



Hawkesbury City Council

Attachment 2 to item 279

Planning Proposal

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time: 6:30 p.m.

STATEMENT IN SUPPORT OF REZONING
(PLANNING PROPOSAL)

COMMERCIAL DEVELOPMENT

OLD BELLS LINE OF ROAD
KURRAJONG VILLAGE

October 2011
(Ref: 091003)

Prepared by Glenn Falson
BA; LG(Ord4); DTCP; M.EnvL; MPIA

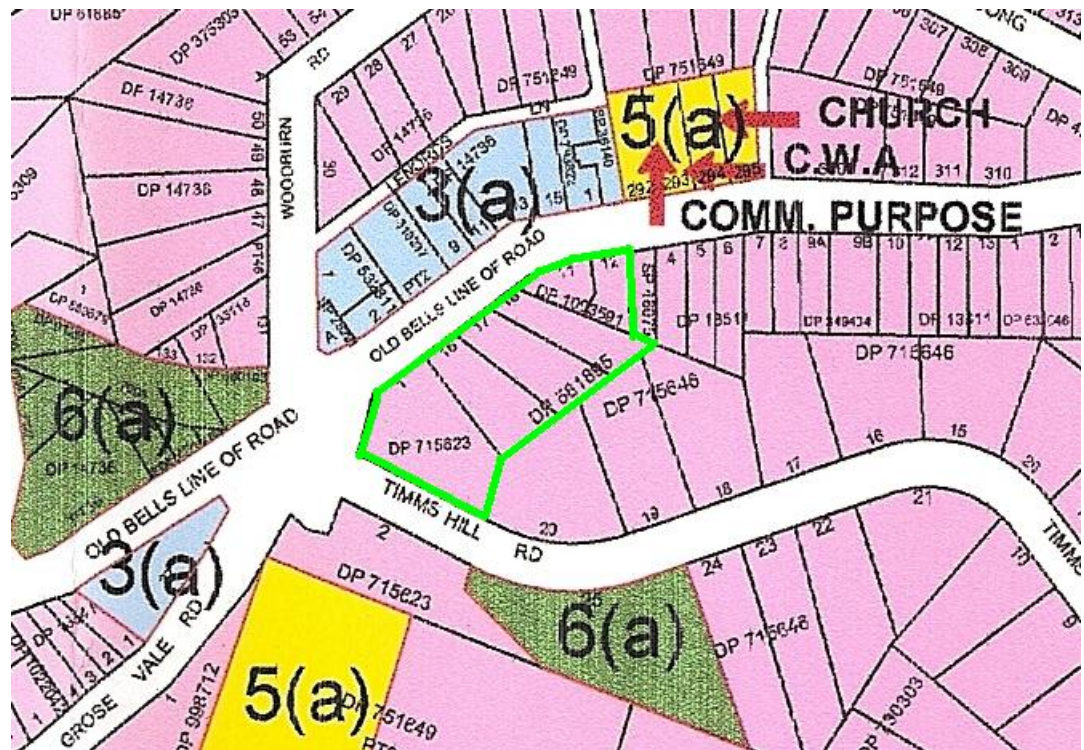


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Extract of Hawkesbury LEP 1989 map with subject properties outlined in green.

Introduction

This Planning Proposal is in support of a rezoning proposal for a number of existing landholders in the Kurrajong Village. The premise of the proposal is that it recognizes that the subject lands are already used or suitable for use for commercial development and present as an isolated anomaly in the overall village context. It is concluded that a superior land use outcome would be achieved to recognize this long time commercial use of the properties and to zone them accordingly.

Whilst there are a number of landowners in question they have a united front in their desire to achieve commercial zoning of their land which will enable them to have certainty as to their future and the promotion of their businesses.

There are no current redevelopment plans of the subject lots. It is probable that some of them will remain largely as is and some re-developed at some stage in the future. There is one large allotment on the corner of Old Bells Line of Road and Timms Hill Road that is “begging” for development. Additionally there are a number of large rear yard areas that are superfluous to current needs and suitable for development or access/car parking etc.

However as mentioned even if no redevelopment takes place in the foreseeable future the properties should be rezoned to reflect their uses and location within the village centre.



Part of village shopping precinct. Subject properties are on right of photo.

The Planning Proposal includes matters contained in a normal town planning investigation relative to a development proposal. Whilst not strictly applicable in a statutory sense, heads of consideration under S79C of the Environmental Planning and Assessment Act have been utilised as providing a meaningful basis for assessment along with required justification matters within S55(1) of the Environmental Planning & Assessment Act (the Act).

Our investigations conclude that the current and proposed residential zone does not reflect the current and long term commercial uses of the sites. These sites are suitable for a commercial zone and there would be a demonstrated positive environmental outcome that suggests that Council's local environmental plan should be altered accordingly.

Description of Land and Surrounding Locality

Location

Kurrajong is located 75 kilometres north-west of Sydney. It is located to the west of the Hawkesbury_River on the lower slopes of the Blue Mountains. It is 8 kilometres north-west of Richmond on the Bells Line of Road, with Kurrajong Hills and Kurrajong Heights further west on this road.

History

Kurrajong is a popular destination for tourists who enjoy the village's peaceful atmosphere and attractive natural surrounds. Each year in October, Kurrajong attracts many visitors with its locally renowned scarecrow festival.

The area was first settled around 1790, not long after Governor Phillip had travelled down the Hawkesbury River in search of suitable farming land for the struggling colony. As early as 1795 an attempt to find a route through the mountains had been made but it was not until 1823 that Archibald Bell discovered a suitable route. By 1841 the convict built road through Kurrajong, named Bell's Line of Road, was opened. The present road, with easier grades, was opened in 1901.

As more settlers moved into the area it was found to be suitable for the growing of fruit trees and the Kurrajong area became renowned for its orchards. By the late 19th century orchardists and others were lobbying the government to extend the railway from Richmond to Kurrajong so that they could get their produce to market more easily. The lobbying

eventually paid off, and in 1926 the branch line from Richmond was opened.

However, by the time the line was opened, the orchardists had begun to use trucks and the line was never economically viable. Landslides gave an excuse for the line to close in 1952. At the time the nearest High School was in Richmond and even today many people remember going to school on the train, which was known as Pansy.

During the 1920s and 1930s, the district contained many Guest Houses, especially along Comleroy Road. The beautiful scenery of rolling hills with the mountain backdrop attracted many city people for a stay in the country. The Kurrajong Heights Hotel, a magnificent building with panoramic views towards the coast, was opened in 1928 but destroyed by fire in 1975. The 1950s and 60s saw a decline in local tourism as people began to travel further afield for their holidays, in cars and planes. Kurrajong's orchards also began to decline and many properties were subdivided into smaller acreages. Horses and cows grazed on the paddocks once covered by fruit trees.

Today there is a revival in Kurrajong. The scenery and rural tranquillity has made it a sought after location for people wanting an escape from the bustle of life in the city. Many people have purchased small acreages as hobby farms or rural retreats. There is also a revival of guest accommodation, as the pressures of modern work have meant that people want a weekend away that is only a short drive from their homes.

Transport

Kurrajong was connected by a railway called "the Pansy" and the Pansy junction was the end of the line and was situated in the heart of Kurrajong Village. The line ran to Richmond and Sydney in 1926, but the line was closed in 1952, following landslide damage. There are some remains of this railway in the form of several cuttings located at various places along the line.

Site description

The site is comprised of six (6) allotments in a row and is located on the south-eastern side of Old Bells Line of Road with Timms Hill Road forming the boundary of the site.

The six (6) allotments that comprise the site are numbers 77, 79, 81, 83, 85 and 87 Old Bells Line of Road Kurrajong Village.

These lots are as follows:

Street number	Lot/DP	Area	Current use
77	12/1003591	344.6m ²	Vacant – until recently used as an antique furniture outlet.
79	11/1003591	322.5m ²	Café and shop/gallery.
81	18/581895	1,150m ²	Bed & Breakfast Establishment.
83	17/581895	1153m ²	Café and shop/gallery.
85	16/581895	1145m ²	Restaurant.
87	1/715623	2003m ²	Carpark in association with opposite real estate agency.

Existing development

The lots are currently used as an antique shop, a café, a bed & breakfast establishment, a café, a restaurant and a vacant lot partly used as a car park in association with a real estate office opposite. These commercial land uses for their most part have existed for over 30 years.



No 77. Until recently used as an antique/art gallery and café.



No 79. Currently used as a café. This property has some historical significance.



No 81. Currently used as a Bed & Breakfast establishment.



No 83. This is a relatively new development and used as a café, gallery and home wares shop.



No 85. This property has some historical significance and is currently used as a restaurant.



No 87. Currently used as a carpark in association with the real estate office located on opposite side of road.

Surrounding land uses

The site fronts Old Bells Line of Road and Timms Hill Road. Opposite the site on Old Bells Line of Road is one of the existing commercial zonings of Kurrajong Village including a Council carpark.



Existing commercial zone land opposite subject site.



Existing commercial zone land opposite subject site.

These opposite commercial zone shops and commercial outlets plus the subject lands in this current proposal forms the hub of commercial activity within the village. To the south-west of this core is another commercially zoned strip of shops and offices. These two commercial areas are split due to the alignment of Old Bells Line of Road where it meets Grose Vale Road. The Kurrajong Rural Fire Service station and adjoining Memorial Park also form part of the village centre.



Commercial zoned shops to the south-west of core hub shopping precinct and separated by bushfire shed and intersection of Old Bells Line of Road and Grose Vale Road. Building on right side of photo is old Kurrajong Theatre and currently used as an antique outlet and café.

Adjoining the site to the east are residential properties. These properties are at a much lower level than the road level of Old Bells Line of Road and are separated from the commercial uses of the subject properties.

To the north and adjoining No 77 Old Bells Line of Road are residential properties. Nos. 77 and 79 were built as shops and has the appearance of same. The residential house at No 75 has a different character and the boundary between the No 75 and No 77 is a logical defining zone boundary between the proposed commercial zone and the existing residential zone.

On the opposite side of Timms Hill Road is an electricity sub-station which stands on the site of the old Kurrajong Rail Station. Adjacent to the sub-station is a further commercial property used as a plant nursery.

Character of locality

The history of the locality is described elsewhere. The current character of Kurrajong Village is of a local rural town providing local shops and commercial outlets for local residents and tourists. The town has grown in population over the years as has the local rural district. In later years the town has become again known as a tourist destination particularly for day and short trip occasions. This is reflected in the amount of Bed & Breakfast establishments in the village and surrounding areas. Thus the locality is again a tourist destination but with a growing local population.

The subject properties are already part of the core commercial activity of the Kurrajong Village which is comprised of rural and residential development surrounding this commercial core. The proposed rezoning of the subject land merely recognizes this existing character and the long time commercial uses of the sites in question.

Proposed zoning for the site

Of the available zones within Hawkesbury LEP 1989 we consider the most appropriate zone would be Business General 3(a) and within draft LEP 2011 the most appropriate zone would be B1 – Neighbourhood Centre. These zones would be consistent with the existing and proposed zones for existing commercial zoned properties on the opposite side of Old Bells Line of Road.

Statutory Planning Policies and Controls

There are a number of state, regional and local planning policies and controls that affect the site of the proposed rezoning. These are:

State

- Section 117(2) Direction 1.1 Business and Industrial Zones.
- Section 117(2) Direction 3.1 Residential Zones.
- Section 117(2) Direction 3.4 Integrating Land Use and Transport.
- Section 117(2) Direction 4.4 Planning for Bushfire Protection.
- Section 117(2) Direction 6.1 Approval and Referral Requirements.
- Section 117(2) Direction 6.3 Site Specific Provisions.
- Section 117(2) Direction 7.1 Implementation of the Metropolitan Strategy.

Regional

- Sydney Regional Environmental Plan No 20 (No 2) – Hawkesbury Nepean River [From 1st July 2009 existing Regional Environmental Plans become “deemed” SEPP’s under new Division 2, Part 3 of the EP&A Act]

Local

- Hawkesbury Local Environmental Plan 1989.
- Hawkesbury Draft Local Environmental Plan 2011.
- Hawkesbury Employment Lands Strategy 2008.
- Hawkesbury Residential Lands Strategy 2010.

Section 117(2) Direction 1.1 Business and Industrial Zones.

Objectives

(1) *The objectives of this direction are to:*

- (a) *encourage employment growth in suitable locations,*
- (b) *protect employment land in business and industrial zones, and*
- (c) *support the viability of identified strategic centres.*

Where this direction applies

- (2) This direction applies to all relevant planning authorities.

When this direction applies

- (3) *This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).*

What a relevant planning authority must do if this direction applies

(4) A planning proposal must:

- (a) give effect to the objectives of this direction,
- (b) retain the areas and locations of existing business and industrial zones,
- (c) not reduce the total potential floor space area for employment uses and related public services in business zones,
- (d) not reduce the total potential floor space area for industrial uses in industrial zones, and
- (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.

Consistency

(5) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- (a) justified by a strategy which:
 - (i) gives consideration to the objective of this direction, and
 - (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
 - (iii) is approved by the Director-General of the Department of Planning, or
- (b) justified by a study (prepared in support of the planning proposal) which gives consideration to the objective of this direction, or
- (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
- (d) of minor significance.

Comment – the site has historically been used for commercial purposes in the form of cafes, restaurants, shops, tourist accommodation etc. The proposed rezoning will merely recognize these long established uses and will not detract from the availability or attractiveness of employment lands within the village area and other surrounding areas such as Kurmond and North Richmond.

As the proposal seeks to formalize the zoning of the land in accordance with current on-site activities it is considered to be of minor significance and consequently does not warrant the preparation of a specific retail study.

Section 117(2) Direction 3.1 Residential Zones.

Objectives

(6) The objectives of this direction are:

- (a) to encourage a variety and choice of housing types to provide for existing and future housing needs,

- (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- (c) to minimise the impact of residential development on the environment and resource lands.

Where this direction applies

- (7) This direction applies to all relevant planning authorities.

When this direction applies

- (8) This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:
- (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),
 - (b) any other zone in which significant residential development is permitted or proposed to be permitted.

What a relevant planning authority must do if this direction applies

- (9) A planning proposal must include provisions that encourage the provision of housing that will:
- (a) broaden the choice of building types and locations available in the housing market, and
 - (b) make more efficient use of existing infrastructure and services, and
 - (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and
 - (d) be of good design.
- (10) A planning proposal must, in relation to land to which this direction applies:
- (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and
 - (b) not contain provisions which will reduce the permissible residential density of land.

Consistency

- (11) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:
- (a) justified by a strategy which:
 - (i) gives consideration to the objective of this direction, and
 - (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
 - (iii) is approved by the Director-General of the Department of Planning, or
 - (b) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or

- (c) *in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) *of minor significance.*

Comment – Whilst the site is currently designated for residential development the reality is that there is current commercial use of it and that this will continue as forming part of the commercial hub of Kurrajong Village. The value of the properties for commercial use exceeds their value for residential use. Residential use of the sites is not appropriate given the location within the village.

As the proposed rezoning merely recognizes these existing uses and would allow coordinated and appropriate further development to take place only on these current “commercial” sites the proposal is of minor significance only and does not warrant the preparation of a specific study.

Section 117(2) Direction 3.4 Integrating Land Use and Transport.

Objective

- (12) *The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:*
- (a) *improving access to housing, jobs and services by walking, cycling and public transport, and*
 - (b) *increasing the choice of available transport and reducing dependence on cars, and*
 - (c) *reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
 - (d) *supporting the efficient and viable operation of public transport services, and*
 - (e) *providing for the efficient movement of freight.*

Where this direction applies

- (13) *This direction applies to all relevant planning authorities.*

When this direction applies

- (14) *This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.*

What a relevant planning authority must do if this direction applies

- (15) *A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:*

- (a) *Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and*
- (b) *The Right Place for Business and Services – Planning Policy (DUAP 2001).*

Consistency

- (16) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:*
- (a) *justified by a strategy which:*
 - (i) *gives consideration to the objective of this direction, and*
 - (ii) *identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
 - (iii) *is approved by the Director-General of the Department of Planning, or*
 - (iv) *justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or*
 - (v) *in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
 - (vi) *of minor significance.*

Comment – the proposed rezoning will have no impact on transport. The site is already integrated with local bus routes and is of minor significance only. It is therefore considered that the proposal does not warrant the preparation of a specific study.

Section 117(2) Direction 4.4 Planning for Bushfire Protection.

Objectives

- (17) *The objectives of this direction are:*
- (a) *to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and*
 - (b) *to encourage sound management of bush fire prone areas.*

Where this direction applies

- (18) *This direction applies to all local government areas in which the responsible Council is required to prepare a bush fire prone land map under section 146 of the Environmental Planning and Assessment Act 1979 (the EP&A Act), or, until such a map has been certified by the Commissioner of the NSW Rural Fire Service, a map referred to in Schedule 6 of that Act.*

When this direction applies

- (19) *This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.*

What a relevant planning authority must do if this direction applies

(20) *In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,*

(21) *A planning proposal must:*

- (a) *have regard to Planning for Bushfire Protection 2006,*
- (b) *introduce controls that avoid placing inappropriate developments in hazardous areas, and*
- (c) *ensure that bushfire hazard reduction is not prohibited within the APZ.*

(22) *A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:*

- (a) *provide an Asset Protection Zone (APZ) incorporating at a minimum:*
 - (i) *an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and*
 - (ii) *an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,*
- (b) *for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,*
- (c) *contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,*
- (d) *contain provisions for adequate water supply for fire fighting purposes,*
- (e) *minimise the perimeter of the area of land interfacing the hazard which may be developed,*
- (f) *introduce controls on the placement of combustible materials in the Inner Protection Area.*

Consistency

(23) *A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the planning proposal.*

Comment – The site (as is the surrounding locality) identified as being bush fire prone Vegetation Category 1. This is the lower end of bushfire risk category.

The existing uses of the site can continue without any specific bushfire requirement. Any future development will need to have

regard to the provisions of the Planning for Bushfire Protection 2006 document and relevant legislation under both the Environmental Planning and Assessment Act 1979 and the Rural Fires Act 1997.

In our opinion any future development proposal is capable of satisfying the necessary statutory controls, and therefore complies with this Direction.

Section 117(2) Direction 6.1 Approval and Referral Requirements.

Objective

(24) The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

Where this direction applies

(25) This direction applies to all relevant planning authorities.

When this direction applies

(26) This direction applies when a relevant planning authority prepares a planning proposal.

What a relevant planning authority must do if this direction applies

(27) 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.*

Consistency

(28)A planning proposal must be substantially consistent with the terms of this direction.

Comment – The proposal is of minor local significance. There is no reason why any further development of the site would require consultation or referral procedures to be incorporated into the LEP. The proposal is therefore consistent with this Direction.

Section 117(2) Direction 6.3 Site Specific Provisions.

Objective

(29) The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

Where this direction applies

(30) This direction applies to all relevant planning authorities.

When this direction applies

(31) This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.

What a relevant planning authority must do if this direction applies

(32) A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:

- (a) allow that land use to be carried out in the zone the land is situated on, or*
- (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or*
- (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.*

(33) A planning proposal must not contain or refer to drawings that show details of the development proposal.

Consistency

(34) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are of minor significance.

Comment – the proposal is to use an existing zone within either the current LEP 1989 or the draft LEP 2011 (depending on what instrument is in force at the time). Additionally there is no need for any specific development standards to be incorporated into the LEP.

The proposal therefore is able to satisfy this Direction.

Section 117(2) Direction 7.1 Implementation of the Metropolitan Strategy.

Objective

- (1) *The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the Metropolitan Strategy.*

Where this direction applies

- (2) *This direction applies to land comprising of the following local government areas:*

Ashfield	Holroyd	Pittwater
Auburn	Hornsby	Randwick
Bankstown	Hunters Hill	Rockdale
Baulkham Hills	Hurstville	Ryde
Blacktown	Kogarah	Sutherland
Blue Mountains	Ku-ring-gai	Strathfield
Botany Bay	Lane Cove	Warringah
Burwood	Leichhardt	Waverley
Camden	Liverpool	Willoughby
Campbelltown	Manly	Wollondilly
Canada Bay	Marrickville	Woollahra
Canterbury	Mosman	
City of Sydney	North Sydney	
Fairfield	Parramatta	
Hawkesbury	Penrith	

When this direction applies

- (3) *This direction applies when a Relevant Planning Authority prepares a planning proposal.*

What a Relevant Planning Authority must do if this direction applies

- (1) *Planning proposals shall be consistent with:*
- (a) *the NSW Government's Metropolitan Strategy: City of Cities, A Plan for Sydney's Future, published in December 2005 ('the Metropolitan Strategy').*

Consistency

- (5) *A planning proposal may be inconsistent with the terms of this direction only if the Relevant Planning Authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), that the extent of inconsistency with the Metropolitan Strategy:*
- (a) *is of minor significance, and*

- (b) *the planning proposal achieves the overall intent of the Strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.*

Comment – Kurrajong Village is not mentioned within the Metropolitan Strategy and has no hierarchical status. It is not contained within the north-west growth centre.

The proposal is of minor significance and reflects an appropriate low-scale approach to urban growth within the Kurrajong locality.

The proposal is not inconsistent with the Strategy and therefore complies with this Direction.

Sydney Regional Environmental Plan No 20 (No 2) **– Hawkesbury Nepean River**

The Regional Plan has a number of general and specific planning heads of consideration for development within its defined area. The subject land is within the REP20 area however the only relevant consideration for this site would be that relating to water quality.

The proposal will not adversely impact upon water quality on the site. Drainage would continue to be directed to the local street system and effluent disposal by pump-out contractor.

Hawkesbury Local Environmental Plan 1989.

The land is currently zoned as Residential Housing under the provisions of Hawkesbury Local Environmental Plan 1989 (the LEP) being the applicable local planning instrument that governs the Hawkesbury Local Government Area. Presently only some “commercial” developments are permissible within this zone.

The LEP has General Objectives as follows:

General LEP Objectives

- (a) *to provide the mechanism for the management, orderly and economic development and conservation of land within the City of Hawkesbury,*

Development of the site could take place in an orderly and economic manner and would maintain the current commercial and village feel. In particular the planning proposal would recognize the unsuitability of the land for housing and its long time use for commercial activities. Any future development of the sites would be controlled by Council through

the development application process and also through a future Development Control Plan should that be appropriate.

(b) to provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production;

This objective would be met given that the proposal would provide for working activities in a suitable location. Whilst there would be a reduction in housing land this land is not suitable for housing given the topography and location within the commercial hub of the village. In any case the reality is that the existing commercial uses of the sites will remain even if this planning proposal does not proceed. It is very unlikely that the sites will ever be used for residential use other than in conjunction with commercial activity.

(c) to protect attractive landscapes and preserve places of natural beauty, including wetlands and waterways;

The site is not within an identified scenic protection area however does have an attractive outlook. Suitable redevelopment of the site would not impact on this attractiveness.

(d) to conserve and enhance buildings, structures and sites of recognised significance, which are part of the heritage of the City of Hawkesbury for future generations

The site does not contain current identified items of environmental heritage however some of the existing buildings are of local heritage significance. There is no proposal to alter these buildings.

(e) to provide opportunities for the provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups within the City.

The proposal is inconsistent with this objective in that it will remove current housing opportunities. This inconsistency is justified given the unsuitability of the site for housing as discussed in this report and the inevitable continue of commercial activity on the site.

Specific LEP Clauses

The following specific LEP clauses would be applicable if the proposal was being considered as a development application.

Clause 9A - Zone Objectives

This clause requires development to be consistent with the zone objectives from the Residential Housing zone. These zone objectives are:

(a) to provide for low density housing and associated facilities in locations of high amenity and accessibility,

The site has high accessibility but not suitable residential amenity. The land is better suited to commercial development in association with the village hub.

(b) to protect the character of traditional residential development and streetscapes,

The sites do not have and do not contribute to a traditional residential streetscape. Due to commercial uses over the years the sites have a commercial character.

(c) to ensure that new development retains and enhances the existing character,

Development of the site in the future would retain and enhance the existing commercial character.

(d) to ensure that development is sympathetic to the natural amenity and ecological processes of the area,

Future development would be consistent with local amenity and can be adequately controlled by Council through the normal application processes.

(e) to enable development for purposes other than residential only if it is compatible with the character of the living area and has a domestic scale and character,

Current development has a domestic scale although not a domestic appearance. Future development would be consistent with the commercial character of the sites and locality.

(f) to control subdivision so that the provision for water supply and sewerage disposal on each resultant lot is satisfactory to the Council,

Not applicable.

(g) to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services.

Existing facilities are suitable for the planning proposal.

Clause 18 – Provision of Services

The planning proposal will not require the provision of any services that are not already available to the locality. Some local augmentation of supply of these services might be required and subject to detail design at a later stage.

Hawkesbury Draft Local Environmental Plan 2011.

Draft LEP 2011 has been through an exhibition period and is a matter for consideration. Whilst the gazettal of this draft Plan is not imminent it is reasonably certain.

We made a submission to the exhibited draft LEP in similar terms to this report in November 2009. We requested that this matter be dealt with as a standalone amendment to LEP 1989 but was told that this couldn't happen and that it would be dealt with as a submission to the draft LEP. When dealing with the draft LEP Council was told that the draft LEP proposes that the site maintain a residential zoning because the draft LEP was to be merely a conversion of the old LEP into the Standard Instrument format.

When considering the subject site at its meeting of 7th June 2011 Council resolved that:

“The landowners, at their own expense, can lodge a suitably prepared rezoning application so that the land can be considered by Council as part of implementing the recently adopted Hawkesbury Residential Land Strategy.”

We believe that the processing of this matter thus far has set our clients back almost 2 years. Notwithstanding, this Planning Proposal report is a response to Council's resolution.

The draft LEP proposes that the land be zoned Residential R2. Shops and commercial development is not permissible within this proposed zone just as it is currently in LEP 1989. The proposed zone objectives are:

- ***To provide for the housing needs of the community within a low density residential environment.***

The current residential environment will not be altered by the proposal which merely recognises long established commercial use of the sites.

- ***To enable other land uses that provide facilities or services to meet the day to day needs of residents.***

The current commercial uses provide facilities and services for residents. This would not alter as a result of the proposal.

- ***To protect the character of traditional residential development and streetscapes.***

The streetscape has a distinctive commercial character. The sites have little residential character except for one property that is currently used as a Bed & Breakfast establishment. The proposal will not alter the character of the locality.

- ***To ensure that new development retains and enhances the existing character.***

No new development is proposed with this current Planning Proposal. Future development can satisfy this objective.

- ***To ensure that development is sympathetic to the natural amenity and ecological processes of the area.***

This objective can be satisfied through a future Development Application process.

- ***To enable development for purposes other than residential only if it is compatible with the character of the living area and has a domestic scale and character.***

Use of the site already does not satisfy this objective. The site has a distinct commercial character.

- ***To control subdivision so that the provision for water supply and sewerage disposal on each resultant lot is satisfactory to the Council.***

Not applicable.

- ***To ensure that development does not create unreasonable demands, in the present or in the future, for provision or extension of public amenities or services.***

Future development of the site will not require services that do not already exist. Some minor augmentation of supply of electricity might be required depending on types of future uses.

Hawkesbury Employment Lands Strategy 2008.

The Employment Lands Strategy does not address Kurrajong village commercial centre other than by indicating as follows:

Kurrajong and Kurrajong Heights contain local shops in residential zones and are not included in the analysis...(page 84)

Due to the minor nature of the proposal it will have no bearing on the results and recommendations of the Strategy.

Hawkesbury Residential Lands Strategy 2010.

Council adopted its consultant's report "Employment Lands Strategy" in December 2008. This strategy includes a number of recommendations and suggestions including the following:

In the case of commercial/retail land uses, there is some scope for intensification of land use through renewal of existing areas (which may include new mixed use development) as well as from the development of new sites (P109).

Existing commercial zones within Kurrajong are fully developed. New site development is appropriate within the village context particularly given that the subject sites are used for commercial type uses at present.

Villages and neighbourhood centres such as Kurrajong, Kurmond, Pitt Town, Bligh Park, Wilberforce and McGraths Hill should be supported by allowing additional residential intensification in their immediate vicinity where environmental constraints allow. This might require an accompanying increase in business and retail development capacity (P113).

The subject sites are not suitable for residential development. There has been population increases in the village and surrounding areas and further commercial activity is warranted.

...reduce costs (economic, social, and environmental) associated with travel. This is focused on two key goals:

Minimising trips made in aggregate (by aiming for containment that provides more jobs within easy access to residents and maximising multi-purpose trip-making); and

Minimising trips undertaken by private vehicles (by clustering activities in centres or locations that can be serviced effectively by public transport) (P32).

Providing a commercial zone for the subject properties with commensurate future development options would assist in providing jobs and shops to the local population with a resultant decrease in private vehicle use.

...the share of local jobs in the tourism activities of cafes, accommodation and restaurants is higher than in the benchmark regions (P41).

The Hawkesbury generally has a higher than average proportion of tourism related activities and Kurrajong Village is higher than most other areas within the Hawkesbury. Promotion of a suitable commercial zone for the subject sites would recognise and support this tourism activity.

Justification Statement (s 55(1) of the Act

1. Statement of the objectives or intended outcomes of the proposed local environmental plan.

The local environmental plan amendment would recognize the long standing commercial uses of most of the subject properties and allow future commercial development consistent within a commercial zone that would meet the current and future needs of the local resident and tourist population.

2. An explanation of the provisions that are to be included in the proposed local environmental plan.

It is envisaged that the local environmental plan amendment would include provisions relating to suitable design, floor space, car parking, loading and effluent disposal.

3. Justification for those objectives, outcomes and provisions and the process for their implementation.

a. Need for the planning proposal.

i. Is the planning proposal a result of any strategic study or report?

The proposal is partly the result of the Employment Lands Strategy adopted by Council in December 2008 but more the result of locally known shortcomings with

the Kurrajong Village insofar as a shortage of commercial outlets for locals and tourists alike.

ii. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The current Residential Housing zone does not allow the array of commercial outlets that are envisaged. The subject lands are the obvious location to expand commercial activity in the village. Currently there is no other way to achieve this other than through the local environmental plan process.

iii. Is there a net community benefit?

There will be a net community benefit in that the proposal recognizes that the land is not suited for residential development but is suitable for commercial development. There will be a benefit in local employment generation and shopping opportunities.

b. Relationship to strategic planning framework.

i. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Sydney Metropolitan Strategy is silent on what should happen with Kurrajong Village. The village is becoming an increasing tourist destination and is the hub of local commercial activity. Notwithstanding this however the size of the subject land and planning proposal is not such that would have any calculable impact on Regional or Sub-Regional centre's as identified in the Metropolitan Strategy. It would be of local significance only.

ii. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The only local strategic plans are the Employment Lands Strategy and the Residential Lands Strategy. The proposal is not inconsistent with either of these strategies.

iii. Is the planning proposal consistent with applicable state environmental planning policies?

There are no state environmental planning policies that are applicable to this planning proposal other than S117 Directions contained within this report. The proposal is not inconsistent with state policies.

iv. Is the planning proposal consistent with applicable Ministerial Directions (s117 directions)?

The following s117 directions are relevant:

Business and Industrial Zones.

The planning proposal is consistent with this Direction in that it:

- Encourages employment growth in a suitable location.
- Does not impact on employment land in the local business zone given that there is a known shortfall of business outlets within the Kurrajong Village.
- Does not impact on any identified strategic centre.
- Does not reduce existing or potential floor space of any existing business zone.
- Is of minor local significance only.

Heritage Conservation

The planning proposal is consistent with this Direction in that it:

- Does not impact on any heritage item or potential heritage item or aboriginal area. In this respect the buildings at No 79 and 85 are not current listed heritage items but have local heritage significance. Any future re-development of these sites should account for this significance by incorporating these buildings into the redevelopment or establishing a historic record prior to any demolition that might be proposed. At this stage however there is no proposal to alter these buildings.

Residential Zones

The planning proposal is inconsistent with this Direction in that it:

- Will reduce permissible residential density of the subject land [(S3.1(5)(b)]. However this is justified given that the planning proposal is “of minor significance” [(S3.1((6)(d))] and that the lands are already used for commercial purposes.

Integrating Land Use and Transport

The planning proposal is consistent with this Direction in that it:

- Will improve access to jobs and services given the location of the site within the existing commercial village hub.
- Reduce dependence on cars in that it will reduce the need for local residents to travel further afield for goods and services.
- Reduce the trip number of private vehicles.
- Support public transport noting that there is a bus stop outside the site.
- Enable appropriate loading facilities for freight deliveries to the site.

Approval and Referral Requirements

The planning proposal is consistent with this Direction in that it:

- Would not require provisions of concurrence, consultation or referral of any subsequent development application.
- Not identify any future development of the site as “designated development”.

Site Specific Provisions

The planning proposal is consistent with this Direction in that:

- It could utilize an existing zone designation within the current LEP or draft LEP.
- It would not impose any development standards that are not already contained within the LEP that is to be amended.
- It will not refer to any drawings or details of the development proposal.

c. Environmental, social and economic impact.

i. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. The sites are cleared of vegetation other than introduced garden landscaping.

ii. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The site is not sewered at this time although no doubt in the future this will occur. In the meantime the whole of the Kurrajong Village has either on-site or pump-out effluent disposal. The subject sites rely on pump-out services. Arguably commercial development of the site would not require any greater pump-out requirements than would residential development that could take place currently within the zone. Re-development of the sites in a coordinated manner would allow economies of scale and facilities for coordinated commercial removal of wastes.

iii. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal is of minor significance only. Rezoning of the sites would recognize long established commercial uses. Any future development would be minor in the overall scheme of business zones within the Hawkesbury and be of little social and economic impact. A viable local commercial precinct within the Kurrajong Village would have positive social and economic effects. The rezoning will assist in this occurring.

d. State and Commonwealth interests.

i. Is there adequate public infrastructure for the planning proposal?

Yes. Existing infrastructure is suitable for the planning proposal noting comments on effluent disposal above.

ii. What are the views of State and Commonwealth Public Authorities consulted in the accordance

with the gateway determination, and have they resulted in any variations to the planning proposal?

Consultation is a matter for Council action. It would be difficult to imagine any comments from authorities that would suggest that the proposal should not proceed.

4. Details of the community consultation that is to be undertaken on the planning proposal.

This is a matter for Council. It is envisaged that there would be local notification of adjoining owners and an advertisement in the local newspaper.

General Planning Assessment Comments

Context & Setting

The land is located in an area that is already characterised by its commercial development. The planning proposal will be consistent within this existing setting and context of the locality.

Access, Transport & Traffic

Access to each lot can continue on an individual basis and there is an opportunity with redevelopment for a coordinated access along the rear of the properties. There would be a slight net increase in traffic if and when the properties might be further developed however the local road system is well capable of containing expected traffic increase.

Public transport (buses) runs past the front of the site with a bus stop outside.



Looking from Timms Hill Road across the rear of the real estate agent's carpark site along rear of remainder of subject site. Note level differences leading to residential development to the right of photo. Opportunity exists for a coordinated rear access along subject sites.

Public Domain

There are no identified public domain issues relative to this type of proposal.

Heritage

There are no identified heritage issues that need to be accounted for although as mentioned there are two non listed buildings that have some local heritage significance.

Other Land Resources

There are no land resources that would be affected as a result of this proposal other than the small reduction in available housing sites. As mentioned the land is not suited to housing.

Water

The sites are connected to reticulated town water.

Effluent disposal

Effluent disposal will be via commercial pump-out service as currently exists for all commercial properties in the village.

Drainage

Stormwater runoff will be directed to existing street drainage.

Soils

Soil type is not known. Development of the site would not be precluded by soil type.

Flora & Fauna

There are no flora/fauna issues associated with this development proposal.

Waste

Existing garbage and recycle services are available to the sites.

Energy

There are no energy efficiency issues relative to this development proposal.

Noise & Vibration

There are no noise and vibration issues relative to this proposal although at a later construction stage this might be a temporary local issue. Proper construction standards would be implemented and would provide for appropriate control.

Natural Hazards

The land is within an area known for bushfire risk. Commercial development of the sites would not adversely impact or exacerbate this risk.

Technological Hazards

Not applicable.

Safety, Security & Crime Prevention

Not applicable.

Social Impact in the Locality

The development proposal would have a positive social impact by providing additional commercial and employment opportunities for the local resident population.

Economic Impact in the Locality

There will be no adverse economic impacts arising from the development proposal. There will be positive impacts associated with the proposal including the multiplier effect from subsequent construction and on-going expenditure in the community. Additionally future further commercial development of the sites would add to the attraction of the Kurrajong Village both for local residents and tourist alike. There would be an overall positive economic impact for the village including for existing businesses that would “feed off” new commercial activity.

Cumulative Impacts

There are no identified adverse cumulative impacts arising from the development proposal.

Conclusion

The proposal to alter LEP 1989 or the draft LEP 2011 to enable commercial development to take place on land suitable and with a history of past commercial development would be a sound town-planning outcome for the site.

The site is already characterized by long standing commercial development and is not suitable for housing.

Council’s Employment Lands Strategy recognizes that tourist and local village shopping areas require consolidation and provision of commercial opportunities commensurate with local needs and growth. This planning proposal would provide a needed incentive to the village and its surrounds which has a steady growth over many years.

The Kurrajong Village is becoming an increasingly popular tourist destination. This, coupled with the increase in population of the locality in recent years, results in an increased demand for further commercial potential.

Our preliminary investigations demonstrate that there are no prohibitive issues or matters that are inconsistent with Council's strategic framework or directions issued by the NSW State Government. The proposed zone would not create an unnecessary demand on existing infrastructure or services but rather it would enable use of the land in an orderly and economic manner having regard to environmental constraints and established commercial use of the site.

Even if the subject sites were re-developed with additional commercial floor space the result would not be of a size to impact on other business centres.

Prima facie there is sufficient evidence to suggest that the current zoning of the site is inappropriate for long term management of the area. A suitable commercial zone that reflects the location and past and potential uses of the sites is appropriate in all of the circumstances. These sites and businesses need to be provided with a reasonable opportunity to expand and redevelop. It is our opinion that this proposal has merit and should be supported by Council.

Recommendation

It is recommended that Council prepare a draft Local Environmental Plan amendment to rezone No's 77, 79, 81, 83, 85 & 87 Old Bells Line of Road from Residential Housing (as current under LEP 1989) or from Residential R2 (as proposed under draft LEP 2011) to either Business 3(a) or B1 Neighbourhood Centre depending on what instrument is in force at the time of final determination.

It is further recommended that given the long established "commercial" uses of the sites that the proposal is of minor significance only and does not require an environmental study as part of the rezoning process.