

Item: CP - Planning Proposal to Amend Hawkesbury Local Environment Plan 2012 - Lot 1 DP 120436, 631 Bells Line of Road, Kurrajong - (95498, 11210, 124414)

Previous Item: 69, Ordinary (12 May 2015)
RM, Ordinary (8 September 2015)
71, Ordinary (11 April 2017)

Directorate: City Planning

PURPOSE OF THE REPORT:

The purpose of this report is to recommend that Council proceed with the making of an amendment to the Hawkesbury Local Environmental Plan 2012 that gives effect to a planning proposal for site at 631 Bells Line of Road, Kurrajong.

The report also recommends that Council exhibit a draft Voluntary Planning Agreement attached to this report for public comment for a minimum of 28 days.

EXECUTIVE SUMMARY:

PLANNING PROPOSAL INFORMATION

File Number:	LEP006/14
Property Address:	631 Bells Line of Road, Kurrajong
Applicant:	B Millwood
Owner:	Mr W J Karam
Date Received:	23 December 2014
Current Minimum Lot Size:	10Ha
Proposed Minimum Lot Size:	4Ha
Current Zone:	RU1 Primary Production
Site Area:	12.55Ha

This Planning Proposal has undergone a process of assessment against relevant requirements, including input from the Department of Planning, Industry and Environment, and is nearing the finalisation of that process. The Background Section of this report details the various key steps associated with the Planning Proposal.

Based on assessment of the Planning Proposal, and input from the Department of Planning, Industry and Environment, the Planning Proposal has been amended from the originally proposed 11 lots with a minimum lot size of 4,000m² to three lots with a minimum of 4 Ha.

This report recommends that Council proceed with the proposed amendment to the Hawkesbury Local Environmental Plan 2012 that gives effect to the Planning Proposal (post-exhibition).

In order to support the Planning Proposal, a draft Voluntary Planning Agreement has been prepared which makes provision for the required infrastructure upgrade in the locality as a consequence of future development of the subject site.

RECOMMENDATION:

That Council:

1. Proceed with the making of the plan to amend the Lot Size Map of the Hawkesbury Local Environmental Plan 2012 in relation to Lot 1, DP 120436, 631 Bells Line of Road, Kurrajong, to specify a minimum lot size of 4Ha for the subject site.

2. Adopt and make the draft Local Environmental Plan, under the authorisation for Council to exercise delegation issued by the "Gateway" determination, upon receipt of an opinion from Parliamentary Counsel's Office that the Plan can be legally made.
3. Publicly exhibit the Draft Voluntary Planning Agreement attached to this report for a minimum of 28 days, and report back to Council following public exhibition.
4. Following the making of the plan advise the Department of Planning, Industry and Environment that the Plan has been made and request notification of the Plan on the NSW Legislation website.
5. Include within Council's LEP review process an amendment to the Land Acquisition Reservation Map of the Hawkesbury Local Environmental 2012 in order to identify part of the subject site affected by the Transport for NSW future road widening proposal.

BACKGROUND

Subject Site

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

The subject site is located to the north-east of the Kurrajong Neighbourhood Centre, and is in close proximity to the intersection of Bells Line of Road, Old Bells Line of Road and Mason Lane. The subject site has an area of 12.55Ha, and is irregular in shape with approximately 400m frontage to Bells Line of Road. The subject site can also be accessed via Mason Lane as shown in Figures 1 and 2.

The subject site is currently zoned RU1 Primary Production under Hawkesbury Local Environmental Plan 2012 with the current minimum lot size for subdivision of the subject site being 10Ha.

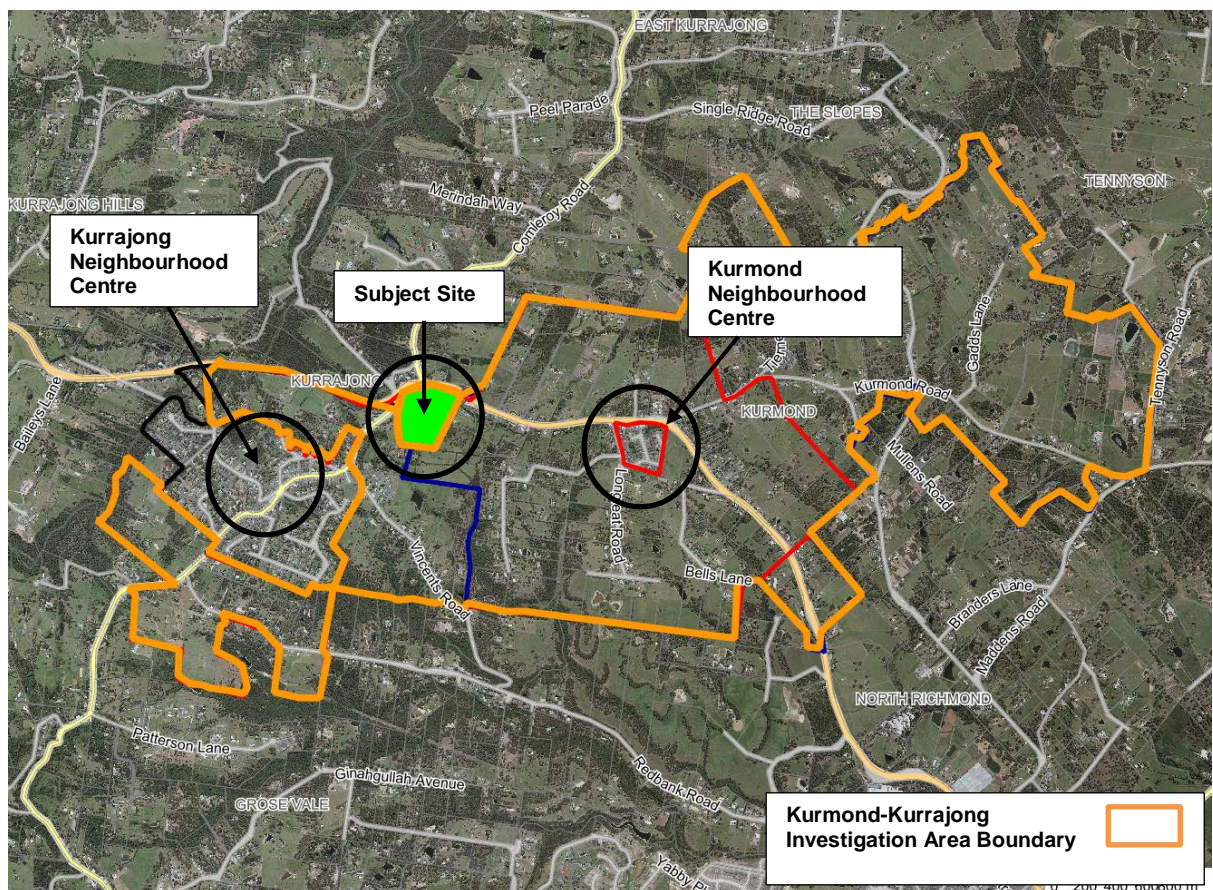


Figure 1: Subject Site Located in Kurmond-Kurrajong Investigation Area

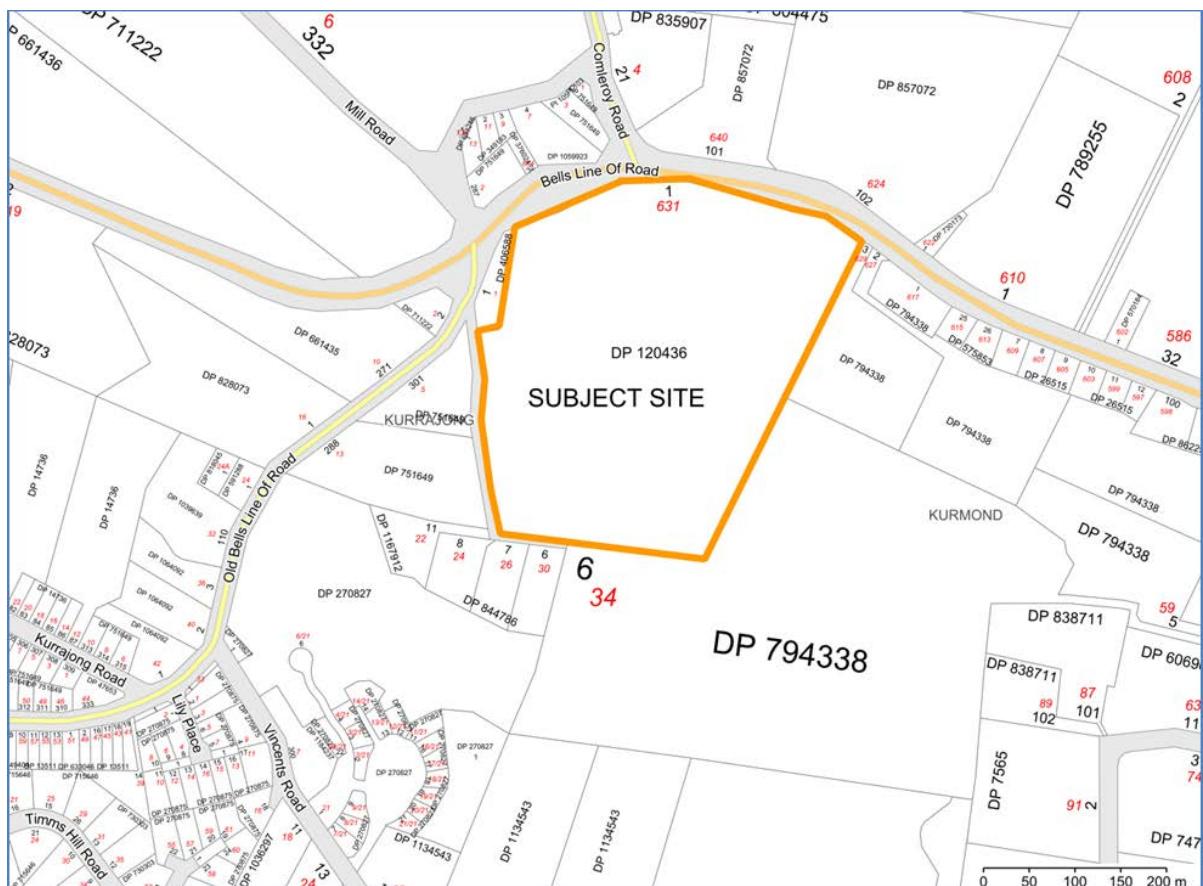


Figure 2: Subject Site

The area surrounding the subject site contains a mix of lot sizes and in particular there are a number of relatively small rural-residential lots with minimum lot sizes ranging from approximately 815m² - 3,000m² to the north-west and south-east fronting Bells Line of Road. The average size of lots immediately to south-west of the subject site fronting Mason Lane is 4,200m².

The subject site is used for rural residential purposes and contains an existing dwelling, outbuildings, tennis court and pool to the north, and a second dwelling located to the west. The two dwellings are of an age that pre-dates the introduction of the first planning instrument in the locality; being *Interim Development Order No. 1 – Shire of Colo* which was gazetted on 13 March 1964, and are therefore considered to be lawful.

Detailed History and Planning Proposal

On 23 December 2014, Council received the Planning Proposal from Glenn Falson Urban & Rural Planning Consultant (the former applicant). The original Planning Proposal sought an amendment to the Hawkesbury Local Environmental Plan 2012 in order to permit the subdivision of the site into 11 lots with new Lot 1 being the future access road that proposed access to 10 large residential lots (Lot 2 – Lot 11) with two different minimum lot sizes of 4,000m² and 1Ha. A Concept Subdivision Plan showing those originally proposed 10 large residential lots and an access road is shown in Figure 3.

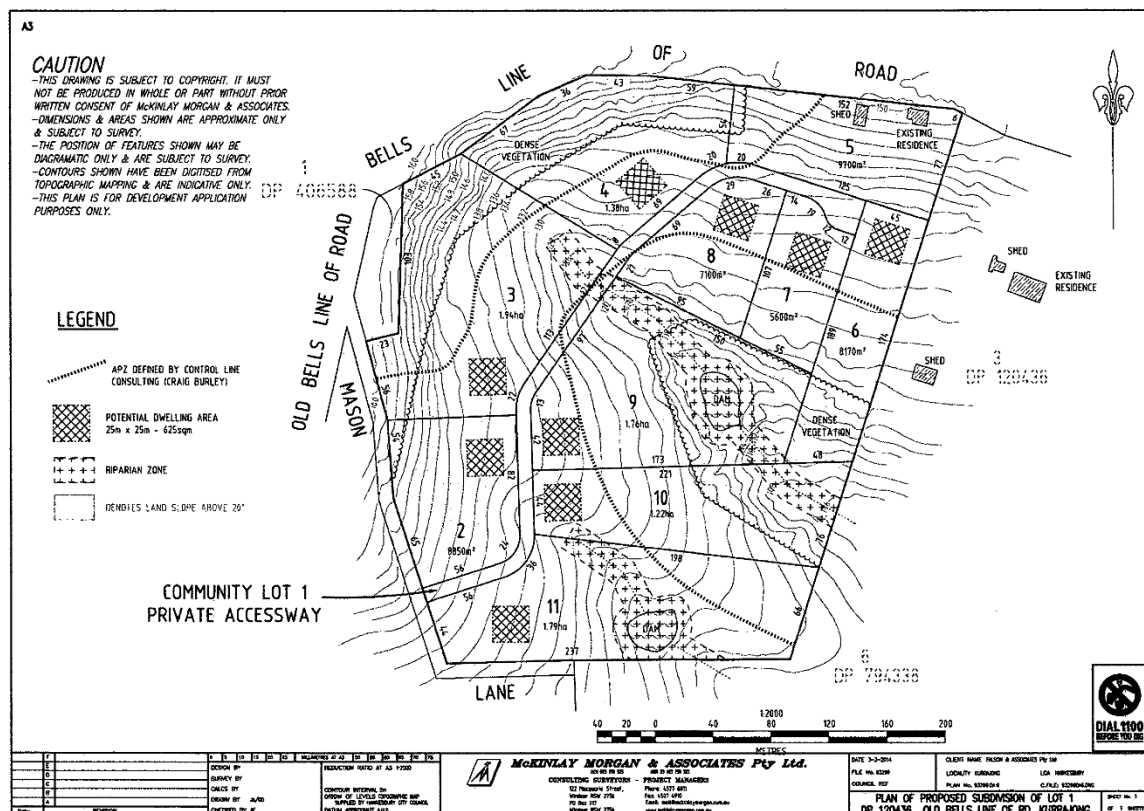


Figure 3: Original Concept Subdivision Plan

Figure 4 below provides details of the key stages associated with the history of this Planning Proposal



Figure 4 Key Stages Associated with Planning Proposal

Finalisation of Planning Proposal and Revised Indicative Subdivision Concept Plan

On 28 September 2020, Council received an Alteration of Gateway Determination from the Department of Planning, Industry and Environment. Importantly that advice included the following conditions:

- The time frame for completing the LEP is by 31 December 2020
- An indicative subdivision layout must be submitted to the Department of Planning, Industry and Environment for endorsement prior to Council finalising the LEP amendment. The plan is to demonstrate how the proposal adequately complies with all of Hawkesbury Council's 2015 Interim Policy – Kurmond-Kurrajong Development Principles and demonstrate how the proposal maintains the landscape character of the area as outlined in the draft 2019 Kurmond-Kurrajong Structure Plan.

Further, on 27 October 2020, Council received advice from the Department of Planning, Industry and Environment that all planning proposals across NSW that have received Gateway Determinations more than four years ago needed to be finalised by 31 December 2020. This includes the Planning Proposal for 631 Bells Line of Road, Kurrajong.

The Department of Planning, Industry and Environment has further advised that if Council is unable to make this deadline, the Department will finalise or issue an Alteration of Gateway Determination advising Council that the Planning Proposal will not proceed. Therefore, in terms of this Planning Proposal, this is the final opportunity for Council to finalise the Planning Proposal and make the Plan to give effect to the Planning Proposal as outlined in this report.

Following assessment, and discussion with the applicant and Department of Planning, Industry and Environment, a revised Indicative Subdivision Concept Plan showing three large rural residential lots with minimum lot size of 4Ha and an indicative access road has been prepared and is shown in Figure 5. The Department of Planning, Industry and Environment has indicated support for a total of three lots with a minimum lot size of 4 Ha on the subject site.

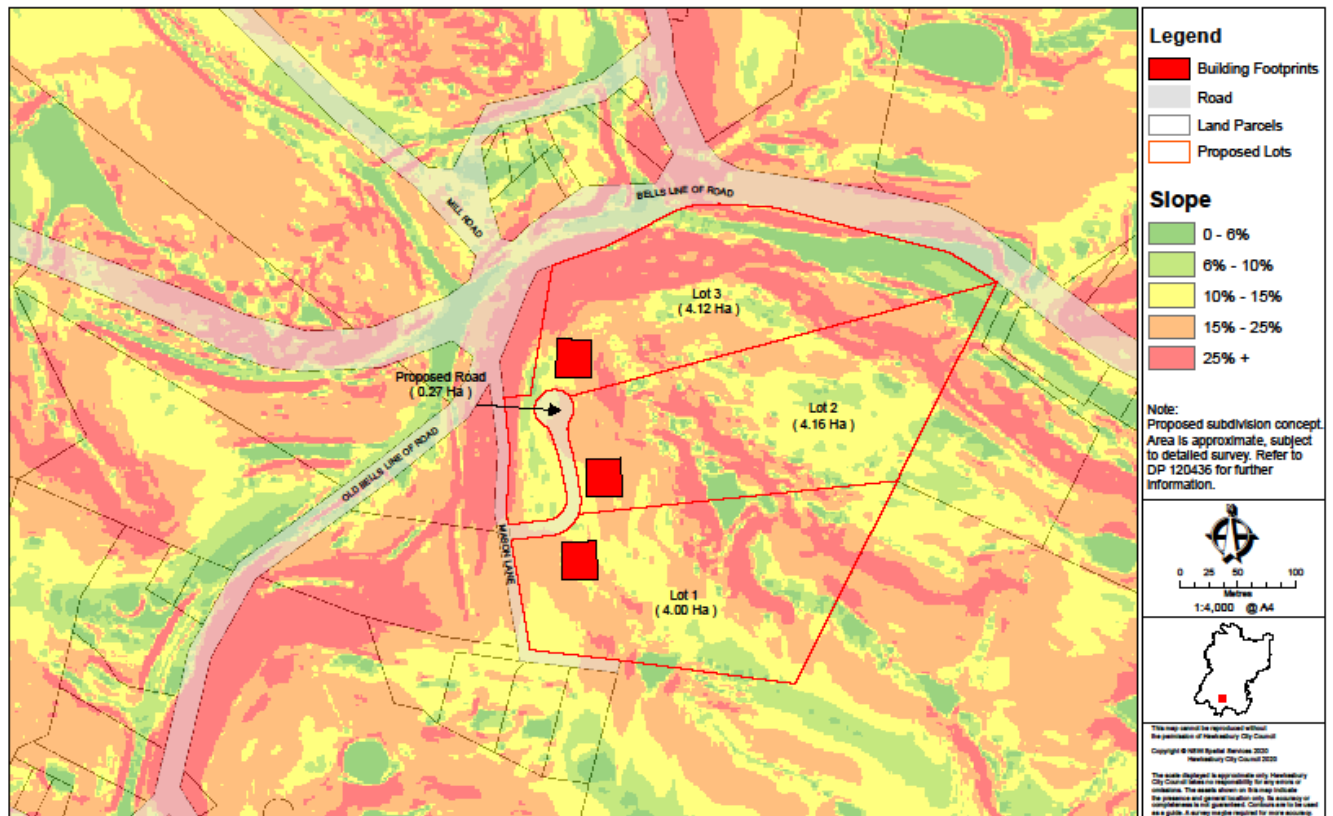


Figure 5: Revised Indicative Subdivision Concept Plan

As required by the Department of Planning, Industry and Environment's Alteration of Gateway Determination received by Council on 28 September 2020, an assessment demonstrating the Planning Proposals consistency with Council's Interim Policy – Kurmond-Kurrajong Development Principles and Draft Kurmond-Kurrajong Structure Plan has been included as Attachment 1 to this report.

Authorisation for Council to Exercise Delegation

The "Gateway" determination included authorisation for Council to exercise delegation to make this plan. Should Council resolve to proceed with the making of the plan this authorisation will allow Council Officers to make a direct request to the Parliamentary Counsel's Office to prepare a draft Local Environmental Plan to give effect to the Planning Proposal. Following receipt of an opinion from the Parliamentary Counsel's Office that the plan can be legally made, Council may then make the plan. Council delegated this plan making function to the General Manager by resolution on 11 December 2012.

Hawkesbury Traffic Study

Council has undertaken the preparation of 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.

The Study was undertaken in two Stages, with Stage 1 having 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 identified the likely problem locations and issues for assessment in further detail as part of Stage 2 of this Study.

Stage 2 of the Study involved the following elements:

- Undertake strategic assessment of proposed road projects and associated road alignments
- Determine the current and future based road network and demands based on incremental traffic growth
- Identify critical road network locations and assess such those 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 proposed developments, 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 and 80 retirement village 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 were tested (relative to the future base year):

- Scenario 1 - Future year base without the Grose 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.

The modelling concluded that a 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 significant impact, whilst noting that intersection performance of the key intersection of Grose Vale Rd and Bells Line of Road would continue to decline due to incremental traffic growth.

Similarly the traffic assessment indicated that duplication of the Richmond bridge would be required to accommodate further development even with the new Grose River Bridge in place in order to maintain network performance at a satisfactory level.

As part of the exhibition of The Draft the Kurmond-Kurrajong Structure Plan, submissions were received querying aspects of the modelling and the parameters used. In response Council's consultants undertook a sensitivity analysis to test the impacts of higher traffic generation rates from future development and also carried out intersection analysis based on a conservative approach with no redistribution of any traffic growth from possible development in the Kurmond-Kurrajong Investigation Area. That is, all traffic was assumed to be utilizing the Bells Line of Road through North Richmond and was not rerouted based on travel delays that might impact driver behaviour and travel patterns.

The outcome of this modelling concluded that there would be limited impact under those scenarios, although again noting the continuing decline in intersection performance over time. The AM peak hour is the critical period for traffic impacts and performance of the Grose Vale Rd intersection with Bells Line of Road will be dependent on the construction of a bridge across the Grose River.

DISCUSSION

A number of planning proposals including this planning proposal received by Council seeking amendments to the Hawkesbury Local Environmental Plan 2012 to enable subdivision of rural land within the Kurmond-Kurrajong Investigation Area to larger rural residential lots are at different stages of the plan making process.

In addition to the assessment contained in Attachment 1, an assessment of this Planning Proposal as part of a previous Council Report (12 May 2015) concluded that the subject site is suitable for the proposed rural residential purposes and capable of accommodating future rural residential development on the subject site. The previous Council Report (11 April 2017) highlighted that the consultation undertaken with the community and the relevant public authorities on the Planning Proposal did not warrant the abandonment of the Planning Proposal.

The overall assessment of the Planning Proposal suggests that making of the plan to give effect to the amended planning proposal is considered to be warranted.

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 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 LEP 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 the LEP 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 is permissible and satisfies applicable development standards.

A number of reports have been presented to Council regarding the Kurmond-Kurrajong Investigation Area. Of primary relevance are the reports to Council on 28 July 2015 and 24 November 2015 which included an analysis of land and environmental constraints within the Kurmond-Kurrajong Investigation Area.

The result of these reports was that Council adopted the following development principles as an Interim Policy for planning within the Kurmond-Kurrajong Investigation Area:

- Services
- Building envelopes, asset protection zones, driveways and roads are located on land with a slope less than 15%
- Removal of significant vegetation is avoided
- Fragmentation of significant vegetation is minimised
- Building envelopes, asset protection zones, driveways and roads (not including roads for the purposes of crossing watercourse) are located outside of riparian corridors
- Road and other crossings of water courses is minimised
- Fragmentation of riparian areas is minimised
- Removal of dams containing significant aquatic habitat is avoided.

An assessment against these fundamental principles and associated recommendations that are relevant to this Planning Proposal has been undertaken for consistency and is outlined in Attachment 1 to this report.

In dealing with all planning proposals within the Kurmond-Kurrajong Investigation Area that have proceeded to an amendment to the Hawkesbury Local Environmental Plan 2012, Council has considered the fundamental constraints to development expressed through the Interim Policy. By considering those fundamental constraints, the planning proposal addresses the zone objectives associated with vegetation, riparian corridors, landscape values and rural character. The remaining zone objectives essentially deal with land uses that have been in a state of gradual change within the area for some time with these properties increasingly moving more towards lifestyle parcels of land rather than the traditional agricultural base.

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 an amendment to the Hawkesbury Local Environmental Plan 2012 to date, the specific approach by Council was to amend the minimum lot sizes and where necessary restrict the yield as expressed through the Lot Size Map and Restricted Lot Yield Map respectively.

However, in the interim, it is considered to be warranted to proceed with the making of the plan to give effect to the amended Planning Proposal.

Proposed Road Widening

It is noted that several properties fronting Bells Line of Road, including the subject site are subject to future road widening by Transport for NSW, but at present they have not been included in the current Land Acquisition Reservation Map of the Hawkesbury Local Environmental Plan 2012.

Given the current Land Acquisition Reservation Map needs to be amended to identify this proposed road widening, it is recommended to undertake a subsequent amendment to the Hawkesbury Local Environmental Plan 2012 to identify the future road widenings proposed by Transport for NSW along Bells Line of Road.

Draft Voluntary Planning Agreement

The current Hawkesbury Section 7.11 Plan does not apply to rural residential development in Kurrajong. Therefore, a Draft Voluntary Planning Agreement based on the Standard Voluntary Planning Agreement that has been utilised for other planning proposals within the Kurmond-Kurrajong Investigation Area has been prepared. This Standard Voluntary Planning Agreement has been reviewed by Council's legal representatives.

The Draft Voluntary Planning Agreement is included as Attachment 2, and should Council resolve to finalise the Planning Proposal, it is recommended that Council publicly exhibit the Draft Voluntary Planning Agreement.

COMMUNITY ENGAGEMENT

The consultation with the relevant public authorities and the community on the planning proposal was completed in accordance with the relevant statutory and 'Gateway determination' requirements.

The previous Council Report (11 April 2017) highlighted that the consultation undertaken with the community and the relevant public authorities on the Planning Proposal did not warrant the abandonment of the Planning Proposal.

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036

The proposal is consistent with the following Focus Area, Direction and Strategies within the CSP.

Our Future

5.3 Shaping our Growth

5.3.2 The diverse housing needs our community will be met through research, active partnerships and planned development.

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

FINANCIAL IMPACT

The applicant has paid the planning proposal application fees required by Council's Fees and Charges for the preparation of a Local Environmental Plan.

The draft Voluntary Planning Agreement attached to this report for Council's consideration requires the Developer to provide Council with a cash contribution of \$30,000 (subject to increase in the Consumer Price Index) per vacant housing lot created on the subject site. Developer contributions collected by Council will be expended on local and district infrastructure facilities including road improvements, cycle ways, landscape and park embellishments to serve the needs of the local community as a consequence of the development.

FIT FOR THE FUTURE STRATEGY CONSIDERATIONS

The proposal is aligned to Councils Fit For the Future Strategy.

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.

ATTACHMENTS:

- AT – 1** Assessment against Council's Interim Policy 2015 - Kurmond-Kurrajong Development Principles and Draft Kurmond-Kurrajong Structure Plan - *(Distributed under separate cover)*.
- AT – 2** Draft Voluntary Planning Agreement - *(Distributed under separate cover)*.

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