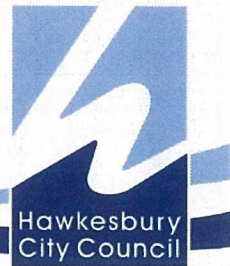


Your Ref: PP_2019_HAWKE_003_00
Our Ref: LEP009/16



2 August 2020

Ms E. Kimbell
Acting Place and Infrastructure Manager
(The Hills Shire & Hawkesbury)
Place, Design and Public Spaces
Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Elizabeth.Kimbell@planning.nsw.gov.au

Dear Ms Kimbell

Review of Gateway Determination at 42 Bells Lane, Kurmond

Reference is made to your correspondence dated 10 July 2020 seeking Council's comments in relation to a request from the property owner for the Department of Planning, Industry and Environment to review their Gateway Determination for Planning Proposal LEP009/16 at 42 Bells Lane, Kurmond.

On 5 May 2020, the Department of Planning, Industry and Environment issued a Gateway Determination advising that the proposal should not proceed. The Gateway Determination provided six reasons for the decision to not proceed being:

1. *The proposal contains unresolved inconsistencies with Section 9.1 Directions, 1.2 Rural Zones and 4.4 Planning for Bushfire Protection.*
2. *The proposal contains unresolved inconsistencies with State Environmental Planning Policy (Koala Habitat Protection) 2019 and State Regional Environmental Plan No 20 – Hawkesbury-Nepean River.*
3. *The proposal does not give effect to the Western City District Plan, in particular Planning Priority W17 Better managing rural areas.*
4. *The proposal is not supported by an updated local strategic planning framework, including sufficient references in Hawkesbury Council's draft Local Strategic Planning Statement to support this proposal, an updated Rural Lands strategy and Housing Strategy.*
5. *The proposal does not adequately demonstrate the site has no potential to accommodate agricultural uses under its current zoning.*
6. *The proposal does not adequately demonstrate strategic or site-specific merit.*

In respect of consideration of the matter, it should be noted that 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."

It should be noted that 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 the provision of advice at its Meeting on 18 October 2018. The Hawkesbury Local Planning Panel recommended that the Planning Proposal proceed for a 'Gateway' determination subject to meeting the following requirements:

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:
 - i. The whole investigation area to be evaluated for appropriate zoning – the expectation being that it shall be predominantly R5 Large Lot Residential;
 - ii. The completion of a development control plan for the Kurmond Kurrajong Investigation Area.
 - b. the proposed subdivision not exceed five lots
 - 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
2. Council seek funding from the Department of Planning and Environment to enable the strategic planning for the Kurmond Kurrajong Investigation Area.
3. A coordinated approach to all current planning proposals be undertaken for the Kurmond Kurrajong Investigation Area currently before Council, including the subject site.

A coordinated approach in the assessment of planning proposals within the Kurmond Kurrajong Investigation Area has been undertaken for all current planning proposals within this Area. This includes consistency in the criteria used for assessment, the information required to be lodged with a proposal, as well as procedural requirements.

A series of separate studies have either been undertaken or considered as part of the process of informing 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

Works with respect to these various studies enabled Council to consider the Draft Kurmond Kurrajong Investigation Area Structure Plan at its Ordinary Meeting on 30 September 2019, where Council resolved:

That Council adopt the Draft Kurmond Kurrajong Structure Plan for the purposes of public exhibition.

Following consideration of assessment of the Planning Proposal against the various studies highlighted above, and the Draft Kurmond Kurrajong Investigation Area Structure Plan, Council Officers recommended via a report to Council's Ordinary Meeting on 30 September 2019 that Council support the recommendations of the Hawkesbury Local Planning Panel and request that the applicant:

- Amend the Planning Proposal to undertake the further studies identified in the Hawkesbury Local Planning Panel advice;
- 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%.

For these reasons, the Council Officers Report of the 30 September 2019 specifically recommended 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.

Having considered the report, Council resolved at its Ordinary Meeting of 30 September 2019 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 4,000m² and a maximum lot yield from subdivision of five lots subject to the submission of future 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 assessment*

following 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.*

It was on the basis of the Council resolution that the Planning Proposal was submitted to the Department of Planning, Industry and Environment for a Gateway Determination.

Recently, the outcome of the public exhibition of the Draft Kurmond Kurrajong Investigation Area Structure Plan was considered at Council's Ordinary Meeting of 30 June, 2020. Following consideration of the report at that Meeting, Council resolved:

That Council:

1. *Receive the outcome of the public exhibition of the Draft Kurmond-Kurrajong Investigation Area Structure Plan.*
2. *Defer consideration of the Draft Kurmond-Kurrajong Investigation Area Structure Plan until the following key strategy documents are completed:*
 - a) *Hawkesbury Local Housing Strategy*
 - b) *Hawkesbury Rural Lands Strategy*
 - c) *Hawkesbury Local Strategic Planning Statement*

In terms of the key strategy documents referred to in Council's resolution of 30 June 2020, the following is provided as a status update:

- a) Hawkesbury Local Housing Strategy

The Draft Hawkesbury Local Housing Strategy has been drafted and is expected to be presented to Council in August 2020 in order to seek approval to publicly exhibit the draft.

- b) Hawkesbury Rural Lands Strategy

The Draft Hawkesbury Rural Lands Strategy has been drafted and is expected to be presented to Council in August/September 2020 in order to seek approval to publicly exhibit the draft.

- c) Hawkesbury Local Strategic Planning Statement

The Draft Hawkesbury Local Strategic Planning Statement was publicly exhibited during September – November 2019. Council considered all submissions at its Ordinary Meeting on 10



December 2019, and subsequently amended the Draft Hawkesbury Local Strategic Planning Statement. The amended draft was considered by Council at its Ordinary Meeting on 25 February 2020, and 26 May 2020 where Council resolved to forward the Draft to the Greater Sydney Commission for Assurance.

Council received advice from the Greater Sydney Commission on 24 July 2020 in terms of amendments that were required to the Draft Hawkesbury Local Strategic Planning Statement in order to attain Assurance. Council Officers will brief Council on this matter on 3 August 2020, and will be making amendments to the Draft Hawkesbury Local Strategic Planning Statement, with the aim of seeking Council's endorsement to submit an amended Draft for Assurance as soon as possible (likely to be September 2020).

As such, further consideration of the Kurmond Kurrajong Investigation Area Structure Plan will not occur until the following are completed:

- a) Hawkesbury Local Housing Strategy
- b) Hawkesbury Rural Lands Strategy
- c) Hawkesbury Local Strategic Planning Statement

and will be informed by the outcomes of those strategies.

Should you have any questions regarding this matter, please contact Colleen Haron, Senior Strategic Land Use Planner on (02) 4560 4564.

Yours faithfully



Andrew Kearns
Manager Strategic Planning

