

10 November 2020 (*Amended 4 December 2012*)

## Information in support of Application for Review of Gateway Determination for Planning Proposal for Various Lots in Bells Lane Kurmond

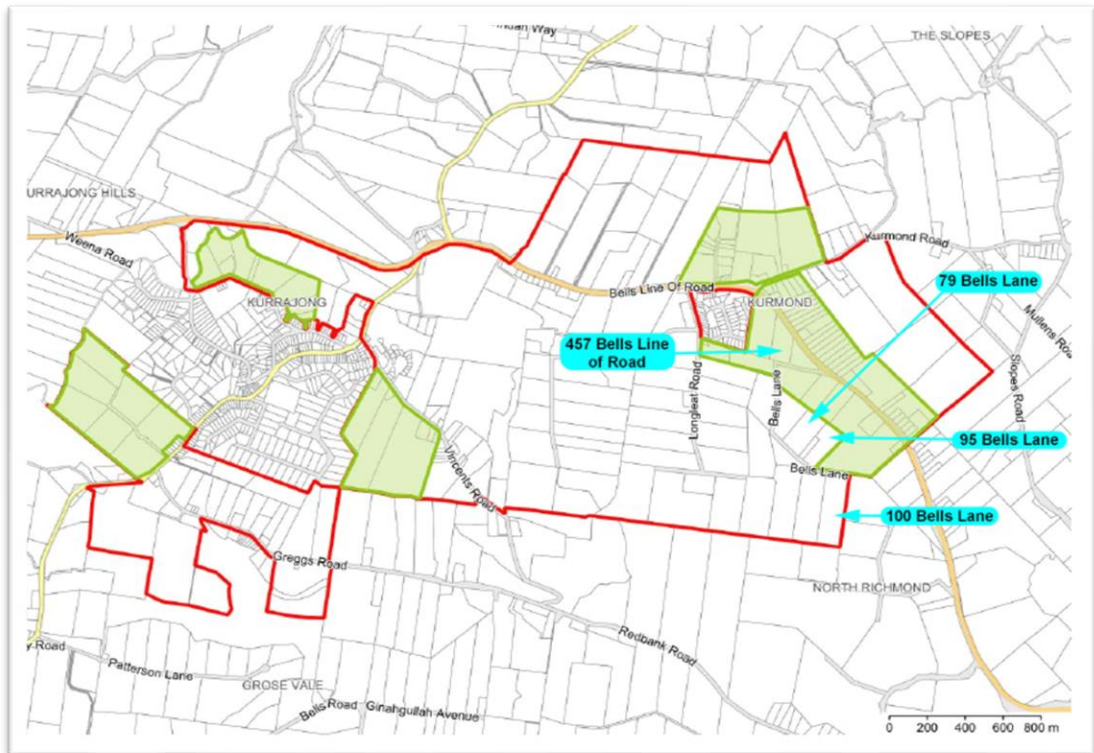
### Chronology

| Date       | Event  |
|------------|--|
| May 2011   | Hawkesbury Residential Land Strategy adopted by Council  |
| Jan 2015   | Planning proposal submitted to Hawkesbury Council in response to rural village criteria of Strategy<br>Potential lot yield 24.   |
| July 2015  | Council adopted Kurmond Kurrajong Investigation Area and interim policy  |
| Apr 2017   | Council advises by letter that it will not consider any planning proposals until a long term policy is completed for the Kurrajong Kurmond Investigation Area  |
| Sep 2017   | Amended Planning Proposal V2 submitted to Council following discussion with Council planning staff re interim policy and constraints.<br>Potential lot yield reduced to 18   |
| Feb 2018   | Sydney Western City Planning Panel considers rezoning review request from applicant and decides that the Proposal should be submitted to Gateway as the proposal has demonstrated strategic and site specific merit.   |
| June 2018  | Gateway Determination Issued conditions include: <ul style="list-style-type: none"><li>• flora and fauna and preliminary contamination studies to be carried out</li><li>• determine appropriate lot sizes considering constraints</li></ul>   |
| July 2018  | Applicant met with Council planning staff to clarify requirements of Gateway Determination   |
| Jan 2019   | Revised planning proposal V3 submitted with amendments in accordance with Gateway Determination. Includes flora and fauna and preliminary contamination reports.   |
| Mar 2019   | Gateway Determination expired. Council requested extension to time frame.  |
| April 2019 | Council requested additional amendments: <ul style="list-style-type: none"><li>• Lot 100 to be subdivided into a max of 3 lots</li><li>• Min lot size of 5,000m<sup>2</sup> for proposed lots 4&amp;5 on 79 Bells Lane</li><li>• Remove E4 Environmental Living zone</li><li>• Provide appropriate riparian corridors</li><li>• Amend Bushfire APZs</li><li>• Amend flora and fauna assessment</li></ul> |
| Sep 2019   | Revised planning proposal V4 submitted to Council in compliance with Council request. Includes review of Flora and fauna and bushfire reports.<br>Potential Lot yield reduced to 16  |
| Mar 2020   | Peer review of bushfire asset protection zones submitted to Council, as requested.   |

|             |   |
|-------------|---|
| Apr 2020    | <p>Altered Gateway Determination Issued in response to Council request to extend timeframe. New conditions imposed:</p> <ul style="list-style-type: none"> <li>• Remove Lot 100 from proposal</li> <li>• Set min lot size of 1 ha</li> </ul> <p>The effect of these conditions was to remove 1 of the 4 properties from the proposal and reduce the lot yield on the remaining 3 properties to a total yield of 6 lots.</p> |
| Apr 2020    | Applicant met with DPI&E (Elizabeth Kimbell & Gina Metcalf). Agreed to send to Executive to review gateway alteration conditions.   |
| 26 Oct 2020 | DPI&E Deputy Secretary endorsed the Gateway Alteration and conditions issued April 2020   |

## Justification for Review

- The Planning Proposal satisfies the sustainability criteria outlined in the adopted Hawkesbury Residential Strategy 2011.
- The Planning Proposal satisfies the development constraint principles for the Kurmond and Kurrajong Investigation Area adopted in 2015.
- The Planning Proposal satisfies the Sydney Western City Planning Panel decision of February 2018.
- The Planning Proposal satisfies the original Gateway Determination conditions.
- The Planning Proposal satisfies the Kurmond and Kurrajong Landscape Character Study.
- The proposed lot size, layout and yield proposed are the product of five years of critical assessment and working with Council staff to satisfy all relevant strategies.
- The 1ha lot size imposed by the new Gateway Determination seems arbitrary as the Landscape character study recommends a minimum lot size of 5,000m<sup>2</sup> for sites within very high priority habitat.
- In its letter dated 15 April 2019, the Council provided very clear directions to the applicant to allow progression of the proposal. The applicant has satisfied those directions.
- While not formally adopted by Council, the latest strategic planning document is the Kurrajong Investigation Area Structure Plan. The map below is extracted from page 30 of the draft Structure Plan.



**Figure 1: Figure 22 from draft Kurmond – Kurrajong Investigation Area Structure Plan showing planning proposal property locations. (Green shading identifies areas suitable for 4,000m<sup>2</sup> subdivision)**

#### **100 Bells Lane**

- No 100 Bells Lane is located within the Kurmond and Kurrajong Investigation Area adopted by the Council and is located 1 kilometre from Kurmond Village. It is identified within the draft Kurmond – Kurrajong Investigation Area Structure Plan as suitable for a minimum lot size of 1 hectare. It is submitted that there is no justification for excluding this land from the proposal (which proposes minimum lot sizes of 1ha and 1.5ha for this lot).



**Figure 2: Extract from Planning Proposal: Potential Subdivision Layout**

### 457 Bells Line of Road

- No 457 Bells Line of Road is identified within the draft Kurmond – Kurrajong Investigation Area Structure Plan as suitable for a minimum lot size of 4,000m<sup>2</sup>. The Planning Proposal sets a minimum lot size of 4,000m<sup>2</sup> for this land, with proposed lot sizes varying between 5,200m<sup>2</sup> and 6,300m<sup>2</sup>. It is submitted that there is no justification for requiring a 1ha minimum lot size for this land.



Figure 3: Extract from Planning Proposal: Potential Subdivision Layout

### 79 Bells Lane

- The proposed layout for 79 Bells Lane (Figure 4 below) is the outcome of detailed discussion with Council staff and further environmental studies conducted by the applicant following the original Gateway Determination issued in June 2018. The Council has been clear in its advice and subsequent confirmation that it is satisfied that the proposal is acceptable.
- However, the Altered Gateway Determination issued subsequently requires a minimum lot size of 1 hectare. A 1 hectare minimum lot size would facilitate a 2 lot subdivision of this land, rather than the 4 lots proposed.

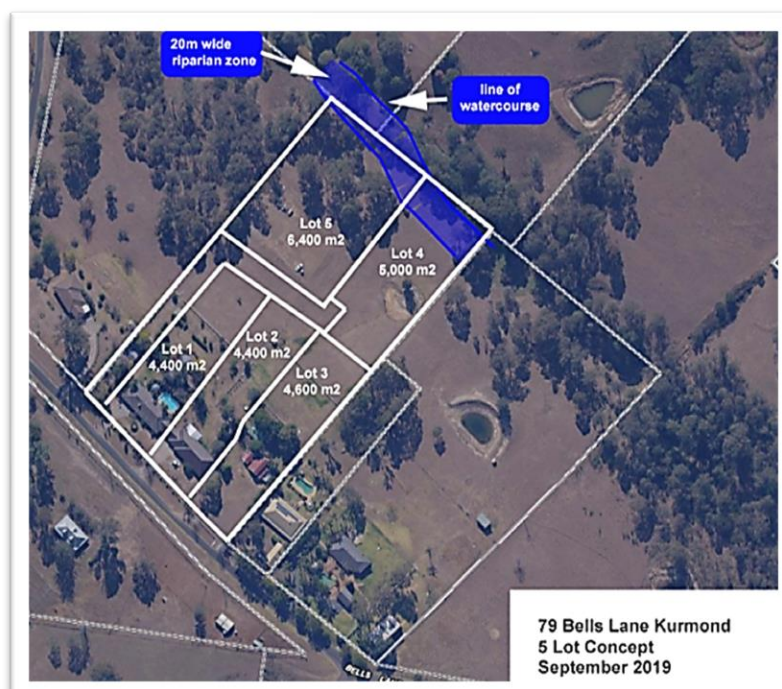


Figure 4: Extract from Planning Proposal: Potential Subdivision Layout



- Notwithstanding our submission that the minimum lot size of 4,000m<sup>2</sup> is appropriate for this property, we would be prepared to amend the planning proposal to permit a minimum lot size of 9,000m<sup>2</sup> here. This would permit subdivision into three rather than five lots and would not result in additional buildings along the ridgeline. Figure 5 is a satellite image showing the location of existing substantial buildings along the ridgeline.



**Figure 5: Satellite Image showing Building Locations**

- A 9,000m<sup>2</sup> minimum lot size could be configured as shown below, creating no additional buildings along the Bells Lane ridgeline.



**Figure 6: Possible 3 lot Concept for 79 Bells Lane**

### 95 Bells Lane

- The proposed layout for 95 Bells Lane (Figure 7 below) is the outcome of detailed discussion with Council staff and further environmental studies conducted by the applicant following the original Gateway Determination issued in June 2018. The Council has been clear in its advice and subsequent confirmation that it is satisfied that the proposal is acceptable. However, the Altered Gateway Determination issued subsequently requires a minimum lot size of 1 hectare.



Figure 7: Extract from Planning Proposal: Potential Subdivision Layout

## Conclusion

The applicant has been working with the Council planners for five years on this proposal. The planning proposal has been revised three times in response to the original gateway determination, changing Council requirements and the emerging investigations and studies by the Council. These revisions are documented in the “Document Tracking” page within the Planning Proposal.

The Council’s Residential Strategy adopted in 2011 was in effect an invitation to landowners in Kurmond/Kurrajong to submit planning proposals if they could satisfy the sustainability criteria contained within the rural village expansion section of the Strategy.

The landowners, who have occupied the land for many years while their families have grown up, are not developers, nor did they speculate on the rezoning of their land. Rather, they are local landowners who were encouraged down this path by the Strategy and subsequent Council requirements. The Western Sydney Regional Planning Panel Decision and the original gateway determination confirmed this path and led them further into the additional expenditure associated with new and revised specialist environmental reports.

It is also important to note that the 2011 Residential Strategy remains the Council's adopted strategy document to this day. It has not been revoked, nor has it been replaced. Notwithstanding, the Planning Proposal has been amended in line with the Council's additional controls from draft strategies which have not formally been adopted as requested by the Council.

The detailed work completed by the applicant and the strategic work completed by the Council since the original gateway determination in June 2018 appears to have been overlooked by the Altered Gateway Determination. While the Altered Determination states that the Department has reviewed all planning proposals submitted after March 2018, it is important to understand that the proposal was actually determined on 2 February 2018 by Sydney Western City Planning Panel.

Based on this supporting information and in the circumstances, the Applicant requests that a fresh Gateway Determination be issued in respect of all four properties, with the following conditions:

- Set min lot size of 1 ha for No.100 Bells Lane (max yield 3 lots)
- Set Minimum lot size of 1 ha and 4,000m<sup>2</sup> for No.95 Bells Lane (max yield 4 lots)
- Set Minimum lot size of 5,000m<sup>2</sup> and 4,000m<sup>2</sup> for No.79 Bells Lane (max yield 5 lots)
- Set minimum lot size of 4,000m<sup>2</sup> for No.457 Bells Lane (max yield 4 lots)



Robert Montgomery MPIA  
Principal

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*Amendments made 4 December 2020:*

- *Insert Figure 7 on page 6*
- *Correction on page 7 re 95 Bells Lane (min lot size of 1 ha and 4,000m<sup>2</sup> (max yield 4 lots))*