

GATEWAY REVIEW

Justification Assessment

Purpose: To request that the Independent Planning Commission review the Gateway determination, taking into account information provided by the Proponent and to provide advice regarding the merit of the review request.

Dept. Ref. No:	GR_2020_HAWKE_002_00
LGA	Hawkesbury City Council
LEP to be Amended:	Hawkesbury Local Environmental Plan 2012
Address/ Location:	79, 95, 100 Bells Lane and 457 Bells Line of Road, Kurmond
Proposal:	To amend the Hawkesbury LEP 2012 to reduce the minimum lot size standard from 10 hectares to a minimum of 4,000m ² for land on the subject lands.
Review request made by:	<input type="checkbox"/> The council <input checked="" type="checkbox"/> A proponent
Reason for review:	<input type="checkbox"/> A determination has been made that the planning proposal should not proceed.
	<input type="checkbox"/> A determination has been made that the planning proposal should be resubmitted to the Gateway.
	<input checked="" type="checkbox"/> A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

Background information

Details of the planning proposal	<p>Site Description</p> <p>The planning proposal applies to 79, 95, 100 Bells Lane and 457 Bells Line of Road, Kurmond, legally known as Lot 31, 38 and 50 DP 7565 and Lot 12 DP 711049. Each site is described as follows:</p> <p>79 Bells Lane, Kurmond</p> <ul style="list-style-type: none"> Approximately three hectares in area and has a 120-metre frontage to Bells Lane. Contains two dwelling houses (attached dual occupancy), cleared pasture, a small dam and scattered trees. <p>95 Bells Lane, Kurmond</p> <ul style="list-style-type: none"> Approximately 2.5 hectares in area and has an 80-metre frontage to Bells Lane. Contains a dwelling house, cleared pasture, two small dams and scattered trees. <p>100 Bells Lane, Kurmond</p> <ul style="list-style-type: none"> Approximately five hectares in area and has a 127-metre frontage to Bells Lane. Contains a dwelling house, three small dams, cleared pasture and scattered trees. <p>457 Bells Lane, Kurmond</p> <ul style="list-style-type: none"> Approximately two hectares and has a 170-metre frontage to Bells Line of Road and a 110-metre frontage to Bells Lane. Contains a dwelling house, a small dam, cleared pasture and scattered trees. <p>Each site contains vegetation that is mapped as being significant under the Hawkesbury Local Environmental Plan 2012 (LEP).</p> <p>The sites are located on the outskirts of Kurmond Village (Figure 1) and approximately 7km from the township of Richmond. The immediate surrounding area is zoned RU1 Primary Production Small Lots but predominantly characterised by rural residential uses. Further to the west and southwest, land is zoned RU4 Primary Production Small Lots. The current minimum lot size applicable to the subject site and immediate surrounds is 10ha.</p>
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The site is located within the Kurmond and Kurrajong Investigation Area (Figure 1). The planning status of this investigation area has been deferred until Council has completed its Local Strategic Planning Statement and supporting studies.

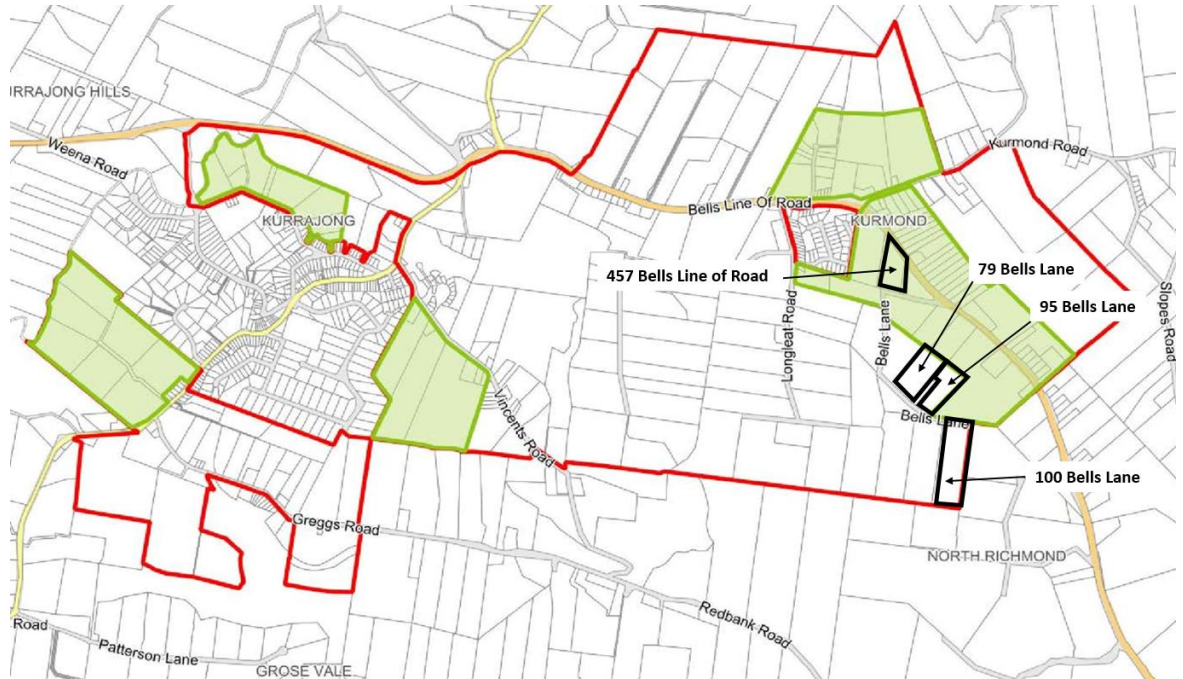


Figure 1 – the subject lands (outlined in black) in the context of the Kurmond and Kurrajong Investigation Area (outlined in red). The draft Structure Plan identified areas as being suitable for a 4,000sqm minimum lot size (sites shown in green), and the remaining areas were proposed to have a minimum lot size of 1 hectare. (Source: Hawkesbury City Council)

Planning proposal

The planning proposal seeks to reduce the minimum lot size on the four (4) properties to facilitate rural residential subdivision. The planning proposal was reviewed and approved to proceed to Gateway by the Sydney Western City Planning Panel (the Panel) on 12 February 2018 as part of the rezoning review process (**Attachment B2**). The planning proposal was submitted to the Department for Gateway on 7 May 2018, after the Western City District Plan came into effect (March 2018).

The Gateway determination was issued on 23 June 2018 (**Attachment B1**) and determined the proposal should proceed subject to conditions.

The current planning proposal (dated September 2019) (**Attachment C4**) seeks to reduce the minimum lot size from 10ha to a range of 4,000m² to one (1) hectare. This is to enable rural residential subdivision of the sites into 16 lots (Figures 2-5), details are provided in Table 1.



Figure 2 – (L) aerial photo of 79 Bells Lane with proposed lot overlay

Figure 3 – (R) aerial photo of 95 Bells Lane with proposed lot overlay



Figure 4 – (L) aerial photo of 100 Bells Lane with proposed lot overlay

Figure 5 – (R) aerial photo of 457 Bells Line of Road with proposed lot overlay

Table 1 Summary of proposal

Site	Proposed Lot Sizes	Number of lots (total)
79 Bells Lane **	4,400m ² (x2 lots), 4,600m ² , 5,000m ² , 6,400m ²	5
95 Bells Lane	4,000m ² (x3 lots), 1 ha	4
100 Bells Lane	1.2ha, 1.6ha, 1.7ha	3
457 Bells Line of Road	5,200m ² , 5,800m ² (x2 lots) and 6,300m ²	4

** As part of the Gateway review request, alternate lot sizes have been proposed for 79 Bells Lane. It was recommended that this lot only be subdivided to create three (3), 9,200m² lots. A layout is included within the Proponent's View section.

Gateway conditions included a requirement for Council to update the proposal prior to public exhibition to consider the site constraints and determine an appropriate minimum lot size for each site. The proposal has not been placed on public exhibition.

On 6 April 2020, the Department altered the Gateway (**Attachment A**) to update the condition referenced above to read as follows:

"amend the lot size to a minimum of 1 hectare for 79 and 95 Bells Lane, and 457 Bells Line of Road. Council may increase the lot size above 1 hectare to take into consideration site constraints, ensure compliance with Council's Development Principles for Kurmond Kurrajong area and to ensure Council is satisfied the lot size is suitable for the landscape character of the area.

A lot size map and maximum residential lot yield (restricted lot yield LEP map) is to be prepared for 79 and 95 Bells Lane and 457 Bells Line of Road. 100 Bells Lane is to be removed from this Gateway."

The altered Gateway reduces the proposed development yield to approximately six (6) lots. 79, 95 Bells Lane and 457 Bells Line of Road would now only be able to be subdivided into two lots each,

	<p>subject to satisfying the other criteria in the condition. No additional development potential would be available for 100 Bells Lane in a planning proposal that is consistent with the conditions of the Gateway determination.</p>
Reason for Gateway determination alteration	<p>Council requested the Department, in its letter dated 25 November 2019, extend the timeframe to complete the LEP which was due to be finalised by 23 September 2019. The justification provided for the extension request was based on the applicant had provided additional information in October 2019 however did not address concerns with the location of asset protection zones. Council was awaiting further amendments.</p> <p>As part of the process of reviewing Council's request for a timeframe extension, the Department reviewed justification for the extension request and the merits of the proposal. It was considered that as the details of the location of the asset protection zones had not been confirmed and the minimum lot sizes had not been revised as required by condition 1(b).</p> <p>It was also noted that since the Department issued a Gateway determination in June 2018, Council had exhibited a draft structure plan in 2019 for the Kurmond Kurrajong Investigation Area (KKIA) which included the subject sites (Attachment G). The KKIA draft Structure Plan proposed to reduce the minimum lot sizes for the area from 10ha and 4 ha to 1 ha and 4,000m² and indicated a potential rezoning from RU1 Primary Production and RU4 Primary Production Small Lots to E4 Environmental Living.</p> <p>In respect of merit, the Department reviewed the proposals' consistency with the strategic planning framework. It was determined that it was inconsistent with this framework, including the draft Kurmond Kurrajong Structure Plan and significantly, the Western City District Plan's objectives and values of the Metropolitan Rural Area (MRA). This proposal was reviewed with a number of other proposals within the Kurmond Kurrajong Investigation Area which Council had also requested extensions of time to complete the LEPs.</p> <p>Considering the above, the Department altered the Gateway on 6 April 2020 (Attachment A) extending the timeframe to complete the LEP to 13 December 2020 and amending the minimum lot size to 1 hectare for 79 and 95 Bells Lane, and 457 Bells Line of Road, in accordance with the draft structure plan. The condition gave Council the ability to increase the lot size above 1 hectare to take into consideration the site constraints, ensure compliance with Council's Development Principles for Kurmond Kurrajong area and to ensure Council is satisfied the lot size is suitable for the landscape character of the area. The Gateway was amended to exclude the land at 100 Bells Lane from the planning proposal.</p> <p>Justification for the Gateway alteration included:</p> <ul style="list-style-type: none"> • The proposal had not demonstrated consistency with all of Council's adopted 2015 Kurmond Kurrajong development principles, specifically building envelopes, asset protection zones (APZs), driveways and roads are located on land within a slope less than 15%. • Although the planning proposal was consistent with the strategic planning framework in 2015, it is now out-dated and should not be relied upon. • This proposal was inconsistent with the Western City District Plan because it did not support the values of the metropolitan rural area, including the following: <ul style="list-style-type: none"> ○ Maintaining and enhancing the distinctive character of each rural town and village is a high priority. ○ Development is to protect and enhance the environmental, social and economic values of the rural areas. ○ Limited growth of rural-residential development could only be considered where there are no adverse impacts on amenity of the local area and the development provides incentives to maintain and enhance the environmental, social and economic values of the MRA. • This planning proposal should be supported by sufficient evidence, such as, being identified as an area for growth within a Rural Lands Strategy and Housing Strategy. At the time of issuing the Gateway alteration, the draft housing and rural lands studies were underway. Until this work is complete, the proposal could not be considered to respond appropriately to Planning Priority W17 Better managing rural areas, particularly the objective for environmental, social and economic values in rural areas are protected and enhanced. • Due to the number of planning proposals within the Kurmond Kurrajong Investigation Area, this proposal could not be considered in isolation. The piecemeal approach

	<p>undermines the strategic planning framework Council was in the process of preparing to support its Local Strategic Planning Statement (LSPS). In addition, Council was in the process of reviewing the Kurmond Kurrajong Investigation area holistically.</p> <ul style="list-style-type: none"> The proposal was inconsistent with Council's draft structure plan for the Kurmond Kurrajong Investigation Area. While the draft structure plan was not adopted by Council or sent to the Department for endorsement or Gateway assessment, the proposed lot sizes represented the current thinking for that area and were informed by supporting studies. The following comments are made on the proposal's consistency with the draft structure plan: <ul style="list-style-type: none"> The proposal for 457 Bells Line of Road is consistent with the draft KKIA minimum lot size of 4,000m² The proposals for 95 and 100 Bells Lane were partially consistent with the minimum lot size of 1 ha The proposal for 79 Bells Lane is inconsistent with the draft minimum lot size of 1 ha <p>The Gateway alteration sought to amend the planning proposal to ensure development was more aligned to the values of the Metropolitan Rural Area by:</p> <ul style="list-style-type: none"> 100 Bells Lane was removed from the proposal as it is not close enough to be considered a logical expansion of the existing Kurmond village. The proposed minimum lot size for the remainder of the sites be amended to 1 hectare only if and where the proposal can demonstrate buildings can be situated to address slope, vegetation, vehicular access and to minimise visual impact on the scenic qualities of the locality. It is noted the sites are identified as containing 'Ridgeline Street' and 'Pastoral Valleys' in the Kurmond Kurrajong Landscape Character Study. The proposed minimum lot sizes do not support retaining this character, in particular 'Pastoral Valleys' as lightly sloping open pastures with scattered trees. <p>In conclusion, the planning proposal was not considered to have strategic merit. As a Gateway determination had been issued, and Council's planning investigations for the Kurmond Kurrajong were underway, the Department permitted the planning proposal to continue however the proposal was altered to reduce the impact of the development for the reasons stated above.</p>
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Council's justification

Details of justification:	<p>The Department sought comment from Council on the Gateway determination review, Council provided comments dated 8 December 2020 (Attachment D). Council officer comments provide a response to each of the points raised in the proponent's request for the Gateway determination review as follows.</p> <p>1. Proponent: the planning proposal satisfies the sustainability criteria outlined in the adopted Hawkesbury Residential Strategy 2011.</p> <p>Council comment: Council states the Hawkesbury Residential Land Strategy 2011 provides a Sustainability Matrix which establishes a minimum level of services and facilities defined by the classification of each centre, under which Kurmond is expected to be a Neighbourhood Centre in the long term.</p> <p>The Strategy's criteria to maintain the ongoing viability of rural villages promotes future development as low density and large lot residential dwellings that must meet set criteria.</p> <p>Council states the proposal is consistent with the criteria for the following reasons:</p> <ul style="list-style-type: none"> <i>Sites are able to have onsite sewerage disposal</i> – the proposal has demonstrated that the land is capable of supporting onsite sewerage disposal on the future lots; <i>Cluster around or on the periphery of villages</i> – the proposal involves land within the Kurmond Kurrajong Investigation Area; <i>Cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within 1km radius)</i> – the proposal is within 1km of Kurmond village; <i>Address environmental constraints with minimal environmental impacts</i> – the proposal will have no adverse environmental impacts; and
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	<ul style="list-style-type: none"> • Within the capacity of the rural village – the proposal will create additional residential lots which can be supported within the capacity of Kurmond village. <p>2. Proponent: the planning proposal satisfies the development constraint principles for the KKIA adopted in 2015.</p> <p>Council comment: On 28 July 2015 Council resolved to adopt an Interim Policy for development constraint principles for planning proposals in the KKIA. Council states the proposal satisfies the principles as essential services are available to future lots and the proposal has demonstrated that future subdivision of the land can be achieved to meet the following criteria:</p> <ol style="list-style-type: none"> a. Essential services under LEP2012 and fundamental development constraints are resolved; b. Building envelopes, asset protection zones (APZs), driveways and roads are located on land with a slope less than 15%; c. Removal of significant vegetation is avoided; d. Fragmentation of significant vegetation is minimised; e. Building envelopes, APZs, driveways and roads (not including roads for the purposes of crossing watercourses) are located outside of riparian corridors; f. Road and other crossings of water courses is minimised; g. Fragmentation of riparian areas is minimised; and h. Removal of dams containing significant aquatic habitat is avoided. <p>3. Proponent: the planning proposal satisfies the Sydney Western City Planning Panel decision of February 2018 (Attachment B2).</p> <p>Council comment: Council states the proposal satisfactorily responds to matters raised by the Panel as follows:</p> <ol style="list-style-type: none"> a. The inclusion of an intention to amend the Minimum Lot Size Map under the Hawkesbury LEP 2012 – the planning proposal includes an amendment to the minimum lot size map and provisions. b. The consideration of the inclusion of an environmental zone to protect areas identified in the supporting ecological assessments as being sufficient such as water courses and endangered ecological communities – Council officers do not support the inclusion of an E2 Environmental Conservation zone as the determination of appropriate zones is to be considered as part of the strategic planning framework for the KKIA as a whole and the current development controls and lot sizes protect significant environmental features. c. Referral of the planning proposal to relevant public authorities for comment – referrals with public authorities will occur as the proposal progresses. d. Consideration of: <ol style="list-style-type: none"> i. The impact of subsequent development on the creek system and on native vegetation on site – 5,000m² or a greater lot size at 79 and 95 Bells Lane and a minimum lot size of 1.6ha for the area of land at 100 Bells Lane would provide for the preservation of riparian areas. Adequate areas free of native and riparian vegetation have been provided for future development including building envelopes, asset protection areas, effluent disposal areas and driveways. ii. The provision of adequate fire protection precautions and management measures – the proposal's supporting Bushfire Hazard Assessment report demonstrates future development can be carried out in accordance with the RFS' Planning for Bushfire Protection. iii. The extent to which resulting development meets the objectives of the RU1 Primary Production zone – the proposed amendments to minimum lot size is consistent with the objectives of the RU1 zone and other planning proposals within the KKIA. Once the Structure Plan for KKIA is finalised and a suitable land area is identified for rural residential purposes Council will be able to consider possible alternative zones for the locality. e. The ordered provision and improvement of infrastructure that may be needed to support the intensification of the development resulting from the planning proposal – as the proposal progresses, preparation of a Section 7.11 Developer Contributions Plan or a draft Voluntary Planning Agreement will be prepared to support required infrastructure upgrades.
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	<p>4. Proponent: the planning proposal satisfies the original Gateway determination conditions.</p> <p>Council comment: Council states the conditions have been met and public exhibition and consultation with public authorities will occur upon determination of the Gateway review and finalisation of the appropriate lot yields and sizes.</p> <p>5. Proponent: the planning proposal satisfies the Kurmond and Kurrajong Landscape Character Study.</p> <p>Council comment: The planning proposal is consistent with the Kurmond Kurrajong Landscape Character Study, particularly as it is consistent with the following principles which are relevant to the planning proposal:</p> <ul style="list-style-type: none"> • Prevent development and subdivision from sprawling and create a buffer between residential and active rural land uses. • Do not permit small lots (less than 0.5ha) development on land identified as high-very high priority (habitat). - Sites are mapped as significant vegetation under the Hawkesbury LEP 2012 terrestrial biodiversity clause 6.4. The Landscape Character Study provides a biodiversity priority ranking under which vegetation on sites are ranked as moderate to very high – Council states the size of proposed lots within the very high priority habitat areas of the sites are consistent with this requirement. • The proposal is consistent with the two applicable character areas in the Landscape Character Study: <ul style="list-style-type: none"> ○ Ridgeline streets: The landscape character along the ridgeline is predominately urban and their elevated position provides views of Richmond Lowlands and the Blue Mountains. ○ Pastoral valleys: rural character defined by lightly sloping open pastures with scattered trees over gently sloping terrain. It contributes to the scenic qualities of the area by virtue of the lack of buildings. • The proposal does not adversely impact on view/vista corridors for the sites that are identified as having medium to high significance which are required to be retained and protected under the Study. <p>6. Proponent: 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.</p> <p>Council comment: Council confirm the proponent's proposal is based on information prepared at different stages as the structure planning of the KKIA evolved, including the Landscape Character Study and as advised by Council officers.</p> <p>7. Proponent: the 1ha lot size imposed by the Gateway determination seems arbitrary as the Landscape Character Study recommends a minimum lot size of 5000m² for sites within very high priority habitat.</p> <p>Council comment: Council state while the size of proposed lots within the very high priority habitat areas of the site are consistent with the minimum lot size requirement recommended by the Landscape Character Study, the appropriateness of future lot sizes is subject to other considerations such as the character and views/vistas. The Draft KKIA Structure Plan proposes a minimum lot size for subdivision of 1ha to maintain the pastoral character of the locality for 79, 95 and 100 Bells Lane and a minimum lot size of 4,000m² for 457 Bells Line of Road.</p> <p>Council considered the inconsistency is justified, as future development resulting from the proposal will be located to the rear of the properties within the landscape character type of ridgeline street and the density of development at the front of the lots within the pastoral valley landscape will remain unchanged.</p>
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	<p>8. Proponent: in its letter dated 15 April 2019 (Attachment C3), the council provided very clear directions to the proponent to allow progression of the proposal. The proponent has satisfied those directions.</p> <p>Council comment: Council confirm the proposal was amended in accordance with Council's request of 15 April 2019 (as outlined in the Proponent's view section of this report).</p> <p>9. Proponent: while not formally adopted by Council, the latest strategic planning document is the KKIA Structure Plan.</p> <p>Council comment: At its meeting on 30 June 2020 Council considered the outcome of the public exhibition of the draft Kurmond Kurrajong Investigation Area Structure Plan and resolved to defer consideration of the draft plan until the local housing strategy, rural lands strategy and local strategic planning statement had been completed.</p>
Material provided in support of application/proposal:	No additional information provided.

Proponent's view

Details of justification:	<p>The proponent sought the Gateway determination review on 10 November 2020 (Attachments C1-C8).</p> <p>It is noted, following the 2018 Gateway, Council wrote to the proponent in April 2019 (Attachment C3) requesting updated plans of subdivision with revised lot sizes to respond to Council's studies as well as an updated flora and fauna report and bushfire hazard assessment with subsequent updates to the proposal document.</p> <p>The proponent provided the following justification for requesting a Gateway determination review:</p> <ul style="list-style-type: none"> • 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 5,000m² for sites within very high priority habitat. • In its letter dated 15 April 2019, the Council provided very clear directions to the proponent to allow progression of the proposal. The proponent has satisfied those directions. • While not formally adopted by Council, the latest strategic planning document is the Kurrajong Investigation Area Structure Plan. <p>The proponent also provided the following commentary regarding each site.</p> <p>100 Bells Lane 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 as per the updated 2019 concept shown in Figure 4 above).</p> <p>457 Bells Line of Road 457 Bells Line of Road is identified within the draft Kurmond Kurrajong Investigation Area Structure Plan as suitable for a minimum lot size of 4,000m². The Planning Proposal sets a</p>
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minimum lot size of 4,000m² for this land, with proposed lot sizes varying between 5,200m² and 6,300m² (**Figure 5** above). It is submitted that there is no justification for requiring a 1ha minimum lot size for this land.

79 Bells Lane

The proposed layout for 79 Bells Lane (**Figure 2**) is the outcome of detailed discussion with Council staff and further environmental studies conducted by the proponent 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. This property has a number of existing buildings along the Bells Lane frontage. A 1 hectare minimum lot size would facilitate a 2 lot subdivision of this land, rather than the 4 lots proposed.

Notwithstanding the submission that the minimum lot size of 4,000m² is appropriate for this property, the proponent would be prepared to amend the planning proposal to permit a minimum lot size of 9,000m² on this site only. This would permit subdivision into three rather than five lots and would not result in additional buildings along the ridgeline. **Figure 6** is a satellite image showing the location of existing substantial buildings along the ridgeline.



Figure 6 – aerial photo indicating properties along the ridge line fronting Bells Lane.

A 9,200m² minimum lot size (enabling 3 lots) could be configured as shown below, creating no additional buildings along the Bells Lane ridgeline (**Figure 7**).



Figure 7 – 3 lot subdivision layout based on 9,200m² minimum lot size

	<p>95 Bells Lane</p> <p>The proposed layout for 95 Bells Lane (Figure 3 above) is the outcome of detailed discussion with Council staff and further environmental studies conducted by the proponent 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.</p> <p>The proponent provides the following comments in conclusion:</p> <ul style="list-style-type: none"> • The proponent 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. • 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 proponent 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 determined on 2 February 2018 by Sydney Western City Planning Panel. <p>Based on this supporting information and in the circumstances, the Proponent requests that a Gateway Determination be issued in respect of all four properties, with the following conditions:</p> <ul style="list-style-type: none"> ○ Minimum lot size of 1 ha for No.100 Bells Lane (max yield 3 lots) ○ Minimum lot size of 1 ha and 5,000m² for No.95 Bells Lane (max yield 3 lots) ○ Minimum lot size of 5,000m² and 4,000m² for No.79 Bells Lane (max yield 5 lots) ○ Minimum lot size of 4,000m² for No.457 Bells Lane (max yield 4 lots)
Material provided in support of application/proposal:	<p>The proponent has provided the following documents to support its Gateway Review request:</p> <ul style="list-style-type: none"> • Gateway Review Request Application Form; • Supporting Information Report for Gateway Determination Review; • Letter from Council requesting updates to planning proposal April 2019; • Planning Proposal September 2019; • Bushfire Hazard Assessment September 2019; • Flora and Fauna Report September 2019; • On-site Wastewater Management Report 2014; and • Review of RU1 Objectives January 2019.

Assessment summary

Department's assessment	<p>The Department has considered both the Council and proponent submissions. A review of the proposal, as submitted for Gateway Determination review, indicates further work is required to address the conditions of the Gateway to demonstrate strategic and site-specific merit.</p>
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Strategic Merit – District Plan

The site is located in the Metropolitan Rural Area (MRA) identified in the Western City District Plan.

The proposal is inconsistent with the strategic planning framework, specifically the values of the MRA. It has not demonstrated how the proposal protects and enhances the environmental, social and economic values of the rural area as required under Planning Priority W17 Better managing rural areas.

Rural residential development is not generally supported in the MRA however limited growth could be considered if it demonstrates there are no adverse impacts on the amenity of the local area and the development provides incentives to maintain and enhance the environment, social and economic values of the MRA.

The proposal has not adequately demonstrated how the development meets the above criteria and cannot be considered in isolation considering the number of other proposals in the area. Table 2 outlines below the Department's review of live planning proposals within the Kurmond Kurrajong Investigation area.

Table 2: Department's review of live planning proposals within Kurmond Kurrajong Investigation Area

Site	Planning Proposal	Department Decision
98 Bells Lane Kurmond	4,000m ² lot size	Refused
42 Bells Lane, Kurmond	4,000m ² , 1 ha lot size	Refused
79, 95 & 100 Bells Lane, 457 Bells Line of Road, Kurmond	5-6,000m ² , 1 ha. 2 out of the 4 sites are below the minimum. 18 lots	Gateway altered - Removed 1 property, increased min lot size to 1 ha
2 Inverary Drive, Kurmond	2,000m ² , 2ha 36 lots	Gateway altered - Increased min lot size to 1 ha, consolidated lot to protect vegetation.
631 Bells Line of Road, Kurrajong	4,000m ² (1/3 of site), 1 ha (2/3 of site) 10 lots	Gateway altered - Compliance with Council's KKIA development principles. End result of three (3) lots. **

** Gateway determination issued prior to District Plan being in place.

In assessing consistency with the District Plan, Planning Priority W16 Protecting and enhancing scenic and cultural landscapes is also relevant. The District Plan states ridgelines are highly valued elements of scenic landscapes and development should not diminish their scenic quality.

The planning proposal (September 2019) states the land is located on the lower foot slopes of the Blue Mountains eastern escarpment. There are numerous minor ridgelines within the locality, including Bells Line of Road and local roads. Future development resulting from these planning proposals will be largely lower than the existing minor ridgelines and will not impact on distance views to the eastern escarpment.

To support the draft Kurmond Kurrajong Structure Plan, a Landscape Character Study was prepared. It identified four main landscape character types and low-medium, medium-high and high view corridors, mostly from Bells Line of Road. The sites are within significant view corridors categorised as medium, medium-high and high with the corresponding action of 'retain and protect view'.

	<p>The proposal's consistency with the relevant landscape character and view corridors is discussed below however, it is concluded the proposal has not adequately addressed how the development, as a result of the proposal, will ensure the significant views are retained and protected.</p> <p><u>Strategic Merit – Local Strategic Planning Framework</u></p> <p>Since the Department issued the Gateway alteration in April 2020, the strategic planning framework has evolved significantly. Of particular note:</p> <ul style="list-style-type: none"> • 30 June 2020 – Council resolved to defer the further consideration of the draft Kurmond Kurrajong Investigation Area Structure Plan until local housing strategy, rural lands strategy and local strategic planning statement have been completed. • 10 November 2020 – Council resolved to adopt the LSPS and send to the Greater Sydney Commission for endorsement. • 8 December 2020 – Council adopted the Hawkesbury Local Housing Strategy and endorsed the draft rural lands strategy to be placed on exhibition. <p>The endorsed 2020 Housing Strategy replaces the 2011 Hawkesbury Residential Strategy. The new and endorsed Hawkesbury Local Housing Strategy acknowledges the Kurmond Kurrajong Investigation Area as an 'urban investigation area', and that investigations currently being undertaken by Council, and the problematic nature of individual planning proposals proceeding ahead of the more holistic planning approach.</p> <p>The Housing Strategy includes the possible dwelling capacity associated with finalised proposals and existing zoned land but does not provide allowance for live planning proposals including the subject planning proposal.</p> <p>The Kurmond Kurrajong Investigation Area is not identified within the 'Housing Priorities' options for consideration. The 'Housing Priorities – consideration of options' include reviewing remnant R2 Low Density lands in or adjacent to centres, Hobartville zoning review, particular areas in South Windsor, The Strategy sets out suggested changes to the Hawkesbury LEP land use zones to address the options outlined above but does not consider potential to rezone rural zones or E3 Environmental Management zoned land due to the non-residential focus of those lands and other ongoing investigations.</p> <p>The draft rural lands strategy identifies Kurmond and Kurrajong as a local centre – village. It recommends both Kurmond and Kurrajong settlements are not suitable places for residential intensification other than natural or organic growth, because of bushfire risk, steep topography and specifically for Kurmond, lack of services and facilities.</p> <p>Hawkesbury's draft Local Strategic Planning Statement does not include any details regarding the precinct planning or investigations into the Kurmond-Kurrajong area for additional housing. The Kurmond-Kurrajong centres are only referenced for future opportunities to provide tourist accommodation, facilities, and small-scale events to further grow its role as a tourism destination.</p> <p>The adopted Local Housing Strategy, draft Rural Lands Strategy and LSPS do not contain justification for residential expansion within the Kurmond Kurrajong Investigation Area. As Council deferred the consideration of the Kurmond Kurrajong Structure Plan until the completion of supporting studies, there is no strategic merit to support the continuation of this proposal.</p> <p><u>Strategic Merit – Section 9.1 Direction 1.2 Rural Zones</u></p> <p>As part of the assessment of the Gateway Determination Review request, the Department reviewed the proposals consistency with Section 9.1 Directions. The planning proposal's inconsistencies with Section 9.1 Direction, 1.2 Rural Zones was justified in accordance with the terms of the Direction as part of the Gateway Determination and no further approval was required. However, as a result of change in policy, the proposal has been re-assessed against this Direction.</p> <p>The planning proposal is not justifiably inconsistent with Direction 1.2 to retain rural lands due to the following:</p> <ul style="list-style-type: none"> • The subject site's location is on the edge of an existing village. The proposal cannot be justified as 'increasing permissible density of land...is within an existing town or
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	<p>village', except for 457 Bells Line of Road which is located in close proximity to the Kurmond village.</p> <ul style="list-style-type: none">• It has not adequately demonstrated that it is consistent with the Western City District Plan;• It is not supported by an updated strategic planning framework, specifically adequate references within the draft Rural Lands Strategy and adopted Housing Strategy; and• The inconsistency cannot be viewed as a minor significance given the number of proposals seeking to increase residential development in this area. <p><u>Site-specific merit</u></p> <p>Upon review of the additional information submitted within the Gateway determination review package, it is concluded the proposal has limited site-specific merit for increased residential development. This conclusion was supported by the following:</p> <ul style="list-style-type: none">• The proposal has not adequately demonstrated the proposed layout is consistent with the 2015 Interim development principles for the Kurmond Kurrajong Investigation Area, specifically whether building envelopes, asset protection zones, driveways and roads are located on land with a slope less than 15%.• Flora and fauna study identified the presence of shale sandstone transition forest in either poor/moderate condition. There are suitably cleared areas to locate additional dwellings.• Asset protection zones to support the proponent's subdivision layout for all sites would require removal/modification of some vegetation listed as Shale Sandstone Transition Forest listed as a Critically Endangered Ecological Community under the Biodiversity Act and EPBC Act.• On-site wastewater management areas can be accommodated. <p>The Kurmond Kurrajong Landscape Character study identified the subject sites to be in a ridgeline street or pastoral valley landscape character. 'Ridgeline streets' are predominantly urban and provide views of Richmond Lowlands and/or Blue Mountains. 'Pastoral Valleys' is defined by the lightly sloping open pastures with scattered trees over gently sloping terrain. Properties are dotted amongst the hills and valleys of the landscape situated between groupings of trees.</p> <p>The Landscape Character study also identified the subject sites as being within either medium, medium-high or high significant view corridors. Table 3 summarises the landscape character and view corridors applying to each property. Figures 8 and 9 are excerpts of the landscape character mapping and location of view corridors.</p> <p>Table 3 Landscape Character & View Corridors</p> <table><tr><th>Site</th><th>View Corridor, Description and Significance</th><th>Landscape character</th></tr><tr><td>79 Bells Lane</td><td>Pastoral landscapes with views to Blue Mountains (Corridor E), High significance Rural residential with glimpses of Blue Mountains (Corridor G), Medium significance</td><td>Ridgeline Street (rear 1/3 of site) Pastoral valley (2/3 of site)</td></tr><tr><td>95 Bells Lane</td><td>Pastoral Landscape with views to Blue Mountains (Corridor E), High significance</td><td>Ridgeline Street (rear 1/3 of site) Pastoral valley (2/3 of site)</td></tr><tr><td>100 Bells Lane</td><td>Dense vegetation in foreground with views to the Blue Mountains (Corridor B), High Significance. Frontage road with views to Blue Mountains (Corridor C), Medium-high significance</td><td>Pastoral Valley (whole site)</td></tr><tr><td>457 Bells Line of Road</td><td>Gently sloping pastoral landscapes (Corridor I), Medium Significance.</td><td>Ridgeline Street (whole of site)</td></tr></table>	Site	View Corridor, Description and Significance	Landscape character	79 Bells Lane	Pastoral landscapes with views to Blue Mountains (Corridor E), High significance Rural residential with glimpses of Blue Mountains (Corridor G), Medium significance	Ridgeline Street (rear 1/3 of site) Pastoral valley (2/3 of site)	95 Bells Lane	Pastoral Landscape with views to Blue Mountains (Corridor E), High significance	Ridgeline Street (rear 1/3 of site) Pastoral valley (2/3 of site)	100 Bells Lane	Dense vegetation in foreground with views to the Blue Mountains (Corridor B), High Significance. Frontage road with views to Blue Mountains (Corridor C), Medium-high significance	Pastoral Valley (whole site)	457 Bells Line of Road	Gently sloping pastoral landscapes (Corridor I), Medium Significance.	Ridgeline Street (whole of site)
Site	View Corridor, Description and Significance	Landscape character														
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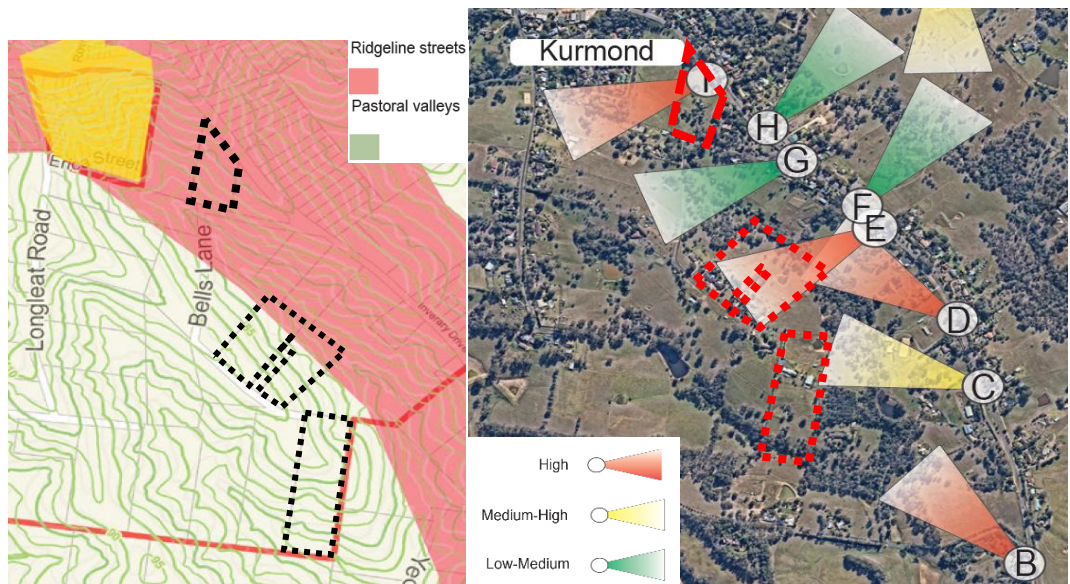


Figure 8 (L): Landscape Character analysis with subject sites highlighted

Figure 9 (R): View Corridor analysis with subject sites highlighted

79 and 95 Bells Lane properties are within a high significance view corridor with the majority of the site identified as pastoral valley landscape character. It is not considered the proposal has adequately demonstrated how it ensures the view corridors and landscape character will not be adversely impacted by the resultant rural residential development.

It is also noted the Gateway Determination Review package stated that while it maintained 4,000m² for an appropriate lot size for 79 Bells Lane, the proponent was willing to accept a 9,000m² minimum lot size which would result in no additional buildings along the ridgeline.

It is noted that the proposal has been amended at the request of Council in respect of 100 Bells Lane, reducing the lot yield to three (3), in order to maintain district and regional views and increase compatibility with the landscape character. Notwithstanding, the planning proposal does not provide any further justification as to how the proposal will not adversely impact the significant view corridors or landscape character.

Recommendation

The planning proposal does not demonstrate strategic merit and limited site-specific merit.

The Department's position is that this planning proposal should not proceed.

Attachments

Attachment A – Altered Gateway determination April 2020
Attachment B1 – Gateway determination June 2018
Attachment B2 – Sydney Western City Planning Panel rezoning review advice February 2018
Attachment C1 – Gateway review request application form
Attachment C2 – Proponent Supporting Information Report for Gateway Determination Review
Attachment C3 – Letter from Council requesting updates to planning proposal April 2019
Attachment C4 – Planning Proposal September 2019;
Attachment C5 – Bushfire Hazard Assessment September 2019;
Attachment C6 – Flora and Fauna Report September 2019;
Attachment C7 – On-site Wastewater Management Report 2014; and
Attachment C8 – Review of RU1 Objectives January 2019.
Attachment D – Council's Gateway review comments
Attachment F1-F2 – Planning proposal submitted for Gateway determination 2017.
Attachment G – Council's post exhibition report on the Kurmond Kurrajong Investigation Area draft Structure Plan 30 June 2020

COMMISSION'S RECOMMENDATION

Reason for review: A determination has been made that

Recommendation:	<input type="checkbox"/>	The planning proposal should not proceed past Gateway.
	<input type="checkbox"/>	no amendments are suggested to original determination.
	<input type="checkbox"/>	amendments are suggested to the original determination.
	<input type="checkbox"/>	The planning proposal should proceed past Gateway in accordance with the original Determination.

Any additional comments:

Nil

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