

Hawkesbury LEP 2012 - minimum lot size amendment for 1420 Kurmond Road, Kurmond

Proposal Title : **Hawkesbury LEP 2012 - minimum lot size amendment for 1420 Kurmond Road, Kurmond**

Proposal Summary : **The proposal seeks to reduce the minimum lot size for land at 1420 Kurmond Road, Kurmond, from 4ha to not less than 4,000m2 in order to facilitate a 12-lot rural residential subdivision.**

PP Number : **PP_2015_HAWKE_002_00**

Dop File No : **14/20576**

Proposal Details

Date Planning
Proposal Received : **10-Dec-2014**

LGA covered : **Hawkesbury**

Region : **Metro(Parra)**

RPA : **Hawkesbury City Council**

State Electorate : **LONDONDERRY**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **1420 Kurmond Road**

Suburb : **Kurmond**

City :

Postcode :

Land Parcel : **Lot 2 DP 805023**

DoP Planning Officer Contact Details

Contact Name : **Chris Browne**

Contact Number : **0298601108**

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RPA Contact Details

Contact Name : **Karu Wijayasinghe**

Contact Number : **0245604546**

Contact Email : **kwijayasinghe@hawkesbury.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Derryn John**

Contact Number : **0298601505**

Contact Email : **derryn.john@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A**

Release Area Name : **N/A**

Regional / Sub
Regional Strategy : **Metro North West subregion**

Consistent with Strategy : **Yes**

MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	10
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **To the best of the knowledge of Metropolitan (Parramatta), the Department's Code of Practice in relation to communications and meetings with lobbyists has been complied with. Metropolitan (Parramatta) has not met with any lobbyist in relation to this proposal, nor has the Director been advised of any meetings between other departmental officers and lobbyists concerning this proposal.**

POLITICAL DONATIONS DISCLOSURE STATEMENT

Political donations disclosure laws commenced on 1 October 2008. The legislation requires the public disclosure of donations or gifts for certain circumstances relating to the planning system.

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Secretary is required to disclose all reportable political donations (if any).

The Department has not received any disclosure statements for this planning proposal.

Have there been meetings or communications with registered lobbyists? :

No

If Yes, comment : **The Department's Lobbyist Contact Register has been checked on 5 March 2015, and there are no records of contact with lobbyists in relation to this proposal.**

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **KURMOND INVESTIGATION AREA AND HAWKESBURY RESIDENTIAL LAND STRATEGY**

In response to the receipt of a number of planning proposals to facilitate rural residential subdivision around Kurmond, Hawkesbury City Council on 5 February 2013 resolved to carry out investigations into the suitability of this area for rural residential development.

On 24 June 2014, Council considered a report on the progress of these investigations and resolved that they be reviewed, that Kurmond be the first area to have a development/ structure plan prepared, and that future planning proposals for the locality must be consistent with any structure plan and/or Section 94 Plan that is in place.

On 3 February 2015, Council resolved that acceptance of new planning proposals for the locality be suspended until structure planning and development contribution planning for the Kurrajong and Kurmond Investigation Areas are completed or July 31 2015.

This planning proposal was lodged with Council in May 2014, so neither the June 2014 resolution nor the February 2015 is applicable to it.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The proposal seeks to facilitate a twelve-lot subdivision of the subject site for rural residential purposes.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The planning proposal seeks to deliver its objectives by amending the Hawkesbury LEP 2012 minimum lot size map to identify a 4,000m² minimum lot size for part of the subject site and retain the existing 4 hectare minimum lot size for the remainder of the site, which is to be retained as native bushland for conservation under a community title.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

7.1 Implementation of A Plan for Growing Sydney

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SREP No 9—Extractive Industry (No 2—1995)

SREP No. 20 - Hawkesbury—Nepean River (No. 2 - 1997)

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

1.2 Rural Zones

The site is zoned RU4 Primary Production Small Lots, and no change to this zoning is proposed. The intended reduction in minimum lot size from 4 hectares to 4,000m² will facilitate the development of twelve rural residential lots on a site that currently accommodates two dwellings, and this increase in residential density within a rural zone is not consistent with the intent of the Direction.

Given the small dwelling yield of the proposal, the current low-intensity use of the land for hobby farming, and the site's proximity to Kurmond village, it is considered that this inconsistency is minor.

1.3 Mining, Petroleum Production and Extractive Industries

There is nothing to suggest that the site is in close proximity to any sources of extractive materials. It is not clear why Council has identified this Direction as relevant, but it is considered that the proposal is consistent with the Direction.

3.1 Residential Zones

The proposal will facilitate the delivery of new housing and will contribute to housing

choice in the Hawkesbury local government area. It is therefore consistent with this Direction.

3.3 Home Occupations

The proposal will not have any impact on the ability of people to carry out low-impact small businesses in dwelling houses, and is therefore consistent with this Direction.

3.4 Integrating Land Use and Transport

The proposal will facilitate increased residential density in a location that is not regularly serviced by public transport, and will therefore require residents to drive, which is inconsistent with the intent of this Direction. Council argues that the Direction is centres-focused and does not readily translate to a rural residential context. Given this, and the small scale of the intended development, it is considered that this inconsistency with the Direction is minor in nature.

4.1 Acid Sulfate Soils

The site is identified as Class 5 (less constrained) on the Acid Sulfate Soils Planning Map. Hawkesbury LEP 2012 contains provisions (Clause 6.1 Acid Sulfate Soils) relating to acid sulfate soils, and it is considered that these provisions provide adequate protection against adverse impacts. Any inconsistency with this Direction is therefore minor in nature.

4.4 Planning for Bushfire Protection

The site is identified as bushfire vegetation category 1 on the Bushfire Prone Land Map. This Direction requires Council to consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway determination and prior to community consultation. The proposal is considered consistent with Direction 4.4 subject to Council completing the consultation process with NSW Rural Fire Service (as conditioned in the Gateway determination).

6.1 Approval and Referral Requirements

The proposal does not contain provisions requiring the concurrence, consultation or referral of development applications to a Minister or public authority, and nor does it identify any development as designated development. It is therefore consistent with this Direction.

6.3 Site Specific Provisions

The proposal does not introduce any site-specific provisions in addition to the controls already included in Hawkesbury LEP 2012. It is therefore consistent with this Direction.

7.1 Implementation of A Plan for Growing Sydney

The planning proposal was prepared with consideration for the previous Direction 7.1 'Implementation of the Metropolitan Strategy' prior to the release of the current Metropolitan Strategy - 'A Plan for Growing Sydney'. The proposal needs to be updated to include a discussion of the consistency with 'A Plan for Growing Sydney'.

The proposal is broadly consistent with A Plan for Growing Sydney in that it supports the following key Direction within the Plan: 2.1 Accelerate housing supply across Sydney. The rezoning is expected to facilitate development of an additional 10 dwellings close to Kurmond village and within the Metropolitan Rural Area.

SEPP NO. 55 - REMEDIATION OF LAND

The land has been used for limited grazing (horses and cattle) in the past and therefore carries a low risk of soil and groundwater contamination. The applicant has said that there is no obvious evidence of surface or groundwater pollution as a result of past uses. Clause 6 of SEPP 55 requires that Council carry out an investigative study if contamination is suspected. Council has stated that any investigation could be carried out following the issue of the Gateway determination. It is considered that, due to the minor risk of contamination, an investigative study is not required, and there are adequate protections at the development application stage.

SREP NO. 9 — EXTRACTIVE INDUSTRY (NO. 2—1995)

The site is not within the vicinity of land described in Schedule 1, 2, 3 and 5 of the SREP. Schedule 4, however, applies to all land within the Hawkesbury local government area. The subdivision will not restrict the removal of deposits of extractive material from such land. The land and surrounding area have no history of extractive industry. Due to the minor significance of the proposal it is therefore considered that any inconsistency with the objectives of SREP No. 9 is justified.

SREP NO. 20 - HAWKESBURY-NEPEAN RIVER (NO. 2 - 1997)

The aim of SREP No. 20 is to protect the environment of the Hawkesbury–Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. Part 2 of SREP 20 provides general planning considerations, specific planning policies and recommended strategies.

It is considered that the proposal is minor, and can be achieved without any significant adverse impact on the Hawkesbury River Catchment. The site is not situated within an area of scenic significance under this SREP. Due to the minor significance of the proposal it is therefore considered that any inconsistency with the objectives of SREP No. 20 is justified.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Council has provided extracts of the existing and proposed minimum lot size maps as well as a draft concept plan of the proposed subdivision. These maps are adequate to identify the subject site.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Community consultation will be carried out in accordance with the conditions of the Gateway determination.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : Hawkesbury LEP 2012 is a Principal LEP.

Assessment Criteria

Need for planning proposal : The proposal is not the result of any strategic study or report, but is instead the result of an application made by the land owner. However, Council's Residential Land Strategy 2011 recognised the need to maintain the ongoing viability of rural villages through residential

development (Section 6.5 Rural Village Development Criteria). The Strategy states that all future low density and large lot residential development in rural villages should cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within a 1km radius). The proposal is a low density development within 1km of Kurmond village, and it is therefore likely to contribute to the ongoing viability of Kurmond.

The Department has received a number of planning proposals for reduced lot size and intensified rural residential development for sites within the Kurmond Investigation Area. Two of the proposals are currently under consideration and the remaining proposals were granted approval/Gateway status. One of these proposals was for land at 1411 Kurmond Road (directly opposite the subject site) and has been finalised. Another was for land at 1442 and 1442A Kurmond Road (approximately 100m closer to Kurmond than the subject site) and is still under consideration post-Gateway.

Consistency with strategic planning framework :

A PLAN FOR GROWING SYDNEY

The subject land falls within the Metropolitan Rural Area as identified by A Plan for Growing Sydney, but Kurmond is not identified as being of any regional or strategic significance.

The Plan refers generally to the importance of sustaining the viability of agricultural resources and rural residential areas within the Metropolitan Rural Area and South West subregion. Due to the location of the subject land within 1km of the Kurmond Neighbourhood Centre and the smaller surrounding lot sizes, the subject land is unlikely to be viable for agricultural purposes and is suitable to contribute to the expansion of Kurmond.

DRAFT NORTH WEST SUBREGIONAL STRATEGY

The draft North West Subregional Strategy does not refer to the site specifically. The draft Strategy states that rural lands need to be protected from incompatible uses for their ongoing viability. This is particularly the case for intensive agricultural industries such as poultry sheds, mushrooms and protected cropping (pg. 117). As the site has limited agricultural capability and is surrounded by smaller rural residential lots, it is not considered to be significant rural resource land.

The proposal will contribute to the Hawkesbury local government area's housing target of 5,000 new dwellings for Hawkesbury by 2031. The proposal is considered to be generally consistent with the draft Subregional Strategy.

HAWKESBURY RESIDENTIAL LAND STRATEGY

The Hawkesbury Residential Land Strategy notes a number of impacts associated with rural residential development, and establishes criteria that proposals should meet in order to be considered. These criteria include the capacity for on-site effluent disposal, location on the periphery (ie. within 1km) of existing villages, ability to address environmental constraints and have minimal environmental impact, and ability to occur within the infrastructure capacity of the village. The subject site is within 1km of Kurmond village centre and is unlikely to have a significant impact on Kurmond's infrastructure, and the proposal is able to address environmental issues so as to minimise environmental impact. A preliminary wastewater study has concluded that on-site effluent disposal is achievable on each proposed lot identified by the subdivision concept plan.

Environmental social economic impacts :

ENVIRONMENTAL IMPACTS

The site is shown on Council's Biodiversity Map as being partly within a Significant Vegetation Area, partly within an area of Connectivity between Significant Vegetation Areas and partly clear of constraint. The vegetated areas are toward the rear of the site (bordering Howes Creek), and the applicant proposes to retain 6.2 hectares (more than half of the site) for conservation under a community title. This 6.2 hectare portion is to retain its current 4 hectare minimum lot size.

It is considered that the concept subdivision plan shows sufficient land within the generally cleared area that could be available for the erection of buildings, waste water disposal and asset protection zones.

The site is within a Class 3 and Class 4 agricultural land classification in accordance with the NSW Department of Primary Industries' Land Classification mapping. Class 3 land is grazing land or land well suited to pasture improvement with moderate production level, while Class 4 is considered as marginal lands not suitable for cultivation and with low productivity for grazing. The proximity of the site to rural residential properties with lots generally between 2ha to 6ha in size, in addition to the size and slope of the land, indicate that the site is unlikely to provide a sustainable and viable area for primary production use.

A flora and fauna survey and assessment has been undertaken, and this concluded that the intended development would be unlikely to have any significant impact on ecological communities.

SOCIAL AND ECONOMIC IMPACTS

Due to its minor nature, the proposal is unlikely to cause any social or economic impacts. An increase of ten dwellings will contribute in a small way to the growth of Kurmond Neighbourhood Centre.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Hawkesbury - Nepean Catchment Management Authority
Office of Environment and Heritage
Department of Trade and Investment
NSW Rural Fire Service
Transport for NSW - Roads and Maritime Services**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name

DocumentType Name

Is Public

Hawkesbury LEP 2012 - minimum lot size amendment for 1420 Kurmond Road, Kurmond

Council cover letter - 1420 Kurmond Road, Kurmond.pdf	Proposal Covering Letter	Yes
1420 Kurmond Road, Kurmond - Council report.pdf	Proposal	Yes
1420 Kurmond Road, Kurmond - proponent's planning proposal.pdf	Proposal	Yes
Bushfire Hazard Assessment Report - 1420 Kurmond Road, Kurmond.pdf	Study	Yes
Wastewater Assessment - 1420 Kurmond Road, Kurmond.pdf	Study	Yes
1420 Kurmond Road, Kurmond - Flora and Fauna Assessment.pdf	Study	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 3.1 Residential Zones
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.4 Planning for Bushfire Protection
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions
- 7.1 Implementation of A Plan for Growing Sydney

Additional Information :

Delegation of Gateway determination

The proposal is considered to be routine in nature, and it is recommended that the determination function of the Gateway be exercised under delegation by the appropriate officer of the Department of Planning and Environment as dictated by the 2015 Caretaker Conventions.

Delegation to Council

Hawkesbury City Council has requested that plan making functions be delegated to Council. Given the routine nature of the planning proposal, it is recommended that delegations of the Plan Making functions be given to Council in this instance.

It is recommended that the proposal proceed, subject to the following conditions:

1. Prior to exhibition, the planning proposal should be updated to include a discussion regarding its consistency with 'A Plan for Growing Sydney' which was adopted by the State Government in December 2014.

2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 as follows:

- (a) the planning proposal must be made publicly available for a minimum of 14 days; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Section 5.5.2 of A Guide to Preparing Local Environmental Plans (Department of Planning & Infrastructure 2013).

4. Consultation is required with the following public authorities under section 56(2)(d) of the Environmental Planning & Assessment Act 1979 and/or to comply with the requirements of relevant Section 117 Directions:

- Greater Sydney Local Land Services - Hawkesbury-Nepean Catchment Authority
- Endeavour Energy
- Office of Environment and Heritage

- NSW Trade & Investment
- NSW Rural Fire Service
- Roads and Maritime Services

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Environmental Planning & Assessment Act 1979. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. Delegation is to be given to Council to exercise the Minister's plan-making powers.

7. The timeframe for completing the Local Environmental Plan is to be 9 months from the week following the date of the Gateway determination.

Supporting Reasons :

The proposal has merit. It will assist in providing housing and housing choice in the Hawkesbury local government area, and it will contribute to the ongoing viability of Kurmond Neighbourhood Centre. The subject land is identified for rural residential development as part of Council's Kurmond Investigation Area.

Signature:

RJ Cumming

Printed Name:

Rachel Cumming

Date:

17 March 2015