be required.

### **Conclusion**

Based on the assessment within this report, it is considered that some form of rural residential development on the subject site is appropriate and feasible. It is therefore recommended that the Hawkesbury Local Planning Panel support the preparation of a planning proposal to allow subdivision of the subject site into five lots having a minimum size of 4,000m<sup>2</sup>.

More specific details and requirements in support of the planning proposal discussed in this report can be addressed following the 'Gateway' determination, should that be issued.

It is also recommended that if the DP&E determines that the planning proposal is to proceed, a S7.11 Plan or a draft VPA to support the required infrastructure upgrade in the locality to support the development be prepared prior to the finalisation of the planning proposal.



## HAWKESBURY LOCAL PLANNING PANEL CLOSED SESSION MEETING

### Reports for Advice

Meeting Date: 18 October 2018

Ongoing assessment of the planning proposal will also consider the recent studies completed by Council, including the Kurmond Kurrajong Landscape Character Study.

It is recommended that the Hawkesbury Local Planning Panel provide advice in terms of the planning proposal to amend the LEP as outlined in this report to allow subdivision of the subject site into lots having a minimum size of 4,000m<sup>2</sup>. Additionally, it is recommended that the Hawkesbury Local Planning Panel support the forwarding of the planning proposal to the Greater Sydney Commission (following consideration of the matter by Council), requesting a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

### RECOMMENDATION:

That the Hawkesbury Local Planning Panel:

1. Provide advice on the planning proposal to amend the Hawkesbury Local Environmental Plan (LEP) 2012 to enable subdivision of the subject site into lots with a minimum lot size of 4,000m<sup>2</sup> as follows:
  - a) Amend the Lot Size Map to remove the current 10ha minimum lot size provision currently applying to the subject site and include a minimum lot size of 4,000m<sup>2</sup>.
2. Recommend that Council forward the planning proposal to the Greater Sydney Commission, requesting a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

### ATTACHMENTS:

- AT - 1** Kurmond Kurrajong Landscape Character Study prepared by Clouston Associates -  
(*Distributed Under Separate Cover*)
- AT - 2** Proposed Minimum Lot Size Map

**Meeting Date:** 18 October 2018

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