

ORDINARY MEETING

Minutes: 10 September 2019

Item: 165	CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - Lot 40 DP 7565, 42 Bells Lane, Kurmond - (95498, 124414)
Previous Item:	5, Ordinary (31 January 2017) RM2, Ordinary (14 February 2017)
Directorate:	City Planning

Ms Alison Amor and Mr Andrew Edwards speaking for the recommendation.

Mr Michael Want addressed Council speaking against the recommendation.

**MOTION:**

A MOTION was moved by Councillor Kotlash, seconded by Councillor Conolly.

That:

1. Council support the preparation of a planning proposal for Lot 40 DP 7565, 42 Bells Lane, Kurmond to allow development of the subject site for rural residential development with a minimum lot size of not less than 4,000m<sup>2</sup> and a maximum lot yield from subdivision of five lots subject to the submission of further studies for consideration in relation to;
  - Environmental design/site capacity assessment
  - Bush fire assessment
  - Flora and Fauna assessment
  - Traffic impact assessment
  - Waste water feasibility assessment
  - Infrastructure requirements and funding assessmentfollowing a 'Gateway' determination.
2. The planning proposal be forwarded to the Department of Planning, Industry and Environment for a 'Gateway' determination.
3. The Department of Planning, Industry and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.
4. The Department of Planning, Industry and Environment and the Applicant be advised that in addition to all other relevant planning considerations being addressed, final Council support for the proposal will only be given if Council is satisfied that satisfactory progress, either completion of the Section 7.11 Developer Contributions Plan or a Voluntary Planning Agreement has been made towards resolving infrastructure provision for this planning proposal.

The motion was put and carried.

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In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

**For the Motion:** Councillors Calvert, Conolly, Kotlash, Richards, Tree and Zamprogno.

**Against the Motion:** Councillors Lyons-Buckett, Reynolds, Ross and Wheeler.

**Absent:** Councillors Garrow and Rasmussen.

**MOTION:**

RESOLVED on the motion of Councillor Kotlash, seconded by Councillor Conolly.

***Refer to RESOLUTION***

**207 RESOLUTION:**

RESOLVED on the motion of Councillor Kotlash, seconded by Councillor Conolly.

That:

1. Council support the preparation of a planning proposal for Lot 40 DP 7565, 42 Bells Lane, Kurmond to allow development of the subject site for rural residential development with a minimum lot size of not less than 4,000m<sup>2</sup> and a maximum lot yield from subdivision of five lots subject to the submission of further studies for consideration in relation to;
  - Environmental design/site capacity assessment
  - Bush fire assessment
  - Flora and Fauna assessment
  - Traffic impact assessment
  - Waste water feasibility assessment
  - Infrastructure requirements and funding assessmentfollowing a 'Gateway' determination.
2. The planning proposal be forwarded to the Department of Planning, Industry and Environment for a 'Gateway' determination.
3. The Department of Planning, Industry and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.
4. The Department of Planning, Industry and Environment and the Applicant be advised that in addition to all other relevant planning considerations being addressed, final Council support for the proposal will only be given if Council is satisfied that satisfactory progress, either completion of the Section 7.11 Developer Contributions Plan or a Voluntary Planning Agreement has been made towards resolving infrastructure provision for this planning proposal.

**Item:** CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 – Lot 40 DP 7565, 42 Bells Lane, Kurmond - (95498, 124414)

**Previous Item:** 5, Ordinary (31 January 2017)  
RM2, Ordinary (14 February 2017)

**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:** Estate of GG Michael & GA Michael  
**Date Received:** 23 March 2016  
**Current Minimum Lot Size:** 10 Hectares  
**Proposed Minimum Lot Size:** 4,000m<sup>2</sup>  
**Current Zone:** RU1 Primary Production  
**Site Area:** 2.992ha

**Key Issues:**

- ◆ Hawkesbury Local Planning Panel Advice  
Draft Kurmond Kurrajong Investigation Area Structure Plan
- ◆ Kurmond-Kurrajong Landscape Character Study
- ◆ Consistency with Adopted Development Constraints Principles

## Recommendation:

That Council support the recommendation of the Hawkesbury Local Planning Panel in respect of Planning Proposal LEP009/16 at 42 Bells Lane, Kurmond and request that the Applicant amends the Planning Proposal to meet the advice of the Hawkesbury Local Planning Panel, the requirements of the Kurmond and Kurrajong Landscape Character Study, the Draft Kurmond Kurrajong Structure Plan, and the development constraint principles adopted by Council.

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## 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.

The purpose of this report is to:

- Advise Council of the recommendation of the Hawkesbury Local Planning Panel in respect of this matter;
- Provide an assessment of the merits of the Planning Proposal; and
- Make a recommendation that the Planning Proposal be amended to meet the advice provided by the Hawkesbury Local Planning Panel, the requirements of the Kurmond and Kurrajong Landscape Character Study, the Draft Kurmond Kurrajong Structure Plan, and the development constraint principles adopted by Council.

In accordance with the Ministerial Direction under Section 9.1 of the *Environmental Planning and Assessment Act, 1979*, the Planning Proposal was referred to the Hawkesbury Local Planning Panel for comment. Whilst a number of planning proposals including this matter were originally received prior to the commencement of this new requirement, the Department of Planning, Industry and

Environment have stipulated that they require the advice of a Local Planning Panel when submitting any planning proposal for a Gateway Determination. The Panel recommended that the Planning Proposal proceed for a 'Gateway' determination subject to meeting certain requirements as outlined in this report.

A series of separate studies have either been undertaken or considered as part of the process of informing the preparation of the Kurmond Kurrajong Structure Plan, including:

- Constraints and Opportunities Analysis
- Kurmond and Kurrajong Landscape Character Study
- Ecological/Biodiversity Mapping
- Commercial/Retail Findings - Kurmond and Kurrajong
- Traffic Study
- Views and View Classification and Design Controls
- Hawkesbury Tourism Destination Management Plan

Clouston Associates were commissioned by Council to complete a Landscape Character Study as part of the structure planning process for the Kurmond-Kurrajong Investigation Area, and in July 2018 Council considered a report on the matter and resolved to apply the approach adopted in the Study.

As outlined in this report, the planning proposal is considered to be inconsistent with the recommendations of the Kurmond and Kurrajong Landscape Character Study having regard to the protection of the pastoral character of the locality, and the subject site being within a significant views/vista corridor.

In addition, the Draft Kurmond Kurrajong Structure Plan has been prepared. In relation to the subject site, the Structure Plan nominates a minimum lot size for subdivision of 1 ha in order to maintain the pastoral character of the locality. The Planning Proposal is seeking to permit lot sizes of a minimum of 4,000m<sup>2</sup>, and is therefore considered to be inconsistent with the Draft Structure Plan.

This report provides Council with an overview of the Planning Proposal and recommends that the planning proposal be amended based on the advice of the Hawkesbury Local Planning Panel and the identified inconsistencies with the Draft Kurmond Kurrajong Structure Plan, the Kurmond and Kurrajong Landscape Character Study, and Council's adopted development constraint principles.

As this matter has an extensive history, comprising many elements, the Officers report is divided into the following sections to assist in its explanation and consideration:

1.	Subject Site	Pages 38-39
2.	Kurmond-Kurrajong Investigation Area	Pages 39-40
3.	Kurmond-Kurrajong Structure Plan	Page 40
4.	Detailed History and Planning Proposal	Pages 40-42
5.	Policy Considerations	Pages 42-43
6.	Discussion	Pages 43-62
7.	Consultation	Pages 63-64
8.	Conformance to Hawkesbury Community Strategic Plan	Pages 64-65
9.	Fit for the Future	Page 65
10.	Conclusion	Page 65

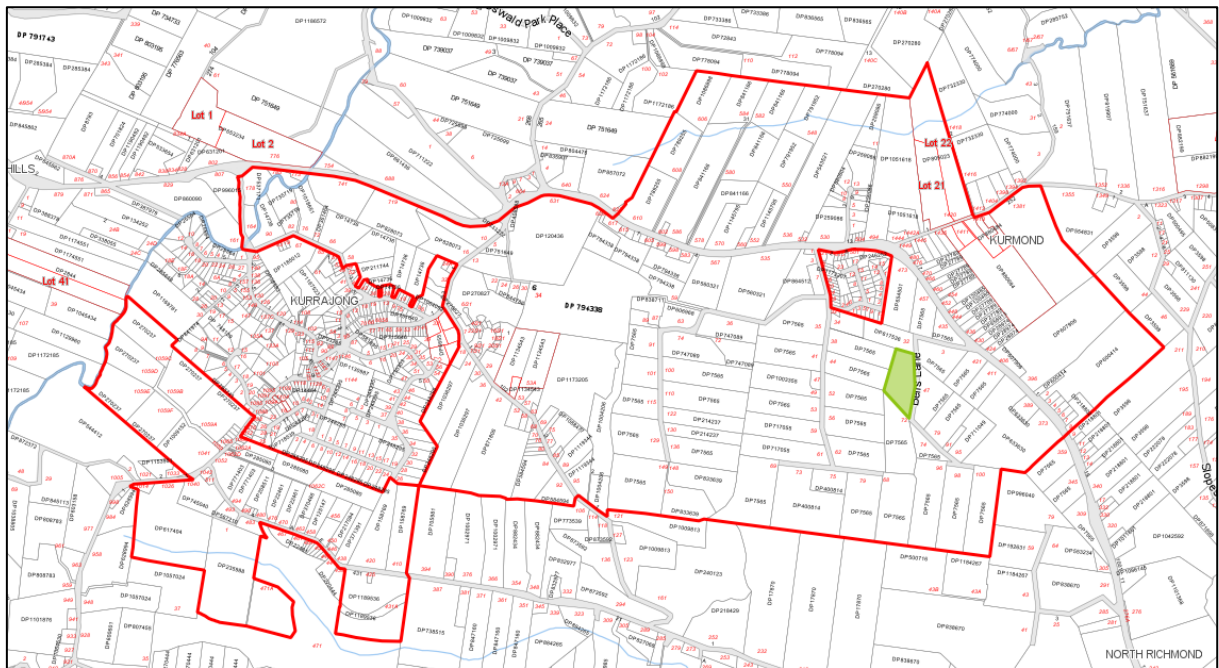
## **REPORT:**

### **Context and Background**

#### **1. Subject Site**

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

The site is located within the Kurmond and Kurrajong Investigation Area as shown in Figure 1 below.



**Figure 1: Site Location within Kurmond-Kurrajong Investigation Area**

The subject site is currently zoned RU1 Primary Production under the *Hawkesbury Local Environmental Plan 2012*. The current minimum lot size for subdivision of this land is 10ha.

The subject site is used for rural residential purposes and contains an existing dwelling, outbuilding and pool.

The subject site is shown as being bushfire prone (Bushfire Vegetation Category 1) on the NSW Rural Fire Service's Bushfire Prone Land Map.

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

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

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

The 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 80m AHD along the Bells Lane road frontage to 102m 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 and along the Bells Lane frontage.

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 is comprised 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.

## **2. Kurmond-Kurrajong Investigation Area**

Through a Mayoral Minute on 3 February 2015, Council resolved to undertake structure planning within the Kurmond-Kurrajong Investigation Area. This structure planning process was to determine the suitability of the identified lands for large lot residential and/or rural residential development.

On 31 March 2015, Council considered a report on proposed large lot residential/rural-residential development within an approximately one kilometre radius of the Kurrajong and Kurmond neighbourhood centres and resolved to adopt an investigation area to enable structure planning and development contributions planning for this purpose.

The Investigation Area was identified by considering the location criteria provided within the Hawkesbury 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, watercourses, existing road layout and accesses, and zone and property boundaries.

In July 2015, Council resolved to adopt the development constraint principles and local planning approach outlined in the Council report of 28 July 2015 as an Interim Policy for the purpose of structure planning within the Kurmond and Kurrajong Investigation Area. An assessment of this Proposal against the Interim Policy is discussed further in this Report.

On 29 November 2016, Council considered a report on the Kurmond-Kurrajong Investigation Area Survey Results and resolved as follows:

*"That:*

1. *Council receive the results of the Kurmond and Kurrajong Investigation Area Survey.*
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.*
3. *The identified areas be further consulted with the community regarding future development.*
4. *The results of that further consultation be reported to Council.*
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.*
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."*

The subject site is located within the Kurmond-Kurrajong Investigation Area. Having regard to item 6 of the above resolution, the subject Planning Proposal was received 23 March 2016.

Recent progress with respect to the Kurmond-Kurrajong Investigation Area has included preparation or consideration of a number of associated studies, to inform the preparation of the Draft Kurmond Kurrajong Structure Plan, including:

- Constraints and Opportunities Analysis
- Kurmond and Kurrajong Landscape Character Study
- Ecological/Biodiversity Mapping
- Commercial/Retail Findings - Kurmond and Kurrajong
- Traffic Study
- Views and View Classification and Design Controls
- Hawkesbury Tourism Destination Management Plan.

Council considered a report regarding the Kurmond and Kurrajong Landscape Character Study and resolved to apply the approach adopted in relation to the Study.

In addition, the Study recommended that Council consider the following provisions when determining planning proposals:

- 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.

The recommendations of this Study have been considered in the assessment of this Planning Proposal, and are discussed further in this Report.

### **3. Kurmond Kurrajong Structure Plan**

The Draft Kurmond Kurrajong Structure Plan has been prepared based on consideration of the various studies. The aim of the Structure Plan is to provide the planning framework to enable the future development of the area whilst maintaining the biodiversity, ecological, scenic, character and amenity values of the locality. One of the main determining factors in achieving this aim is an appropriate minimum lot size for subdivision.

To ensure the protection of the landscape character, biodiversity, and the existing views and vistas within the area, the draft Structure Plan proposes a minimum lot size for subdivision of 1 ha or 4,000m<sup>2</sup> dependent on locality. It is considered that areas immediately surrounding the town centre villages of Kurmond and Kurrajong should have a minimum lot size of 4,000m<sup>2</sup>, essentially providing for an expansion of the denser existing residential areas, closer to services and amenities, while minimising impacts on the surrounding rural character and views and vistas. For all other properties within the Kurmond Kurrajong Investigation Area a minimum of 1 ha is proposed to maintain existing views and vistas and/or to protect the pastoral character as identified in the Kurmond and Kurrajong Landscape Character Study.

The Planning Proposals consistency with the Draft Kurmond Kurrajong Structure Plan is discussed further in this Report.

### **4. Detailed History and Planning Proposal**

On 23 March 2016, Council received a planning proposal from Glenn Falson Urban & Rural Planning Consultant, seeking to amend the *Hawkesbury Local Environmental Plan 2012* in order to allow the subdivision of Lot 40 DP 7565, 42 Bells Lane, Kurmond into five lots with a minimum lot size of not less than 4,000m<sup>2</sup>.

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."*

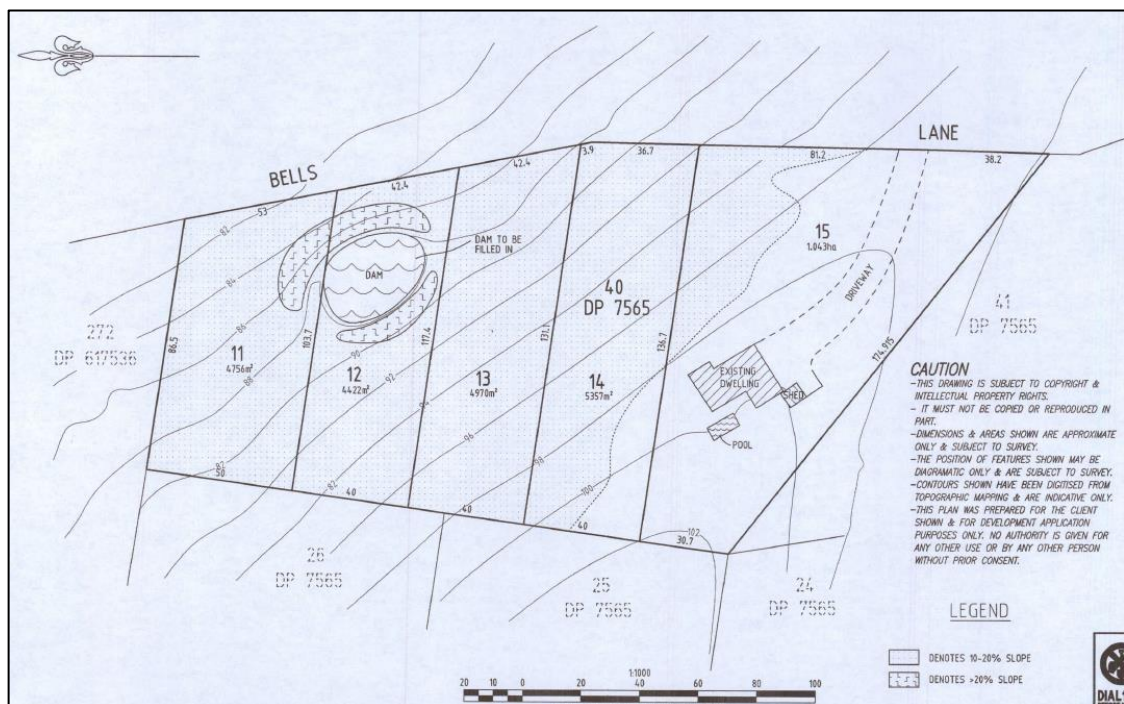
#### And Further

*"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 planning proposal seeks to amend the *Hawkesbury Local Environmental Plan 2012* in order to permit the subdivision of the site into five lots.

The planning proposal aims to achieve this by amending the relevant Lot Size Map of the *Hawkesbury Local Environmental Plan 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 Local Environmental Plan 2012* to limit the maximum number of lots created by future subdivision of the land to five lots.

A concept plan for a proposed five lot subdivision is shown in Figure 2 below. The areas of the proposed lots in the concept plan area shown in Table 1. This plan has been provided for discussion purposes only relating to the potential lot yield of the site and the proposed minimum lot sizes, and as such does not form part of the planning proposal.



**Figure 2 - Concept Subdivision Plan (Not for adoption)**

**Table 1: Size 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

### Applicant's Justification of Proposal

The Applicant has provided the following justification for the planning proposal:

- *The proposed subdivision is consistent with the Hawkesbury Residential Land Strategy.*
- *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 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.*

### 5. Policy Considerations

The Department of Planning and Environment's document "A Guide to Preparing Planning Proposals", October 2016 advises:

*"The planning proposal should contain enough information to demonstrate that relevant environmental, social, economic, and other site specific matters have been identified and if necessary that any issues can be addressed with additional information and/or through consultation with agencies and the community."* and

*"To prevent unnecessary work prior to the Gateway stage, specific information nominated as being necessary would not be expected to be completed prior to the submission of the planning proposal. In such circumstances, it would be sufficient to identify what information may be required to demonstrate the proposal."*

The planning proposal has identified particular environmental matters which may have consequences for the future subdivision and development of the land, 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.

In accordance with a Ministerial Direction under Section 9.1 of the *Environmental Planning and Assessment Act, 1979*, a planning proposal is required to be referred to the local planning panel for advice prior to the planning proposal being forwarded to the Minister under Section 3.34 of the *Environmental Planning and Assessment Act, 1979* for a 'Gateway' determination. The Planning Proposal was presented to the Hawkesbury Local Planning Panel Meeting of 18 October, 2018.

At that Meeting, the Hawkesbury Local Planning Panel recommended that further site specific studies be carried out prior to referral of the Planning Proposal to the Department of Planning and Environment for a 'Gateway' determination and a recommendation of this Report is for the Applicant to be requested to provide these studies.

The Department of Planning and Environment's 'A guide to preparing planning proposals' August 2016 also requires the applicant to demonstrate that a planning proposal is consistent with applicable local strategies/strategic plans, State Environmental Planning Policies and Section 9.1 Directions (formerly Section 117 Directions). This is discussed further in this Report.

### 6. Discussion

*The Greater Sydney Region Plan, the Western City District Plan and Hawkesbury Residential Land Strategy*

The Greater Sydney Region Plan and the Western City District Plan establishes the broad planning directions for the Sydney metropolitan area and north-western sector of Sydney respectively. These documents identify a number of strategies, objectives/priorities and actions relating to the economy and employment, centres and corridors, housing, transport, environment and resources, parks and public places, implementation and governance.

These documents have a high level metropolitan and regional focus and for the most part are not readily applicable to a singular rural residential planning proposal at Kurmond. Notwithstanding this, an assessment of the planning proposal against these policy documents conclude that the proposal is consistent with these strategies.

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

The Hawkesbury 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.”*

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

The Hawkesbury Residential Land Strategy states that the future role of rural residential development is as follows:

*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:*

- *Impacts 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.*

For the purposes of this planning proposal, the relevant criteria for rural residential development, as stated in Section 6.5 of the Hawkesbury Residential Land Strategy, is that it be large lot residential dwellings, and:

- *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);*
- *Address environmental constraints and have minimal impact on the environment;*
- *Occur only within the capacity of the rural village*

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

The site is on the fringe of the Kurmond Village, and is within the one kilometre radius specified in the Hawkesbury Residential Land Strategy.

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 Hawkesbury Residential Land Strategy has been discussed previously in this report. It is considered that the planning proposal is consistent with Council's Community Strategic Plan 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 the *Hawkesbury Local Environmental Plan 1989*, the *Western City District Plan*, the *Hawkesbury Residential Land Strategy*, the *Hawkesbury Community Strategic Plan*, the commencement of the *Hawkesbury Local Environmental Plan 2012*, and the Department of Planning and Environment's 'Gateway' system for dealing with planning proposals.

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 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.

The Hawkesbury Local Planning Panel recommended that a wastewater feasibility assessment be provided prior to the planning proposal proceeding to a 'Gateway' determination.

- 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.

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 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.

The Hawkesbury Local Planning Panel recommended that a flora and fauna assessment be provided prior to the proposal proceeding to a 'Gateway' determination.

**g) Any rezoning proposals are to require the preparation of environmental studies and Section 94 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 Department of Planning and Environment'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 would normally be a matter for the Department of Planning and Environment to determine as part of their 'Gateway' process.

However, as previously discussed, the Hawkesbury Local Planning Panel has recommended that further studies be provided prior to the proposal proceeding to a 'Gateway' determination to address environmental impacts arising from the Proposal.

The need for a Section 7.11 Contribution Plan or a Voluntary Planning Agreement can be determined and discussed further 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.

**Section 9.1 Directions (previously Section 117)**

The Minister for Planning, under section 9.1(2) of *Environmental Planning and Assessment Act, 1979* issues directions that relevant planning authorities, including councils, must comply with when preparing planning proposals. The directions cover the following broad range of categories:

- Employment and resources;
- Environment and heritage;
- Housing, infrastructure and urban development;
- Hazard and risk;

- Regional planning;
- Local plan making; and

Typically, the Section 9.1 Directions will require certain matters to be complied with and/or require consultation with government authorities during the preparation of the planning proposal.

The Section 9.1 Directions do allow for planning proposals to be inconsistent with the Directions. In general terms a planning proposal may be inconsistent with a Direction only if the Department of Planning and Environment is satisfied that the proposal is:

- justified by a strategy which:
  - gives consideration to the objectives of the Direction, and
  - identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
  - is approved by the Director-General of the Department of Planning and Environment, or
- justified by a study prepared in support of the planning proposal which gives consideration to the objectives of the Direction, or
- in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of the Direction, or
- is of minor significance.

The Hawkesbury Residential Land Strategy has been prepared with consideration given to the various policies and strategies of the NSW State Government and Section 9.1 Directions of the Minister. In this regard, a planning proposal that is consistent with the Hawkesbury Residential Land Strategy is more likely to be able to justify compliance or support for any such inconsistency.

A summary of the key Section 9.1 Directions follows:

#### *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 Local Environmental Plan 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 site such as this for village expansion.”*

This inconsistency will be considered by the Department of Planning and Environment as part of their ‘Gateway’ determination.



### *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.

Should Council resolve to proceed with the planning proposal and receive a Gateway determination advising to proceed with the planning proposal from Department of Planning and Environment, the Department of Industry will be consulted seeking comments on this matter in accordance with the Direction 1.3(4).

### *Direction 1.5 Rural Lands*

This Direction applies when a planning proposal is prepared that will affect land within an existing or proposed rural or environmental protection zone or changes the existing minimum lot size on land within a rural or environmental protection zone.

The Planning Proposal proposes a change to the minimum lot size for subdivision of the subject site.

It is considered that the Planning Proposal is consistent with this Direction as:

- it is consistent with applicable strategic plans, including the Sydney Region Plan and the Western City District Plan, as discussed in this Report.
- the locality is currently being used predominantly for rural residential purposes and has been identified as an area for increased residential development under Hawkesbury Residential Land Strategy 2012. The Structure Planning for this area has been advanced as discussed previously in this Report.
- it will not result in any adverse impacts on the environmental values of the land, including biodiversity, native vegetation, cultural heritage, and watercourses.
- the natural and physical constraints of the subject site will not inhibit the future development of the site for residential purposes.
- future development of the subject site for rural residential purposes is not expected to impact on farmer's rights to farm, or give rise to land use conflicts, given the rural residential nature of surrounding properties.
- given the intent of the area for increased rural residential development, the fragmentation of rural zoned land is anticipated.
- the subject site is not identified as State significant agricultural land.
- the Planning Proposal is considered to be consistent with the social, economic and environmental interests of the community.

Having said this, it should be noted that whilst rural residential development of the subject site is considered appropriate, the final density of that development will depend on consideration of various site specific studies and the Draft Kurmond Kurrajong Structure Plan.

### *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.

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 Department of Planning and Environment via the 'Gateway' process, regarding the applicability of this document.

#### *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 the Department of Planning and Environment.

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

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 Schedule 1 Clause 4 of the *Environmental Planning and Assessment Act, 1979*. An acid sulfate soil study has not been included in the planning proposal but the Department of Planning and Environment 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 1 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 6.1 Approval and Referral Requirements*

The objective of this Direction is to ensure that Local Environmental Plan provisions encourage the efficient and appropriate assessment of development. This Direction requires that a planning proposal must:

- "(a) *minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and*
- (b) *not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:*
  - (i) *the appropriate Minister or public authority, and*
  - (ii) *the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act, and*
- (c) *not identify development as designated development unless the relevant planning authority:*

- (i) *can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and*
- (ii) *has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act."*

It is considered that the planning proposal is consistent with this Direction as it does not contain provisions requiring the concurrence, consultation or referral of development applications to a Minister or public authority, and does not identify development as designated development.

#### *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 Local Environmental Plan 2012* and, in addition, a provision in the Local Environmental Plan to restrict the lot yield from subdivision of the subject site. The Department of Planning and Environment 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 Hawkesbury Local Environmental Plan 2012*. It will be a matter for the Department of Planning and Environment to determine if this inconsistency is justifiable.

Whilst this is the case, it is considered that a restriction on lots yield is not warranted given that the proposed minimum lot size and constraints of the site will limit the lot yield.

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

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

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

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 State Environment Planning Policy 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 State Environmental Planning Policy, needs to be identified as part of a planning proposal to ensure that future development is not prevented by this Policy. The consistency of future development with this State Environmental Planning Policy can be confirmed by the submission of a flora and fauna assessment.

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

*State Environmental Planning Policy No. 55* requires consideration as to whether or not land is contaminated and, if so, whether it is suitable for future permitted uses in its current state or whether it requires remediation. The State Environmental Planning Policy 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.”*

However, the Applicant also states that the site *“has been cleared in the past for grazing activities.”* According to Table 1 - *Some Activities that may cause contamination* of the *Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land*, agricultural activities 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 Department of Planning and Environment as part of their 'Gateway' determination.

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

The primary aims of *Sydney Regional Environmental Plan No. 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 site is not within the vicinity of land described in Schedule 1 and 2 of the Sydney Regional Environmental Plan, 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 *Sydney Regional Environmental Plan 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.

Specifically the Sydney Regional Environmental Plan 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;
- consider any adverse environmental impacts of infrastructure associated with the development concerned.

The site falls within the *Middle Nepean and Hawkesbury River Catchment Area* of the Sydney Regional Environmental Plan.

It is considered that the future use of the planned additional lots for rural residential purposes will be able to comply with the relevant provisions of the Sydney Regional Environmental Plan or be able to appropriately minimise any impacts.

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

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

In April 2018 Council engaged Clouston Associates to undertake a Landscape Character Study of the Kurmond-Kurrajong Investigation Area in order to determine what aspects of streetscapes, landscapes and buildings positively contribute to making Kurmond and Kurrajong unique. The Study also recommended strategies/controls to preserve and enhance the existing landscape when facilitating rural residential development within the Investigation Area.

Council considered the report regarding the Kurmond Kurrajong Landscape Character Study and resolved to apply the approach adopted in relation to the Study.

A number of recommendations identified in the Study include:

- Complete landscape character study and establish related controls
- Pursue consolidation of rural zoning (at that stage 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.

In addition, the following development provisions were also recommended in the Study:

- 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.

The Kurmond Kurrajong Landscape Character Study identified 4 landscape character types which are identified on the Landscape Character Map. The Pastoral landscape character types occurs on the subject site:

**Pastoral Valleys:** *The rural character of the region is defined by the lightly sloping open pastures with scattered trees over gently sloping terrain. Significant areas of land have been cleared for grazing and agricultural uses. Properties are dotted amongst the hills and valleys of the landscape situated between groupings of trees.*

The Kurmond Kurrajong Landscape Character Study identifies that “*the pastoral character contributes to the scenic qualities of the area by virtue of the lack of buildings.*”

In addition, the subject site is located within a views/vista corridor of high significance as identified in the Kurmond Kurrajong Landscape Character Study

Given the above, it is considered that the subdivision layout as proposed for 42 Bells Lane, Kurmond would not be compatible with the identified ‘Pastoral Valley’ character of the area, especially when considering the location, scale and density of both existing and likely future development on the land in relation to the size of the proposed lots. In turn, this would have an adverse impact on the significant views/vista corridor in which the land is situated.

A full assessment of the planning proposal against the Kurmond Kurrajong Landscape Character Study is contained within Attachment 1 to this Report.

#### *Kurmond Kurrajong Structure Plan*

In order to achieve the recommendations of the Kurmond Kurrajong Landscape Character Study, the Structure Plan has considered the most appropriate minimum lot size for subdivision that would achieve the aims of providing for housing while protecting the biodiversity, ecological, scenic, character and amenity values of the locality.

The Draft Structure Plan stipulates a minimum lot size of 1 ha for the subject site. A minimum lot size of 1 ha is considered to be compatible with the maintenance of the pastoral character of the locality, as it affords greater separation of development between lots to provide a low density amenity, and in doing so maintains the values of the view/vista corridor in which the subject site is located.

It is therefore recommended that the Applicant be requested to amend the Planning Proposal to provide a minimum lot size of 1 ha. This would enable a three lot subdivision of the subject site.

*Council's Interim Policy 28 July 2015 – Development Principles*



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

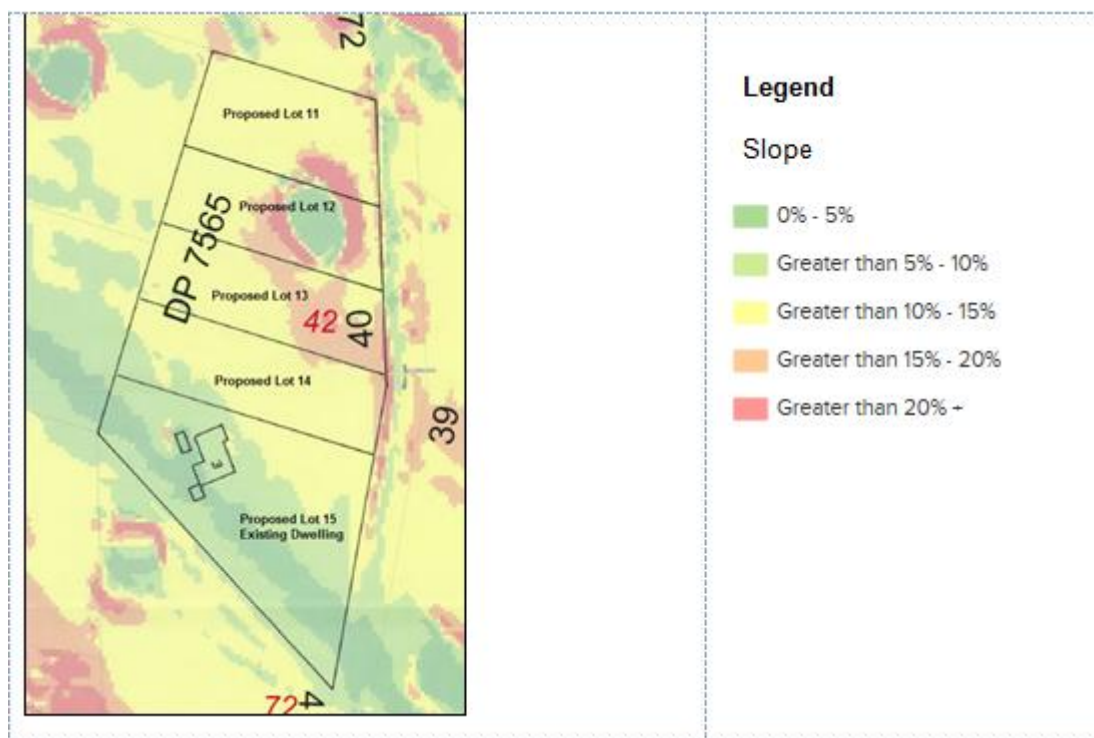
1. *Essential services under LEP 2012 and fundamental development constraints are resolved.*
2. *Building envelopes, asset protection zones (APZs), driveways and roads are located on land with a slope less than 15%.*
3. *Removal of significant vegetation is avoided.*
4. *Fragmentation of significant 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.*
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 80m AHD along the Bells Lane road frontage to 102m 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 as shown in Figure 3.

Figure 3 illustrates the proposed lots in relation to the slope of the subject site.



**Figure 3 – Slope Analysis**

This slope analysis highlights that:

- Access from Bells Lane to proposed Lots 11, 12, 13 and 14 will need to cross land that is in excess of 15%. This entails a small, narrow strip across the front of the proposed lots.
- 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 levels 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, 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 access points/arrangements; and
- the appropriate design of 'crossover' access to the proposed lots.

It is recommended that the Applicant prepare a revised subdivision concept plan consistent with the adopted development principles, and incorporating a minimum lot size of 1 ha.

### *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 on 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 Environment. It is not believed that formal flora/fauna assessment is required at this stage (and probably not all)."*

Council's vegetation mapping records the subject site as containing Shale Sandstone Transition Forest, which is a critically endangered ecological community under the *Biodiversity Conservation Act, 2016*. This vegetation community is located around the existing dam.

The adopted development principles require planning proposals to avoid the removal, and minimise the fragmentation of significant vegetation. In addition it requires that impacts on watercourses, riparian areas and aquatic habitat are minimised and/or avoided, including the retention of dams containing significant aquatic habitat.

Figure 4 shows the areas of the subject site which contain significant vegetation. Figure 5 shows the corresponding vegetation that is located in these areas.



Figure 4 – Mapped Significant Vegetation on the Subject Site



Figure 5 – Aerial Photo of the Subject Site

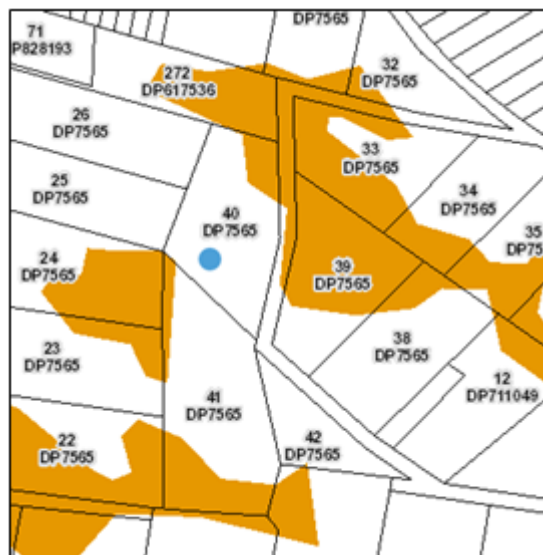
The Aerial Photo in Figure 5 shows that each lot contains a cleared area suitable for a dwelling house.

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.

It is noted that the Hawkesbury Local Planning Panel recommended that a flora and fauna assessment be provided prior to the planning proposal proceeding to a 'Gateway' determination.

In addition, since the lodgement of this Planning Proposal, the *Biodiversity Conservation Act 2016* has come into effect. Whilst the Hawkesbury Local Government Area is within a designated interim area under the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, the provisions of the *Biodiversity Conservation Act 2016* will not apply until 24 November 2019, and as such any future development application for subdivision of the subject site after this time will be subject to its provisions.

Part of the subject site is mapped as having biodiversity values on the Office of Environment and Heritage's Biodiversity Values Map (Figure 6), and therefore any removal of native vegetation for future subdivision or development within this mapped area will be subject to the biodiversity offset scheme.



**Figure 6 - Extract of OEH's Biodiversity Values Map**

### *Zone Objectives*

The subject site is zoned RU1 Primary Production under the *Hawkesbury Local Environmental Plan 2012*. In dealing with all other planning proposals within the Kurmond Kurrajong Investigation Area the subsequent amendments to the *Hawkesbury Local Environmental Plan 2012* agreed to by Council have not altered the zoning of the respective sites, nor the zone objectives.

The Land Use Table of the *Hawkesbury Local Environmental Plan 2012* establishes the following zone objectives for the RU1 Primary Production zone:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*

- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage agricultural activities that do not rely on highly fertile land.*
- *To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.*
- *To promote the conservation and enhancement of local native vegetation including the habitat of threatened species, populations and ecological communities by encouraging development to occur in areas already cleared of vegetation.*
- *To ensure that development retains or enhances existing landscape values including a distinctive agricultural component.*
- *To ensure that development does not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services.*

Clause 2.3(2) of *Hawkesbury Local Environmental Plan 2012* outlines that Council “*must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone*”.

However, it should be noted that there is no requirement for a subsequent development to be consistent with all the objectives of a zone particularly when the development satisfies all other applicable development standards.

A future development application over the subject site should this planning proposal proceed will have regard to the zone objectives at the time. However, it should be noted that in dealing with all planning proposals that have proceeded towards a Local Environmental Plan Amendment to date, the specific approach by Council was to amend the minimum lot sizes as expressed through the Lot Size Map.

The recently completed Kurmond-Kurrajong Landscape Character Study recommends Council to consider possible rezoning of rural land with subdivision potential for rural residential purposes within the Kurmond Kurrajong Investigation Area to avoid any possible inconsistencies with respect to zone objectives.

Once the Structure Plan for the Kurmond-Kurrajong Investigation Area is finalised and a suitable land area is identified for rural residential purposes, Council will be able to consider possible alternative zones for the locality.

However, in the interim, it is considered warranted to proceed with the making of plans to give effect to the planning proposals by way of amendment to the Lot Size Map only. In future, Council would be able to rezone the potential rural land including the subject site property and other rural properties subject of the previous Local Environmental Plan amendments that enabled subdivision of those properties.

#### *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

SMEC Australia Pty Ltd were engaged by Council to undertake a comprehensive traffic study to:

- identify the current and future traffic and transport patterns
- assist Council in planning for the current and future traffic and transport needs of the Hawkesbury Community.

The study assesses the likely traffic impacts stemming from the future growth in the Hawkesbury Local Government Area in order to determine any required improvements or capacity needs to minimise any adverse traffic impacts of proposed development.

SMEC have undertaken the Study in two Stages, with Stage 1 having already been completed and reported to Council in September 2018. Stage 1 of the Traffic Study concluded that:

*“To estimate future traffic flows with the addition of a new bridge near Navua Reserve, the Roads and Maritime STFM strategic model was coded to include the new bridge. This showed that the new bridge in the vicinity of Navua Reserve would result in the redistribution of traffic, which would result in a reduction in traffic at the Bells Line of Road/Gross Vale Road signalised intersection, at the Kurrajong Road/Old Kurrajong Road priority intersection, as well as Richmond Bridge.*

*Assessment indicates that a new bridge at Navua Reserve in 2027 would provide positive impact relating to the operation of the Bells Line of Road/ Gross Vale Road intersection and the Kurrajong Road/Old Kurrajong Road priority intersection would also operate satisfactorily during peak periods”.*

The Stage 1 assessment also provided a good understanding of the problem locations and issues for assessment in further detail as part of Stage 2 of this Study.

Stage 2 of the Study involves a number of key actions including the following:

- Undertake strategic assessment of proposed road projects and associated road alignments
- Determine the current and future based road network and demands
- Identify critical road network locations in consultation with Council and assess such road network locations in detail
- Test future road network demand scenarios, including a new bridge in the vicinity of Navua Reserve and other road infrastructure scenarios, as required
- Develop a strategic traffic model for Council to use now and in the future to assess the implications of background traffic growth, potential new roads infrastructure, as well as the impacts of other influencing factors, such as new developments.
- Prepare Stage 2 traffic report following completion of the required traffic modelling to identify critical road network elements that require to be upgraded to support future traffic growth, consider the impacts of the proposed strategic road projects and associated infrastructure as required.

In terms of Stage 2 of the traffic modelling for the Kurmond-Kurrajong area the Hawkesbury Traffic Study has modelled a future base year 2027 with the following parameters, in order to assess impacts of any further development:

- The proposed new Grose River Bridge is operational
- Takes into account the remaining Redbank development (1,250 dwellings), Glossodia (250 dwellings), Pitt Town (150 dwellings) and Vineyard (900 dwellings).
- Includes the RMS upgrades along Bells Line of Road at Grose Vale Road, Yarramundi Lane and Bosworth Street/ March Street as well as the new Windsor Bridge.

In addition to modelling the future base year of 2027, the following Scenarios have been tested relative to the future base year:

- Scenario 1 - Future year base without Gross River Bridge



- Scenario 2 - Future year base plus 200 dwellings within the Kurmond-Kurrajong investigation area
- Scenario 3 - Future year base plus an additional 5% growth at Richmond and Windsor/ South Windsor areas.

Interim advice from the Consultant is that the new Grose River Bridge will improve the operation of the network taking into account the projected development in the future base year (2027) that includes development sites such as Redbank. The scenario modelling of the proposed 200 dwellings within the Kurmond-Kurrajong Investigation Area indicates that this development option is not considered to have any notable impact.

It should be pointed out that this Scenario is tested on the basis that the new Grose River Bridge is in place and that without the new bridge in place it would only lead to further deterioration in the road network performance.

The traffic assessment indicates that duplication of the Richmond bridge would be required to accommodate further development even with the new Grose River Bridge in place.

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 it 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 S7.11 Plan can be levied on the resultant subdivision if the S7.11 Plan has not at that time been implemented."*

On 10 November 2015 Council considered a report on Voluntary Planning Agreements for the Kurmond 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 Voluntary Planning Agreement is consistent with Council's 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 Voluntary Planning Agreement.

### *Bushfire Hazard*

The subject site is shown as being bushfire prone (Bushfire Vegetation Category 1) on the NSW Rural Fire Service's Bushfire Prone Land Map.

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

### *Agricultural Land Classification*

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

### *Services*

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

The planning proposal is not accompanied by a wastewater feasibility assessment report or any other relevant statement or study. As the site does not have access to a reticulated sewerage system, future development of the site would be dependent upon an appropriate on-site sewage management system. The Applicant states that *"each 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 lot, such as dams, significant vegetation and slope, needs to be considered, and ultimately reduces the 'useable' area of the lots for this purpose.

For the above reasons it is recommended that a wastewater feasibility assessment report be requested to confirm the suitability of each lot for onsite effluent disposal.

### *Heritage*

The site is not identified as a heritage item in Schedule 5 Environmental Heritage of the *Hawkesbury Local Environmental Plan 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 Contributions or a Voluntary Planning Agreement**

The planning proposal will be subject to either a Section 7.11 Developer Contributions Plan or a Voluntary Planning Agreement.

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 Voluntary Planning Agreement to support the required infrastructure upgrade in the locality as a consequence of the development would be required.

On 10 November 2015 Council considered a report on Voluntary Planning Agreements 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 Voluntary Planning Agreement is consistent with the above Council resolution. If the planning proposal is to proceed further discussions will be held with the Applicant and property owner regarding the preparation of a draft Voluntary Planning Agreement.

## 7. Consultation

The Planning Proposal was reported to the Hawkesbury Local Planning Panel Meeting of 18 October 2018 for advice/comments.

In respect to this Planning Proposal, the Panel advised:

*"This Planning Proposal raises a number of issues with regards to balancing long term strategic objectives with individual interests.*

*The Panel finds itself being asked to advise Council on the merits of individual planning proposals whilst the strategic overview of the Kurmond Kurrajong Investigation Area is still under investigation.*

*The Panel does not think this is the appropriate approach to effective management of the Kurmond Kurrajong Investigation Area. However, the Panel is also conscious of the history of the four remaining pre Gateway Planning Proposals in Council, including the two Proposals subject of reports before the Panel.*

*The Panel considers it would be unfair to the applicant and relevant land owners to defer or refuse the application but the Panel are also of a mind that the proposal is not in a form that can be supported for Gateway. This includes concerns with respect to the desired future character of the area, the actual subdivision being proposed, the appropriate zoning for the site (and other sites seeking similar subdivision) and the preparation of sufficient supporting documentation to address environmental matters.*

*In the Panels view, the public interest is best served by coordinated decisions that take into consideration a broader context, and evaluate outcomes above the specific interest of individuals. The Panel considers that long term strategic planning should have been completed before these planning proposals were considered.*

At this Meeting, the Panel also resolved to recommend that:

1. *The Planning Proposal to amend the Hawkesbury Local Environmental Plan 2012 - 42 Bell (sic) Lane, Kurmond, proceed for Gateway determination subject to the following:*

- a. *the LEP amendment process be 24 months to allow time for Council to complete its strategic planning for the investigation area including:*

Comment: Should it be determined in the future that the Planning Proposal be forwarded for a 'Gateway' determination, a request can be made to the Department of Planning and Environment for a 24 month timeframe for the completion of the Local Environmental Plan amendment. However, given that work has progressed with various studies and the Draft Kurmond Kurrajong Structure Plan has been prepared this may not be required.

- b. *the proposed subdivision not exceed five lots*

Comment: The subject site is 2.992ha in area. With a proposed minimum lot size of 4,000m<sup>2</sup>, numerically the subject site has potential for seven lots. However, given the constraints of the subject site, it is considered that a yield of more than five lots is unlikely. The proposed minimum lot sizes and potential lot yield is discussed further in this Report.

- c. *completion of the following site-specific studies by the applicant:*

- i. *Environmental design/site capacity*
- ii. *Bush fire assessment*
- iii. *Flora and Fauna assessment*
- iv. *Traffic impact assessment*
- v. *Waste water feasibility*
- vi. *Infrastructure requirements and funding*

Comment: It is recommended that the Applicant provide the above listed reports to ensure the appropriateness of this Local Environmental Plan amendment having regard to the desired future character of the area, the appropriate minimum lot size/s, and the environmental constraints of the subject site.

2. *Council seek funding from the Department of Planning and Environment to enable the strategic planning for the Kurmond Kurrajong Investigation Area.*

Comment: Council Officers have contacted the Department of Planning and Environment in this regard to no avail.

3. *A coordinated approach to all current planning proposals be undertaken for the Kurmond Kurrajong Investigation Area currently before Council, including the subject site.*

Comment: A coordinated approach in the assessment of planning proposals within the Kurmond Kurrajong Investigation Area will be undertaken for all current planning proposals within this Area. This will include consistency in the criteria used for assessment, the information required to be lodged with a proposal, as well as procedural requirements. The preparation of the Draft Structure Plan and covering report addresses this matter.

The planning proposal has not yet been exhibited as Council has not resolved to prepare the proposal. If the planning proposal is to proceed it will be exhibited in accordance with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) and associated Regulations, and as specified in any 'Gateway' determination.

## **8. Conformance to the Hawkesbury Community Strategic Plan 2017-2036**

The proposal is consistent with the following Focus Areas, Directions and Strategies within the Community Strategic Plan.

#### Our Environment

3.1 The natural environment is protected and enhanced

3.1.4 Minimise our community's impacts on habitat and biodiversity and protect areas of conservation value.

3.4 The sustainability of our environment is improved

3.4.2 Development is functional, attractive and sympathetic with the environment, and avoids unnecessary use of energy, water and other resources.

#### Our Future

5.3 Shaping our Growth – Respond proactively to planning and the development of the right local infrastructure.

5.3.3 Plan for a balance of agriculture, natural environment and housing that delivers viable rural production and maintains rural character.

### **9. Fit For The Future Strategy Considerations**

The proposal is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks. The proposal will enable Council to sustainably manage community assets in accordance with the scheduled program of works in the Long-Term Financial Plan.

### **10. Conclusion**

The Planning Proposal was reported to the Hawkesbury Local Planning Panel for advice on 18 October 2018. The Panel recommended that the Planning Proposal proceed to a 'Gateway' determination subject to the completion of the following site specific studies by the Applicant:

- *Environmental design/site capacity*
- *Bush fire assessment*
- *Flora and Fauna assessment*
- *Traffic impact assessment*
- *Waste water feasibility*
- *Infrastructure requirements and funding*

The provision of these reports will ensure the appropriateness of this Local Environmental Plan amendment having regard to the desired future character of the area, the appropriate minimum lot size/s, and the environmental constraints of the subject site.

The Planning Proposal is considered to be inconsistent with the recommendations of the Kurmond Kurrajong Landscape Character Study and Draft Kurmond Kurrajong Structure Plan in regard to the protection of the pastoral character of the locality and the significant views/vista corridor in which the subject site is situated. For this reason it is further considered that a minimum lot size of 1 ha should be applied to the proposal.

In addition, the Proposal does not meet the requirements of Council's adopted development constraints principles in respect to access and slope. Further, the Planning Proposal does not demonstrate, through lack of the appropriate studies, consistency with these principles in respect to significant vegetation, asset protection areas and on site effluent disposal.

It is therefore recommended that Council support the recommendations of the Hawkesbury Local Planning Panel and request that the Applicant amend the Planning Proposal to undertake the abovementioned further studies, amend the Planning Proposal to provide a minimum lot size for subdivision of 1 ha, and amend the subdivision concept plan to demonstrate how access to each lot can be achieved via land with a slope less than 15%.

### **Planning Decision**

As this matter is covered by the definition of a “planning decision” under Section 375A of the *Local Government Act 1993*, details of those Councillors supporting or opposing a decision on the matter must be recorded in a register. For this purpose a division must be called when a motion in relation to the matter is put to the meeting. This will enable the names of those Councillors voting for or against the motion to be recorded in the minutes of the meeting and subsequently included in the required register.

### **RECOMMENDATION:**

That:

1. Council support the recommendations of the Hawkesbury Local Planning Panel dated 18 October 2018.
2. The Applicant be requested to provide:
  - a. An amended planning proposal to provide a minimum lot size for subdivision of 1 ha.
  - b. An amended concept plan demonstrating how access to each lot can be achieved via land with a slope less than 15%.
  - c. Environmental design/site capacity assessment.
  - d. Bush fire assessment.
  - e. Flora and Fauna assessment.
  - f. Traffic impact assessment.
  - g. Waste water feasibility assessment.
  - h. Infrastructure requirements and funding assessment.
3. Following submission of an amended planning proposal and further studies Planning Proposal LEP009/16 be reported to Council for consideration as to whether the Proposal will be supported for a ‘Gateway’ determination.

### **ATTACHMENTS:**

- AT - 1** An Assessment of the Planning Proposal Against the Recommendations of the Kurmond Kurrajong Investigation Area Landscape Character Study.
- AT - 2** Proposed Minimum Lot Size Map.



**AT - 1 An Assessment of the Planning Proposal Against the Recommendations of  
the Kurmond Kurrajong Investigation Area Landscape Character Study**

	Objective	Guideline	Application	LEP009/16 42 Bells Lane, Kurmond
<b>Public Transport</b>	Encourage bus use between neighbourhoods and major transit nodes (Richmond/Windsor).	<p>Weather sheltered/ well-lit bus stops (&lt;400m walk)</p> <ul style="list-style-type: none"> <li>• Access to real time travel information</li> <li>• Peak services to reflect realistic demand/requirements of residents.</li> </ul>	Kurrajong and Kurmond Neighbourhood centres and major roads through Investigation Area.	<p>No impact.</p> <p>Voluntary Planning Agreements to contribute towards provision of services and amenities.</p>
<b>Private Vehicle (including parking)</b>	Coordinate approach to traffic flow and management to streamline roadways/ infrastructure.	<p>Avoid multiple, isolated intersections, particularly from new development directly onto main roads</p> <ul style="list-style-type: none"> <li>• Keep parking clear of all documented district or regional views.</li> </ul>	<p>Roads and on road parking in proposed developments</p> <ul style="list-style-type: none"> <li>• Main road upgrades (eg Bells Line of Road).</li> </ul>	<p>Future parking associated with residential development onsite. With appropriate siting of new development on larger lots (1 ha) unlikely to impact vistas.</p>
<b>Cycling and Walking</b>	Promote walk/ cycle as means of accessing shops, bus routes and schools within neighbourhoods.	<p>Establish cycle lane/path between Kurrajong and Kurmond</p> <ul style="list-style-type: none"> <li>• Create a safe and comfortable pedestrian environment within neighbourhood centres/villages, especially along ridges</li> <li>• Focus on 800m walking catchment within villages.</li> </ul>	<p>Cycle infrastructure (bike lockers etc) at Kurrajong and Kurmond centres</p> <ul style="list-style-type: none"> <li>• Dedicated cycle lane to follow ridge line road</li> <li>• Walkability action plan within Kurmond and Kurrajong.</li> </ul>	<p>Voluntary Planning Agreements or Section 7.11 Contributions Plan to provide for services and amenities.</p>
<b>Universal Access</b>	Maximise universal access as far as natural gradients permit.	<p>Define, audit and update most walkable routes within neighbourhoods</p> <ul style="list-style-type: none"> <li>• Ensure bus routes including community buses link valleys to ridgetops in villages to encourage walking within village and reduced car dependency for short trips.</li> </ul>	Ridgeline streets in Kurmond and Kurrajong	<p>Given that a slope of 15% exists along the front boundary of the subject site it is considered that reconsideration of access points/ arrangements is warranted to provide one new access point and road to service the proposed new lots.</p>
<b>Residential</b>	Maintain clear	Focus principal residential population	Principal residential population in and	The subject site is within the adopted

	Objective	Guideline	Application	LEP009/16 42 Bells Lane, Kurmond
	distinction in residential types related to location and geography.	<p>in and around compact neighbourhood centres</p> <ul style="list-style-type: none"> <li>• Prevent development and subdivision from sprawling and create a buffer between residential and active rural land uses</li> <li>• Ensure rural lot sizes maintain low density, optimise ecological corridors and open views.</li> <li>• Potential R5 Large Lot Residential Zone (4,000m<sup>2</sup>)</li> <li>• Use built form that responds to the steep terrain - a small footprint that steps down with the contours.</li> </ul>	around Kurmond and Kurrajong.	<p>Kurmond/Kurrajong Investigation Area boundary.</p> <p>Minimum lot sizes of 4000m<sup>2</sup> inconsistent with the maintenance of pastoral character and view corridors.</p> <p>Recommend a minimum lot size of 1 ha to maintain character.</p> <p>Future development can be accommodated on land free of significant vegetation, riparian vegetation, watercourses or slopes greater than 15%.</p>
<b>Retail Commercial</b>	Maintain clear distinction between retail/commercial and rural land uses.	<p>Retail and commercial within neighbourhood cores.</p> <ul style="list-style-type: none"> <li>• Road front restaurants/hotels on main roads only</li> <li>• Encourage farm gate providers.</li> </ul>	<p>Neighbourhood centres</p> <ul style="list-style-type: none"> <li>• Bells Line of Road</li> <li>• Farm gate properties.</li> </ul>	Not Applicable
<b>Transport</b>	Promote ease of access and movement around neighbourhood centres.	<p>Slow vehicle travel speeds, clearly legible environments (signage, cues, wayfinding)</p> <ul style="list-style-type: none"> <li>• Integrated pedestrian/cycle/public transport information</li> <li>• Adequate car parking consolidated wherever possible in centres to avoid continuous line of cars on streets</li> <li>• Simple pull-offs on main roads near major views.</li> </ul>	<p>On/off street parking in neighbourhood centres</p> <ul style="list-style-type: none"> <li>• Formalised pull-offs on Bells Line of Road near views.</li> </ul>	<p>Voluntary Planning Agreements or Section 7.11 Contributions Plan to provide for services and amenities for public domain.</p> <p>The planning proposal is not located in the neighborhood centre.</p>
<b>Public Domain</b>	Promote safe, pleasant public domain reflecting neighbourhood status.	<p>Vegetation, shade, shelter, quality pedestrian surfaces, social seating, lighting in critical locations and interpretation</p>	<p>Specifically in the village and Neighbourhood Centres</p> <ul style="list-style-type: none"> <li>• Social gathering space at Kurmond for</li> </ul>	<p>Voluntary Planning Agreements or Section 7.11 Contributions Plan to provide for services and amenities for public domain.</p>

	Objective	Guideline	Application	LEP009/16 42 Bells Lane, Kurmond
		<ul style="list-style-type: none"> <li>Formalised lookouts with wide district/ regional views</li> <li>Avoid conflict between pedestrians, cycles and vehicles.</li> </ul>	locals shopping.	
<b>Topography</b>	Ensure that the area's natural topography is conserved.	Controls on cut and fill in all built form including roads  <ul style="list-style-type: none"> <li>Maintenance of natural stream form.</li> </ul>	Across the Investigation Area	Future development can be accommodated on land free of significant vegetation, riparian vegetation, watercourses or slopes greater than 15%.  Cut and fill controls a matter to be included within a development control plan or to be considered with a development application.
<b>Hydrology</b>	Maintain and enhance the natural riparian systems of the area.	Follow riparian guidelines on stream types and riparian corridor controls (NSW Office of Water)  <ul style="list-style-type: none"> <li>Minimise/consolidate road crossings of creeks</li> <li>Restore minor creeks and chain of ponds as part of related development.</li> </ul>	Across the Investigation Area.	No watercourse present on subject site.
<b>Vegetation</b>	Protect land identified as high and very high priority habitat (Ecological, 2018) from impact of residential development.  <ul style="list-style-type: none"> <li>Conserve and enhance natural habitat corridors.</li> </ul>	Retain, protect and regenerate vegetation corridors identified in mapping  <ul style="list-style-type: none"> <li>Do not permit small lot (&lt;0.5ha) development of land identified as high, very high priority</li> <li>Include riparian corridor restoration (planting) in development obligations.</li> </ul>	Any applicable land in Investigation Area.	Subject site identified as low/moderate priority habitat.  Subject site is predominantly cleared – no vegetation corridors exist.
<b>Bushfire</b>	Maintain bushfire protection.	APZ  <ul style="list-style-type: none"> <li>Suitable access including for fire fighting vehicles.</li> </ul>	Across the Investigation Area	Bushfire control measures can be achieved.
<b>Climate Change</b>	Mitigate temperature	Tree canopy cover	Tree canopy	Future development

	Objective	Guideline	Application	LEP009/16 42 Bells Lane, Kurmond
	change.	<ul style="list-style-type: none"> <li>Riparian corridor ecology.</li> </ul>	especially on roads and in village centres.	can be accommodated on land free of significant vegetation, riparian vegetation, or watercourses.
<b>Physical Heritage</b>	Conserve heritage items (including trees).	<p>Monitor condition of heritage items</p> <ul style="list-style-type: none"> <li>Consider extent of curtilage and integration of items.</li> </ul>	Throughout the Investigation Area.	Not Applicable.
<b>Heritage Interpretation</b>	Make the story of the locality accessible and engaging.	<p>Maintain views that assist in interpretation</p> <ul style="list-style-type: none"> <li>Promote heritage trails.</li> </ul>	Throughout the Investigation Area.	<p>The subject site is located within a high significant view/vista corridor, and therefore a lot size of 5000m<sup>2</sup> or greater is required.</p> <p>The planning proposal seeks to enable a five lot subdivision with lot sizes 4,000 to 5,000m<sup>2</sup>.</p> <p>However, to maintain view/vista corridor values and pastoral character a minimum lot size of 1 ha is recommended.</p>
<b>Urban Character</b>	Maintain and enhance compact character of existing villages and neighbourhoods.	<p>Respect existing scale and form: 1-2 storey limit</p> <ul style="list-style-type: none"> <li>Retain existing subdivision pattern - avoid lot amalgamation.</li> <li>Low FSR per lot. Focus on high street as location for services rather than outside of neighbourhoods</li> <li>Ridge line profile and view corridors to inform decisions in relation to scale and form of buildings (eg extensions or granny flats).</li> </ul>	Kurrajong and Kurmond neighbourhood centres.	<p>Not Applicable.</p> <p>Development assessment consideration</p>
<b>Rural Character</b>	<p>Retain and protect pastoral/rural character</p> <ul style="list-style-type: none"> <li>Maintain clear distinction between urban rural interfaces.</li> </ul>	<p>Prevent rezoning of critical land parcels that provide significant view corridors</p> <ul style="list-style-type: none"> <li>Permit rezoning and subdivision of land deemed appropriate/lower</li> </ul>	Lands within Investigation Area.	<p>The subject site is located within a high significant view/vista corridor, and therefore a lot size of 5000m<sup>2</sup> or greater is required.</p> <p>The planning proposal seeks to enable a five</p>

	Objective	Guideline	Application	LEP009/16 42 Bells Lane, Kurmond
		order in terms of views. Prevent creation of small lot sizes  • Control on road signage and promotions.		lot subdivision with lot sizes 4,000 to 5,000m <sup>2</sup> .  However, to maintain view/vista corridor values and pastoral character a minimum lot size of 1 ha is recommended.
<b>Views and Vistas</b>	Conserve 'pastoral' views, particularly from ridge line major roads  • Protect regional vistas from neighbourhoods.	Document and maintain key regional and district views (see maps)  • Interpret views at key locations  • Prevent loss of views from roads through controls on private boundary fences and hedges heights and designs.	Lands within Investigation Area.	The subject site is located within a high significant view/vista corridor, and therefore a lot size of 5000m <sup>2</sup> or greater is required.  However, to maintain view/vista corridor values and pastoral character a minimum lot size of 1 ha is recommended.  Matters to be included within a development control plan or to be considered with a development application.
<b>Microclimate</b>	Optimise sun in winter and shade in summer  • Maximise cooling breezes in summer  • Provide ample outdoor seating.	Carefully considered application of evergreen and deciduous trees, with primary focus on native species  • Careful selection of non-invasive exotic species on streets in Centres.	Shade and sun (and seating) particularly important in Centres and on roadsides.	Matters to be included within a development control plan or to be considered with a development application.
<b>Passive Surveillance</b>	Ensure a sense of personal safety for the public and residents.	Design with CPTED principles	Investigation Area.	Matters to be included within a development control plan or to be considered with a development application.
<b>Urban (in town or village)</b>	Retain existing scale and form. Prevent urban sprawl into currently non-urban areas or areas with significant view/ vistas.	1-2 storeys. Consider impact of parapet and roof form on backdrop perspective. Protect existing incidental/occasional views (along streets, between buildings, pedestrian experience)  • Typical lot sizes (TBC)  • Maximum site	Kurmond and Kurrajong neighbourhood centres.	Matters to be included within a development control plan or to be considered with a development application.

	Objective	Guideline	Application	LEP009/16 42 Bells Lane, Kurmond
		coverage controls for built form and minimum landscape controls.		
<b>Periphery (edge of town or village)</b>	Consolidate urban form around neighbourhoods.	Establish limit to neighbourhood fringe (exclusion zone/rural character zone) Focus commercial and retail within neighbourhoods. Large lot rural residential which does not interrupt views and vistas.	Consider visual impact of development proposals from carriageway and impact on views and vistas, including whilst travelling.	Matters to be included within a development control plan or to be considered with a development application.
<b>Rural (out of town or village)</b>	Maintain significant sweeping pastoral views by avoiding development of critical view paths.	Land with supporting building on lot as dominant built form <ul style="list-style-type: none"> <li>• Consolidate built form footprint and access driveways (including outbuildings, pools, courts etc)</li> <li>• (Not less than 4000m<sup>2</sup>) with prescribed building envelopes for all lots</li> <li>• Maximum site coverage controls for built form and minimum landscape controls.</li> </ul>	Rural zoned land within the Investigation Area.	To maintain view/vista corridor values and pastoral character a minimum lot size of 1 ha is recommended.  Matters to be included within a development control plan or to be considered with a development application.
<b>Power lines</b>	Minimise visual impacts of power lines.	Selection of vegetation species under power lines <ul style="list-style-type: none"> <li>• Direction of easement across topography and especially over ridge lines</li> <li>• Level of co-operation with power suppliers.</li> </ul>	Investigation Area.	Matters to be included within a development control plan or to be considered with a development application.
<b>Transport</b>	Maximise opportunity to access transport and promote walking.	Bus routes maximise catchment <ul style="list-style-type: none"> <li>• Community buses link valleys to ridge lines in village centres.</li> </ul>	Throughout but especially around village centres.	Not Applicable.



## AT - 2 Proposed Minimum Lot Size Map

