

**Planning Report – Section 3.36 of the Environmental
Planning and Assessment Act 1979**

**Hawkesbury Local Environmental Plan 2012
(Amendment No. 20)**

Planning Proposal – LEP004/16

Lot E DP 373372, 452 Greggs Road, Kurrajong

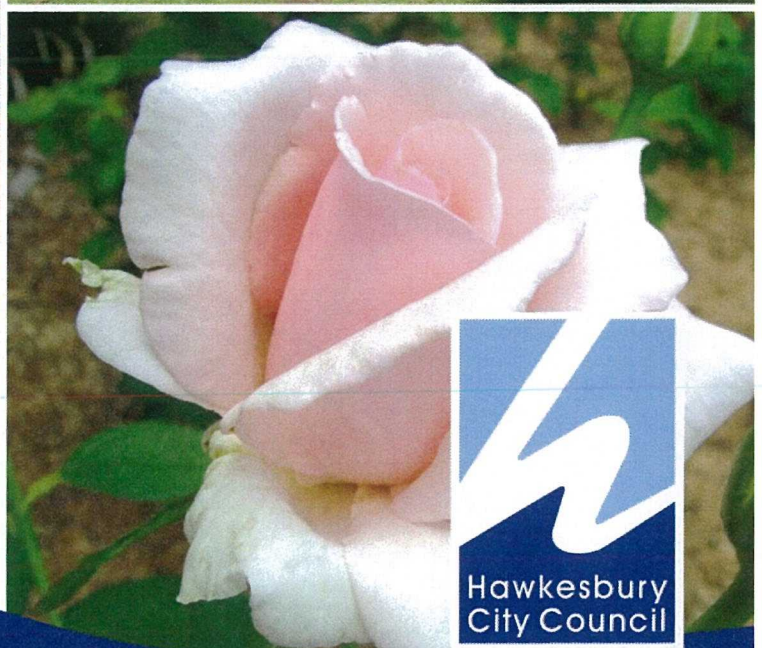


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Section 3.36 Planning Report

Planning proposal details

Department of Planning and Environment (DP&E) Ref: PP_2016_HAWKE_006_00 (16/09174)

Council reference: LEP004/16 - Hawkesbury Local Environmental Plan 2012 (Amendment No. 20).

Planning proposal summary

To amend the Lot Size Map of *Hawkesbury Local Environmental Plan 2012* to permit subdivision of Lot E DP 373372, 452 Greggs Road, Kurrajong into two large rural residential lots

Date of Gateway determination

Gateway determination – 11 July 2016

1 Summary

On 31 May 2016 Council considered a report regarding a planning proposal, submitted by Glenn Falson Urban and Rural Planning Consultant (the applicant), seeking an amendment to Hawkesbury Local Environmental Plan 2012 (LEP 2012) in order to allow subdivision of Lot E DP 373372, 452 Greggs Road, Kurrajong into two large rural residential lots. The subject site is shown in Figure 1, and the concept plan of subdivision included in that report to Council is shown in Figure 2 below.



Figure 1: Subject Site

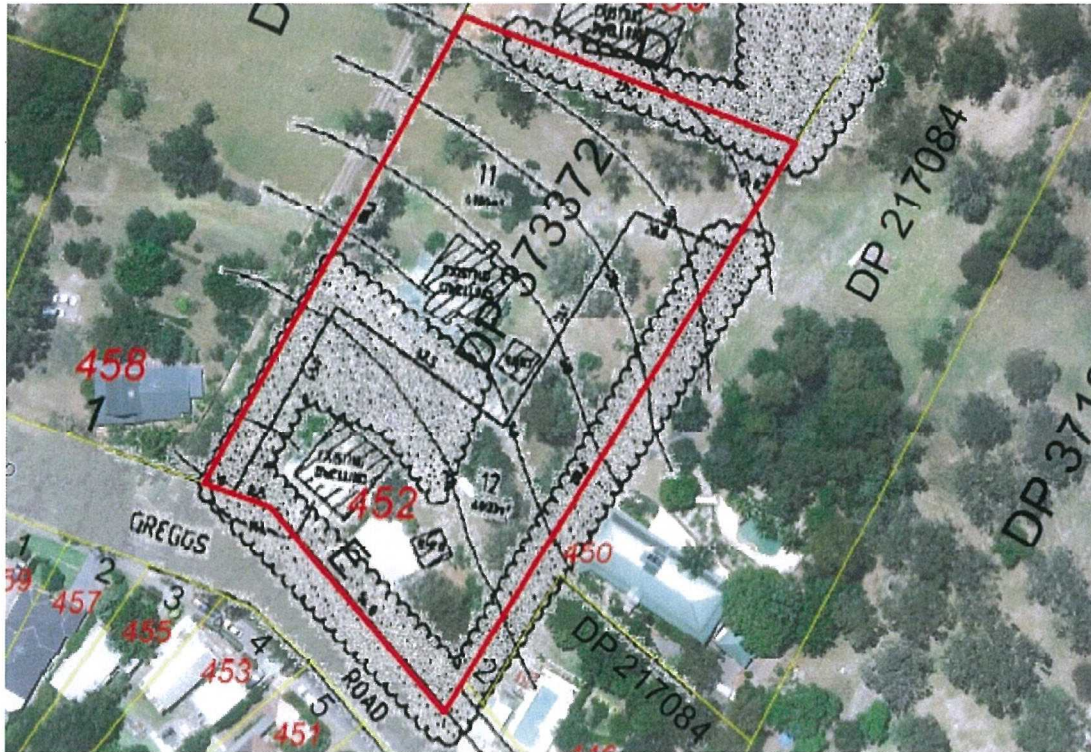


Figure 2: Subdivision Concept Plan

Council at its Ordinary Meeting on 31 May 2016 resolved to forward the planning proposal to the Department of Planning and Environment for a "Gateway" Determination

In June 2016, the planning proposal was forwarded to the DP&E seeking a Gateway Determination. In July 2016, the DP&E advised Council to proceed with the planning proposal.

In accordance with the relevant statutory provisions and the Gateway Determination requirements, consultation with relevant public agencies were completed in September 2016 and the community was consulted during the period Friday 1 September 2017 to Monday 2 October 2017. Submissions received from consultation did not warrant any amendments to the exhibited planning proposal or the abandonment of the proposal.

At its Ordinary Meeting of 12 December 2017, Council resolved to proceed with the making of a plan to amend the Hawkesbury Local Environmental Plan 2012 in order to permit the subdivision Lot E DP 373372, 452 Greggs Road, Kurrajong into two large rural residential lots with a minimum lot size of not less than 4,000m².

2 Gateway Determination

On 11 July 2016 Council received a Gateway Determination advising to proceed with the planning proposal from the DP&E.

The timeframe for completion of the amending LEP identified in the Gateway Determination was 12 months from the week following the date of the determination.

The Gateway Determination provided Council with an authorization to exercise delegation and required to satisfy the following conditions prior to public exhibition:

1. *A flora and fauna study and wastewater disposal study are to be undertaken prior to public exhibition.*

2. *To comply with the requirements of the Section 117 Directions, the following consultation were undertaken prior to public exhibition:*
 - a) *Deputy Secretary of the Department of Industry – Resources and Energy for Section 117 Direction 1.3 Mining, Petroleum Production and Extractive Industries; and*
 - b) *Commissioner of the NSW Rural Fire Service for Section 117 Direction 4.4 Planning for Bushfire Protection.*

In accordance with the Gateway determination, a flora and fauna study and a wastewater disposal study prepared by UBM Ecological Consultants P/L and Barker Ryan Stewart respectively received from the applicant, and consultation was undertaken with the NSW Rural Fire Service (RFS) and the Department of Industry (formerly Department of Industry – Resources and Energy) prior to public exhibition of the planning proposal.

The Department of Industry raised neither objections nor issues to the making of the plan, and the RFS raised no objection to the making of the plan provided that future subdivision of the subject site complies with the requirements of *Planning for Bushfire Protection 2006*.

3 Community Consultation

The planning proposal was publically exhibited for a period of 28 days from Friday, 1 September 2017 to Monday, 2 October 2017. A notice was placed in the 'Hawkesbury Courier' local newspaper and letters were sent to adjoining and nearby landowners and occupiers advising of the public exhibition of the planning proposal. During the public exhibition period the planning proposal and supporting documentation was made available on Council's website and at Council's Main Administration Building.

Council received no submissions from the community during the exhibition period.

A public hearing was not required under section 3.34(2)(e) of the *Environmental Planning and Assessment Act 1979* (the EP&A Act).

4 Views of Public Authorities

In accordance with the Gateway determination, consultation was undertaken with the following public authorities:

- NSW Rural Fire Service
- NSW Office of Environment and Heritage
- Transport for NSW - Roads and Maritime Service
- Department of Industry

Council received responses from all agencies, and in addition, a response was also received from the NSW Department of Primary Industries — Agriculture during the public exhibition period of the planning proposal. Copies of responses received from the public authorities are provided in Attachment 3 of this report.

The Council Officer responses to these submissions can be found in the report to Council dated 29 November 2016 provided in Attachment 2 of this report.

5 Consistency with S.9.1 Directions and other strategic planning documents

The planning proposal is generally consistent with all relevant Section 9.1 (formerly Section 117) Directions except for Section 117 Direction 4.1 Acid Sulfate Soils. The DP&E agreed that the planning proposal's inconsistency with this Direction was minor and no further approval was required in relation to this Direction.

In accordance with Direction 4.4 and a Gateway requirement, the planning proposal was referred to the NSW Rural Fire Service. The response received from the RFS did not oppose the planning proposal and the responses received from the government agencies are provided in Attachment 3 of this report.

6 Parliamentary Counsel Opinion

Council requested the Parliamentary Counsel Office (PCO) to prepare a draft Local Environmental Plan (LEP) to give effect to the planning proposal on 19 February 2018.

The PCO's opinion that the draft LEP may be legally made was received on 27 April 2018. The PCO's opinion is provided in Attachment 3 of this report.

7 Other Relevant Matters

Nil.

8 Mapping

The relevant Lot Size Map Sheet of the LEP and the Map Cover Sheet associated with this amendment were forwarded to the DP&E and the PCO. A copy of this map and an accompanying Map Cover Sheet are provided in Attachment 5 of this report.

9 Recommendation

It is recommended that the Executive Director, as delegate of the Greater Sydney Commission: notify Hawkesbury Local Environmental Plan 2012 (Amendment No. 14) and associated maps, held by the Parliamentary Counsel Office, on the NSW legislation website.

Attachments

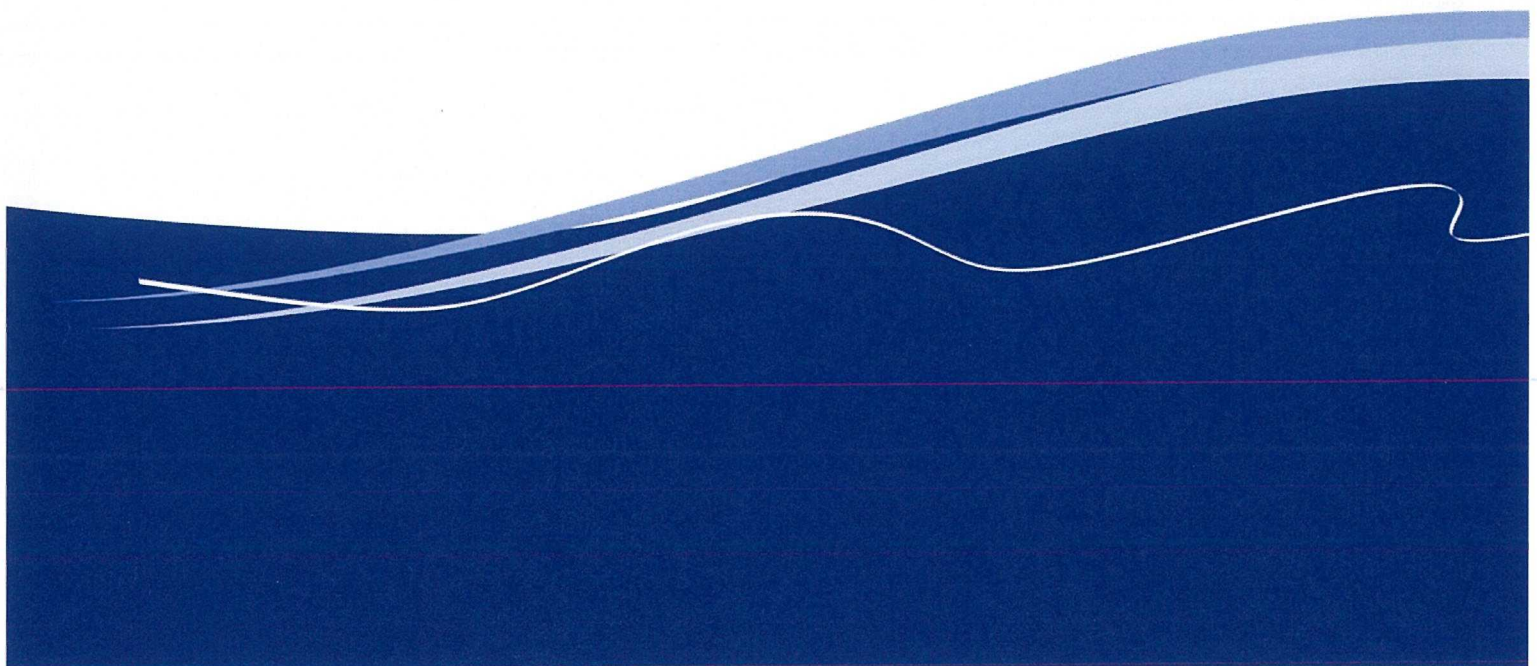
1. Report and resolution of Council meeting 12 December 2017
2. Public authority submissions
3. Parliamentary Counsel's Opinion
4. Map Cover Sheet and associated Lot Size Map
5. Hawkesbury Local Environmental Plan 2012 (Amendment 20)
6. Council Delegate's Details
7. Delegated plan making reporting template



Andrew Kearns
A/Director City Planning
Delegate of Greater Sydney Commission
31/05/2018

Attachment 1

Report and Resolution of Council meeting 12 December 2017



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SECTION 3 - Reports for Determination

PLANNING DECISIONS

Item: 225 CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012
- Lot E DP 373372, 452 Greggs Road, Kurrajong - (95498, 124414)

Previous Item: 96, Ordinary (31 May 2016)

Planning Proposal No:	LEP004/16
Property Address:	452 Greggs Road, Kurrajong
Applicant:	Glenn Falson Urban and Rural Planning Consultant
Owner:	N S Hatherly
Proposal Details:	Amend Hawkesbury Local Environmental Plan 2012 to allow subdivision of Lot E DP 373372, 452 Greggs Road, Kurrajong into two large residential lots with a minimum lot size of not less than 4,000m ²
Date Received:	3 February 2016
Public Exhibition:	1 September 2017 to 2 October 2017
Community Submissions:	Nil
Government Agency Responses:	Five responses
Recommendation:	Council proceed with the making of the LEP amendment and publically exhibit an associated draft Voluntary Planning Agreement

REPORT:

Executive Summary

At its Ordinary Meeting on 31 May 2016, Council considered a report on a planning proposal received from Urban & Rural Planning Consultant (the applicant), seeking to amend the Hawkesbury Local Environmental Plan 2012 (the LEP) in order to allow the subdivision of Lot E DP 373372, 452 Greggs Road, Kurrajong into two large rural residential lots. Council resolved to forward the planning proposal to the Department of Planning and Environment (DP&E) for a Gateway determination.

In July 2016, the DP&E agreed to proceed with the planning proposal and advised Council to undertake consultation with the community and public agencies as identified in the Gateway determination.

Consultation with the relevant public agencies and the community on the planning proposal was completed in accordance with the relevant statutory and 'Gateway determination' requirements.

The outcome of the consultation does not warrant any amendments to the exhibited planning proposal or the abandonment of the proposal.

In accordance with Council's resolution of 31 May 2016 with respect to contributions planning, the applicant on behalf of the developer/property owner offered to enter into a draft Voluntary Planning Agreement (VPA) with Council to pay developer cash contributions to Council for the purposes of infrastructure facilities and works to the value of \$30,000 for the additional rural residential lot on the subject site. A draft VPA has been prepared and finalised in consultation with relevant Council Officers for public consultation.

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It is therefore recommended that Council proceed with the making of a plan in order to permit the subdivision of Lot E DP 373372, 452 Greggs Road, Kurrajong into two large rural residential lots with a minimum lot size of not less than 4,000m² as detailed in this report, and place the draft VPA attached to this report on public exhibition for a minimum of 28 Days.

Consultation

Consultation with the relevant public agencies was completed in August 2016 and the community consultation was completed in early October 2016 in accordance with the relevant statutory provisions and the Gateway requirements.

Council has received responses from all agencies identified in the Gateway determination. In addition, a response was also received from the NSW Department of Primary Industries – Agriculture during the public exhibition period of the planning proposal. The response received from the NSW Department of Industry (Resources & Energy) raised no issues and the other responses raised certain issues. The issues raised in the responses and subsequent comments from the Council Officer are outlined in Attachment 1 of this Report.

Council received no submissions from the community during the exhibition period.

Subject Site

The subject site has an area of 8,359m² and basically rectangular in shape with an approximate frontage of 70m to Greggs Road as shown in Figure 1 below.

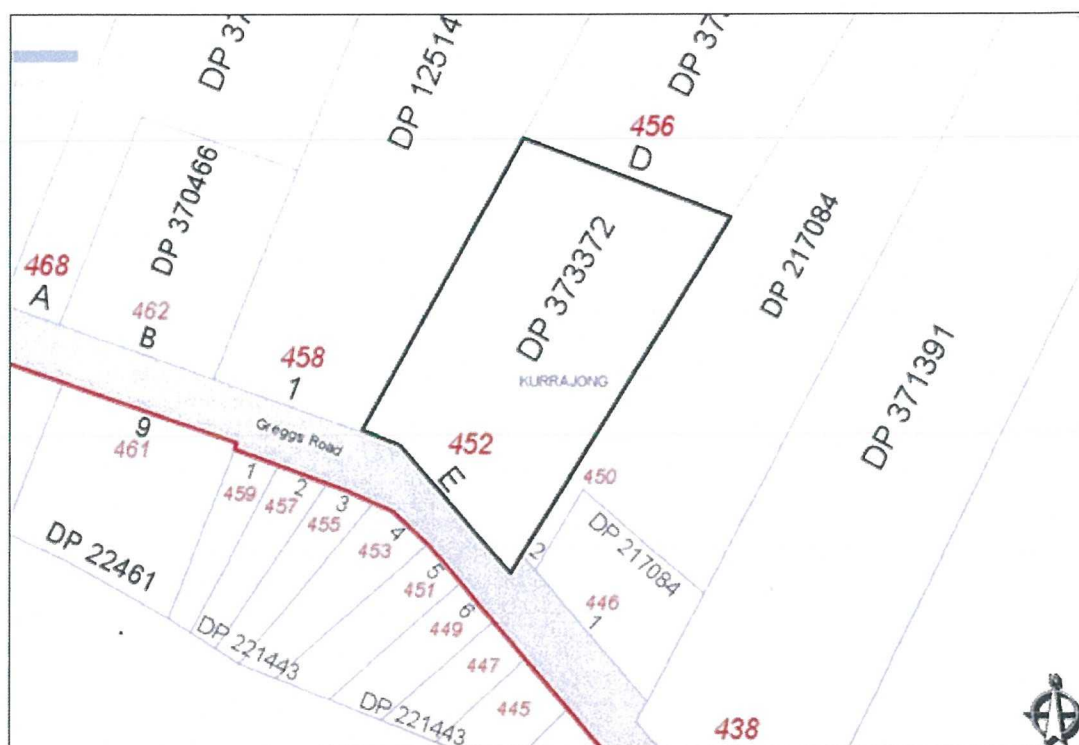


Figure 1 Subject Site

The subject site is currently accessed via Greggs Road which is connected to Grose Vale Road.

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The subject site contains two dwellings and two outbuildings. Based on the material provided by the applicant one of the dwellings is approximately 90 years old and an attempt was made by the property owner in 2009 for Council to consider this dwelling as a potential heritage item which to date has not occurred. The old dwelling has been used as a studio and for storage purposes associated with use of the new dwelling. When a new dwelling was approved ten years ago there was a condition imposed requiring the conversion of the old house for storage purposes.

The subject site has been identified as having 'connectivity between remnant vegetation and endangered ecological community' being mapped as Shale Sandstone Transition Forest on the Terrestrial Biodiversity Map. Existing vegetation on the subject site is predominantly located along the site boundaries and between the two existing dwellings.

Based on Council's slope mapping, the entire site area, other than a small area of land near the middle of the north-eastern boundary and the north-western corner has a slope less than 15%.

The immediate surrounding area of the site is predominantly characterised by rural residential development. The current lot sizes applicable for the subdivision of the surrounding properties are generally in the range of 450m² to 10ha.

Background

On 31 March 2015, Council considered a report on the proposed large lot residential/rural-residential development within approximately 1km radius of Kurrajong and Kurmond neighbourhood centres and resolved to adopt an investigation area to enable structure planning and development contributions planning for the purposes of large lot residential / rural-residential within Kurrajong and Kurmond. The subject site is located within the Kurrajong and Kurmond Investigation Area (KKIA) referred to in this report as shown in Figure 2 below.

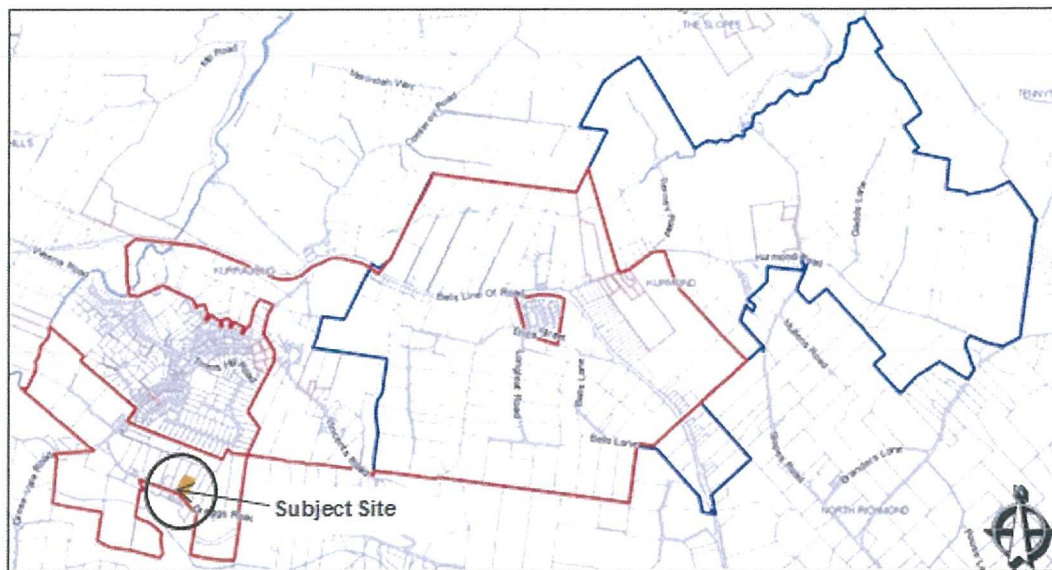


Figure 2 Kurmond Kurrajong Investigation Area

Council's Previous Resolutions regarding Fundamental Constraints to Development

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

The result of these reports was that Council adopted the following development principles as an Interim Policy for consideration of planning proposals within the KKIA:

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

An assessment against these fundamental principles and associated recommendations that are relevant to this planning proposal has been undertaken and is shown in Tables 1 and 2 below.

Table 1: Physical Environment

Factor	Degree of Constraint to Development	Recommendation
Terrestrial Biodiversity		
Impact of development on threatened or endangered flora and fauna	Fundamental - Major	<p>Legislation applies to threatened and endangered species. OEH concurrence may be required.</p> <p>Removal of significant vegetation is to be avoided.</p> <p>Fragmentation of significant vegetation is to be minimised.</p>
<p>Comment: A flora and fauna survey report prepared by UBM Ecological Consultants Pty Ltd concluded that no intact bushland remains on the subject site, which has been developed over many years as a managed garden, and some scattered native canopy trees are retained in the garden and small paddock. The report recommends appropriate tree protection measures should be in place prior to any development works and the use of the recommended minimal disturbance strategies to minimise any adverse impacts on the existing native trees within the subject site. Based on the report recommendations, the likely adverse impacts of the proposed development on the existing native trees will be minimal.</p>		
Watercourses and Riparian Areas		
Impact of development on watercourses and riparian areas	Fundamental - Major	<p>Legislation applies to threatened and endangered species. OEH concurrence may be required.</p> <p>Building envelopes, asset protection zones , driveways and roads (not including roads for the purposes of crossing watercourses) are to be located outside of riparian corridors.</p> <p>Road crossings of watercourses are to be minimised.</p> <p>Fragmentation of riparian areas is to be minimised.</p>
<p>Comment: No watercourses traverse the subject site and there are no riparian areas on the subject site.</p>		

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Factor	Degree of Constraint to Development	Recommendation
Dams		
Impact of development on aquatic habitat. Proximity of dams to effluent disposal systems	Fundamental - Minor	Legislation applies to threatened and endangered species. OEH concurrence may be required. Removal of dams containing significant aquatic habitat is to be avoided. Minimum required buffer distances for effluent disposal systems are to be adhered to.
Comment: There are no existing dams located within the subject site.		
Bushfire threat		
Impact of the location and management of asset protection zones and perimeter roads	Fundamental - Major	RFS concurrence may be required Building construction and water supply is to comply with NSW Rural Fire Service's <i>Planning for Bushfire Protection 2006</i> , e.g. asset protection zones and roads
Comment: Given the existing two dwellings on the subject site are retained in their current locations, the likely adverse impacts of the future asset protection zones on the existing vegetation would be minimal. However, it is considered this issue can also be satisfactorily dealt with at development application stage by way of referral to the RFS and conditions of consent.		
Aboriginal Heritage		
Impact of development on Aboriginal heritage items	Fundamental - Moderate	<i>National Parks and Wildlife Act 1974</i> applies. Council and developers are also to consider relevant provisions of <i>Heritage Act 1977</i> when preparing and considering development applications
Comment: No known aboriginal relics are located on the site. Further consideration will be given to this at development application stage.		
Land Contamination		
Suitability of land to be developed given potential for land to be contaminated	Fundamental - Minor	Remediation action plans and validation may be required. Council and developers are to consider relevant provisions of <i>State Environmental Planning Policy No 55—Remediation of Land</i> when preparing and considering development applications.
Comment: Council records show the land has been used for residential purposes for many years. Council records do not show any past approvals or the use of the subject site for agricultural purposes or any other activities identified in Table 1 – 'Some activities that may cause contamination of Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land. Further consideration will be given to this at development application stage.		
Acid Sulfate Soils		
Impact of disturbance of acid sulfate soils on the environment and development	Fundamental to Minor	Development proposals and land class are to be assessed with respect to Clause 6.1 Acid Sulfate Soils of LEP 2012. Acid sulfate soils management plans required.
Comment: The subject site is within the Acid Sulfate Soils Class 5 categorisation which is the least restrictive of the 5 classifications. Further consideration, if required, will be given to this at development application stage.		

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Table 2: Infrastructure and Services

Factor	Degree of Constraint to Development	Recommendation
Road network		
Capacity and safety of existing road network	Fundamental - Major	RMS concurrence may be required Development contributions are to be levied for road improvements. Council and developers are to consider relevant provisions of <i>State Environmental Planning Policy (Infrastructure) 2007</i> when preparing and considering development applications.
<p>Comment: The RMS has not requested a development contribution from this planning proposal for road works and has not raised any objection to the proposal.</p> <p>Council Officers have had detailed discussions with the RMS regarding the road network and the developer contribution mechanism for future residential development within the Investigation Area. A draft VPA has been finalised as part of this planning proposal to contribute to general infrastructure upgrades, and the Report recommends to place the draft VPA on exhibition for public comment. The detail as to where those contributions are to be expended will be the subject of a separate report to Council.</p>		
Wastewater		
Capacity of land to cater for on-site effluent disposal	Fundamental	Sydney Water concurrence may be required Developers are to demonstrate that waste water can be disposed of on site in an environmentally sensitive manner. Alternatively developers may provide reticulated sewer service to new lots in accordance with relevant licences and/or authority requirements. Clause 6.7 - Essential Services under LEP 2012 applies.
<p>Comment: Initial assessment of the subject site and proposed lot sizes suggested that a suitable on-site effluent disposal system to accommodate future development on the subject site could be achieved. This will be further considered at the development application stage.</p>		
Public Transport Services		
Provision of bus service to cater for the needs of incoming population	Fundamental - Moderate	Transport NSW and RMS concurrence may be required. Possible levying of development contributions for bus services. Clause 6.7 - Essential Services under LEP 2012 applies.
<p>Comment: The RMS has not requested a development contribution from this planning proposal for bus services. Council Officers are continuing discussions with the RMS and Transport for NSW regarding public transport services.</p>		

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Factor	Degree of Constraint to Development	Recommendation
Stormwater drainage		
Quantity and quality of stormwater run-off entering watercourses	Fundamental - Moderate	Developers are to demonstrate that stormwater can be captured, treated and released in an environmentally sensitive manner. Possible levying of development contributions for stormwater purposes Clause 6.7 - Essential Services under LEP 2012 applies.
Comment: It is considered this can be satisfactorily dealt with at development application stage by way of the assessment of drainage designs and conditions of consent.		
Water Supply		
Provision of reticulated water supply to new lots	Fundamental - Moderate	Sydney Water concurrence may be required. A reticulated water service is to be provided to new lots by developers in accordance with relevant authority requirements Clause 6.7 - Essential Services under LEP 2012 applies
Comment: Reticulated water can be provided to the subject site.		
Electricity		
Provision of electricity service to new lots	Fundamental	Electricity provider concurrence may be required. Electricity services are to be provided to new lots by developers in accordance with relevant authority requirements Clause 6.7 - Essential Services under LEP 2012 applies
Comment: Electricity is available to the subject site.		

On 29 November 2016, Council considered a report on the Survey of residents within the Kurmond and Kurrajong Investigation Area (KKIA), and resolved as follows:

"That:

- 1. Council receive the results of the Kurmond and Kurrajong Investigation Area Survey.*
- 2. Council Staff identify a number of specific areas (based upon Constraints Mapping, survey results and the preferred approach as outlined in this report) for possible, but not certain, development of additional large lot residential/rural-residential development throughout the Investigation Area and some residential development up to, but not within, the existing villages of Kurmond and Kurrajong.*
- 3. The identified areas be further consulted with the community regarding future development.*
- 4. The results of that further consultation be reported to Council.*
- 5. Council not accept any further planning proposal applications within the Kurmond and Kurrajong investigation area until such time as the structure planning as outlined in this report is completed. Council receive a progress report on the structure planning prior to July 2017.*

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6. Council continue processing the planning proposals within the investigation area that have received support via a Council resolution to proceed to a Gateway determination and any planning proposals currently lodged with Council as at 29 November 2016."

In respect of the matter at hand, point 6 of the above resolution is the most relevant in that this particular matter deals with a planning proposal that had been supported by Council at its Meeting on 31 May 2016, and had received a Gateway determination advising to proceed in July 2016.

Explanation of Proposed LEP Amendment

The current minimum lot size for subdivision of the subject site is 10ha. The exhibited planning proposal sought to amend the Lot Size Map of the LEP in order to permit the subdivision of the subject site into two large residential lots with a minimum lot size of not less than 4,000m².

The Hawkesbury Residential Land Strategy (HRLS) recognises slopes greater than 15% act as a constraint to development, and future subdivision of the site for large rural residential lots would need to be limited to that area of land having a slope less than 15%.

Based on Council's slope mapping, the entire site area other than a small area of land near the middle of the north-eastern boundary and the north-western corner has a slope less than 15%. Therefore, the subject site has the potential to yield two large rural residential lots with a minimum lot size of not less than 4,000m².

An Effluent Disposal Feasibility Report prepared by Barker Ryan Stewart Total Project Solutions and the Flora and Fauna Survey prepared by UBM Ecological Consultants Pty Ltd in support of the planning proposal concluded that appropriate building footprints and On Site Sewerage Management systems can be accommodated on the proposed two lots on the subject site.

Therefore, the planning proposal as exhibited sought an amendment to the Lot Size Map of the LEP to change the current 10ha minimum lot size provision for subdivision of the subject site to 4,000m² minimum lot size (W) as shown in Figure 3.



Figure 3: Proposed Lot Size Map

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Authorisation for Council to Exercise Delegation

The "Gateway" determination included authorisation for Council to exercise delegation to make this plan. Should Council resolve to proceed with the making of the plan this authorisation will allow Council to make a direct request to the Parliamentary Counsel's Office (PCO) to prepare a draft Local Environmental Plan to give effect to the planning proposal.

Following receipt of an opinion from the PCO that the plan can be legally made, Council may then make the plan. Council delegated this plan making function to the General Manager by resolution on 11 December 2012.

Offer of a Voluntary Planning Agreement

Council considered a report on VPAs for the Kurrajong/Kurmond adopted Investigation Area at its Ordinary Meeting of 10 November 2015, where it was resolved:

"That:

- 1. Council agree to offers to enter into negotiations for Voluntary Planning Agreements in the Kurrajong/Kurmond Investigation Area in the absence of an adopted Section 94 developer contributions plan.*
- 2. Any Voluntary Planning Agreement for this locality to be based on CPI adjusted cash contributions on a per lot release basis consistent with the offers discussed in this report.*
- 3. Negotiations for draft VPAs should include consideration of a Clause to terminate the VPA once the Section 94 Plan is adopted with no retrospective provisions should the amended contributions be different to the VPA contribution amount.*
- 4. To reinforce Council's previous resolutions planning proposals that have completed public exhibition are not to be reported to Council for finalisation until a Section 94 Plan is adopted or the report is accompanied by a draft Voluntary Planning Agreement that is proposed to be placed on public exhibition."*

The preparation of a S94 Plan has commenced but the completion of that Plan is not expected to be completed in the short term. Given the above Council Resolution, Part 4 of Council's previous Resolution of 31 May 2016 and there is no set timeframe for the completion of the S.94 Plan, the applicant on behalf of the developer/property owner offered to enter into a VPA with Council that would result in the developer paying a cash contribution to Council for the purposes of infrastructure facilities and works to the value of \$30,000 for the additional rural residential lot on the subject site. A draft VPA has been prepared and finalised in consultation with relevant Council Officers, and the next step will be the exhibition of the draft VPA attached to this report for public comment in accordance with the relevant statutory provisions prior to reporting to Council for its finalisation and adoption.

Conclusion

The consultation undertaken with the community and the relevant government agencies with respect to the planning proposal do not warrant any amendments to the exhibited planning proposal or the abandonment of the proposal.

In accordance with Part 4 of Council's resolution of 31 May 2016 requiring satisfactory progress towards the completion of either a Section 94 Developer Contributions Plan or a Voluntary Planning Agreement towards resolving infrastructure provision for this planning proposal, the developer has offered to enter into a Voluntary Planning Agreement with Council that would result in the cash payment of \$30,000 for the additional rural residential lot on the subject site.

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It is therefore recommended that Council proceed with the making of an LEP that will give effect to the exhibited planning proposal, and that the draft VPA be publically exhibited for a minimum of 28 days.

Conformance to the Hawkesbury Community Strategic Plan 2017-2036

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

Our Future

5.3 Shaping our Growth

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

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

Financial Implications

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

Planning Decision

As this matter is covered by the definition of a 'planning decision' under Section 375A of the Local Government Act 1993, details of those Councillors supporting or opposing a decision on the matter must be recorded in a register. For this purpose a division must be called when a motion in relation to the matter is put to the meeting. This will enable the names of those Councillors voting for or against the motion to be recorded in the minutes of the meeting and subsequently included in the required register.

RECOMMENDATION:

That Council:

1. Proceed with the making of a plan to amend the Hawkesbury Local Environmental Plan 2012 in order to permit the subdivision Lot E DP 373372, 452 Greggs Road, Kurrajong into two large rural residential lots with a minimum lot size of not less than 4,000m² as detailed in this report.
2. Request that the Parliamentary Counsel's Office prepare a draft Local Environmental Plan to give effect to the exhibited planning proposal in accordance with Section 59(1) of the Environmental Planning and Assessment Act, 1979.
3. Adopt and make the draft local environmental plan, under the authorisation for Council to exercise delegation issued by the Gateway determination, upon receipt of an opinion from Parliamentary Counsel's Office that the plan can be legally made.
4. Following the making of the Plan, advise the Department of Planning and Environment that the Plan has been made and request to notify the Plan on the NSW Legislation website.
5. Publically exhibit the Draft Voluntary Planning Agreement attached to this report for a minimum of 28 days and the Draft Voluntary Planning Agreement be reported back to Council following public exhibition prior to finalisation.

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ATTACHMENTS:

- AT - 1** Government Agency Responses and Council Officer Response
- AT - 2** Draft Voluntary Planning Agreement between Hawkesbury City Council and N S Hatherly -
(*Distributed Under Separate Cover*)
- AT - 3** Explanatory Note - Draft Voluntary Planning Agreement

Agency	Issue	Council Officer Response
Roads & Maritime Services (RMS)	<p><u>Delay in assessing planning proposals</u></p> <p>The RMS suggests that site specific planning proposals be delayed until such time as a structure plan for the Kurrajong and Kurmond Investigation Area (KKIA) and supporting studies are completed. This will ensure that the cumulative impact of residential development in the KKIA is assessed, the necessary infrastructure to support development is identified, and a suitable developer contribution mechanism in place for the provision of infrastructure. This is particularly important for planning proposals which cumulatively contribute to the need for the road network upgrades, but do not individually warrant upgrades.</p>	<p>In November 2016 Council resolved not to accept any new planning proposals within the KKIA until such time as the structure planning for the KKIA is completed and continue processing the planning proposals that have received support via a Council resolution to proceed to a Gateway determination and any planning proposals currently lodged with Council as at 29 November 2016. In line with this Council resolution, this report recommends to proceed with the making of a plan to give effect to the planning proposal.</p> <p>The preparation of a S94 Plan has commenced but the completion of that Plan is not expected to be completed in the short term. Given Part 4 of Council's previous Resolution of 31 May 2016 requiring a satisfactory progression of a infrastructure provision for this planning proposal and there is no set timeframe for the completion of the S.94 Plan, the applicant on behalf of the developer/property owner has offered to enter into a VPA with Council that would result in the developer paying a cash contribution to Council for the purposes of infrastructure facilities and works.</p>
Office of Environment & Heritage (OEH)	<p><u>A flora and fauna study</u></p> <p>The OEH notes that the Gateway determination requires the preparation of a flora and fauna study prior to public exhibition of the planning proposal. The OEH recommends this study be prepared in accordance with the draft <i>Threatened Biodiversity Survey and Assessment: Guidelines for Development s and Activities</i> (DEC, November 2004).</p>	<p>In accordance with the Gateway determination requirement and the OEH recommendation, a flora and fauna study prepared by UBM Ecological Consultants Pty Ltd was received from the applicant. The study outlined the findings of a flora and fauna survey undertaken by the UBM Consultants and concluded that future development of the subject site for residential purposes will not adversely impact the existing native trees within the subject site provided that the recommended minimal disturbance strategies are implemented.</p> <p>The flora and fauna study formed part of the exhibition package of the planning proposal.</p>
NSW Rural Fire Service (NSWRFS)	<p>The RFS raised no objection to the making of the plan subject to a requirement that the future subdivision of the subject site complies with <i>Planning for Bushfire Protection 2006</i>.</p>	<p>If this plan is made, any future development applications over the subject site will be referred to RFS for comment.</p>

Agency	Issue	Council Officer Response
Department of Primary Industries – Agriculture (DPI Agriculture)	<p><u>Minimum subdivision standard for RU1 Primary Production and rezoning of agricultural land</u></p> <p>The DPI Agriculture does not support the use of minimum subdivision standards to provide further settlement in the RU1 zone and rezoning agricultural land suitable for cropping. It is preferred that rural residential is limited to lower productive capacity agricultural land.</p>	<p>Given the subject site is in close proximity to Kurrajong Neighbourhood Centre, surrounding rural residential development, not being used for intensive agricultural uses for many years and the size of subject site, it is considered that it is unlikely the subject site could be used for a substantial or viable agricultural enterprise in the future.</p>
DPI Agriculture	<p>The DPI suggests the use of rezoning is undertaken at a landscape scale to provide certainty for provision of services and landholders wishing to invest in agriculture</p>	<p>The planning proposal is to amend the Lot Size Map only and it does not propose the rezoning of the subject site.</p> <p>The Hawkesbury Residential Land Strategy (HRLS) recognises the importance of maintaining the viability of existing rural villages and therefore focuses large lot rural residential development within a 1km radius of existing rural villages/neighbourhood centres that satisfactorily meet other rural residential criteria specified in the HRLS. The subject site is located within the 1km radius and meets the criteria in general.</p>
DPI Agriculture	<p><u>Agriculture Land Classification</u></p> <p>The Agricultural Suitability Mapping highlights that the site contains agricultural land class 3 suitable for cropping in rotation with pasture.</p>	<p>The subject site is shown as being Agriculture Land Classification 3 on maps prepared by the former NSW Department of Agriculture. These lands are described by the Classification system as:</p> <p><i>"Grazing land or land well suited to pasture improvement. It may be cultivated or cropped in rotation with sown pasture. The overall production rate is moderate because of edaphic or environmental constraints. Erosion hazard, soil structural breakdown, or other factors, including climate, may limit the capacity for cultivation".</i></p> <p>Class 1 and Class 2 have few constraints to agricultural production, so a wide range of crops can be profitably grown, but Class 3 has moderate productivity and is more suited to pasture improvement.</p> <p>However, Council does not support any planning proposals that allow fragmentation and alienation of sustainable agricultural land, and always assess them against their merits, relevant planning legislation and the local planning framework to ensure potential and productive agricultural land are maintained for sustainable primary industry production and agricultural activities.</p>

Agency	Issue	Council Officer Response
DPI Agriculture	<u>Consistency with the relevant planning policies</u> Planning proposals need to address current planning policies and strategies such as Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean and the Ministerial Directions 117 regarding rezoning rural land.	Consistency of the planning proposal with the relevant State and Local plans/policies and Section was addressed in the previous Council report dated 31 May 2016.
DPI Agriculture	<u>Residential Development in the RU1 Zone</u> Residential Development in the RU1 Zone should not restrict the ability to farm as per the NSW Government's Right to Farm Policy.	<p>The NSW Government has developed and implemented a Right to Farm Policy to support farmers in exercising their right to farm.</p> <p>As previously mentioned the subject site has not previously been used for agricultural purposes, and is unlikely to be used for such purposes in the future due to its size, proximity to the Kurrajong Neighbourhood centre and the surrounding rural residential development.</p>



Hawkesbury City Council

attachment 2
to
item 225

Draft Voluntary Planning Agreement
between Hawkesbury City Council
and N S Hatherly

date of meeting: 12 December 2017

location: council chambers

time: 6:30 p.m.



Hawkesbury City Council

AND

Nicole Hatherly

DRAFT

Voluntary Planning
Agreement

Lot E DP 373372,
452 Greggs Road,
Kurrajong.

Hawkesbury City Council



DRAFT Voluntary Planning Agreement
452 Greggs Road, Kurrajong

THIS PLANNING AGREEMENT is made on the day of 2017

BETWEEN:

Parties

HAWKESBURY CITY COUNCIL ('the Council')

AND:

NICOLE HATHERLY ('the Developer')

Introduction

- A. The Developer is the registered proprietor of the Development Land.
- B. On 9 June 2016 the Council lodged a planning proposal with the Department of Planning and Environment to amend the *Hawkesbury Local Environmental Plan 2012* Lot Size Map to facilitate subdivision of the Development Land.
- C. The Developer proposes to make Development Application to Council for Development Approval to carry out the Proposed Development if the Lot Size Map for the Development Land is altered generally in accordance with the planning proposal.
- D. The Developer has offered to provide the Developer's Contribution in the form of a Cash Contribution on the terms and conditions contained in this Agreement if Development Approval is granted to the Proposed Development.

And it is agreed as follows:

1 Definitions and Interpretation

In this Agreement the following words and letters have the meanings set out below.

- 1.1 **'Act'** means the *Environmental Planning and Assessment Act 1979* (NSW) (as amended from time to time).
- 1.2 **'Approval'** means any approvals consents, modifications, certificates (of all types) permits, endorsements, licenses, conditions or requirements (and any variation to them) which may be required by Law for the Proposed Development.
- 1.3 **'Authority'** means a government, semi-government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body, commission, department, agency, tribunal or other authority or body.
- 1.4 **'Base CPI'** means the CPI number for the quarter ending immediately before the commencement of this Agreement.
- 1.5 **'Business Day'** means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act and thing is to be performed or a payment is to be made.
- 1.6 **'Cash Contribution'** means, subject to clauses 5 and 6, an amount of \$30,000 for additional Housing Lot.
- 1.7 **'Completion Certificate'** means the release of the subdivision, to enable the lodgement to and issue of Housing Lot titles by the NSW Land & Property Information (LPI).



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- 1.8 **'CPI'** means the Consumer Price Index released by the Australian Bureau of Statistics for "Sydney - All Groups" or such other consumer price index that might replace it.
- 1.9 **'CPI Review Date'** means each quarterly anniversary of the date of this Agreement.
- 1.10 **'Costs'** include costs, charges, fees, disbursements and expenses, including those incurred in connection with advisers.
- 1.11 **'Current CPI'** means the CPI number for the quarter ending immediately before the relevant CPI Review Date.
- 1.12 **'Developer's Contribution'** has the meaning given in clause 6.
- 1.13 **'Development Application'** means an application under Part 4 of the Act for Development Approval.
- 1.14 **'Development Approval'** means a development consent issued under the Act with respect to all or part of the Proposed Development.
- 1.15 **'Development Land'** means the land comprising Lot E DP 373372, 452 Greggs Road, Kurrajong.
- 1.16 **'Dispute'** in connection with this Agreement means an argument, a controversy, a difference, a dispute including of opinion or interpretation.
- 1.17 **'Event of Insolvency'** means anyone or more of the following occurrences:
- a) the Developer becomes bankrupt, is served with a bankruptcy notice or a bankruptcy petition, has committed an act of bankruptcy or has entered into an arrangement within and under the meaning of the *Bankruptcy Act 1976* (Cth); or
 - b) the Developer becomes subject to any order or declaration under the *Mental Health Act 2007* (NSW) or is otherwise incapable of managing his or her own affairs
 - c) if the Developer is a company, if:
 - (i) a resolution is passed for the winding up or liquidation of that company
 - (ii) a liquidator, provisional liquidator, receiver, receiver manager, controller, controlling manager, administrator, voluntary administrator or official manager is appointed to the Developer or a resolution is passed for the purposes of placing that party in the control of an external administrator
 - (iii) it suspends payment of its debts or is unable to pay its debts including of money payable under this Agreement or is deemed insolvent
 - (iv) it fails to or is taken as having failed to comply with a statutory demand under the *Corporations Act 2001* (Cth)
 - (v) if anything analogous or having substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction with respect to the Developer.
- 1.18 **'GST'** has the same meaning as the GST Act and other words or expressions used in the GST Act which have a particular defined meaning (including any applicable legislative determinations and Australian Taxation Office public rulings) have the same meaning.
- 1.19 **'GST Act'** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended from time to time).



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- 1.20 **'Housing Lot'** means a lot approved by a Development Consent comprising part of the Development Land that is intended to be used for the purposes of a single dwelling house without being further subdivided.
- 1.21 **'Housing Lot Contribution'** means subject to Clauses 6, 7 and 8, cash to the value of \$30,000 for the additional Housing Lot arising from a Development Consent of the Development Land.
- 1.22 **'Law'** means:
- a) the common law and principles of equity;
 - b) the requirements of legislation, regulations and by-laws; and
 - c) a binding order made by an Authority.
- 1.23 **'LPI'** means Land and Property Information or any other government agency replacing it.
- 1.24 **'Lot Size Map'** means the maps with a corresponding name and forming part of *Hawkesbury Local Environmental Plan 2012*.
- 1.25 **'Party'** means a party to this Agreement, including their successors and assigns.
- 1.26 **'Proposed Development'** means the amendment to *Hawkesbury Local Environmental Plan 2012* and subdivision of the Development Land into two housing lots.
- 1.27 **'Subdivision Certificate'** means a certificate issued under section 109C(d) of the Act with respect to the Proposed Development.
- 1.28 **'Transfer'** means to settle, assign, transfer, convey, alienate, otherwise dispose of or part with possession of.

2 Interpretation

In this Agreement unless the contrary intention appears:

- 2.1 One gender includes the opposite gender.
- 2.2 The singular includes the plural and the plural includes the singular.
- 2.3 A party includes that party's executors, administrators, successors, permitted assigns, permitted legal representatives and substitutes.
- 2.4 Dollars or \$ means Australia dollars and all money payable under this Agreement is payable in that currency.
- 2.5 'Including' and similar expressions are not words of limitation.
- 2.6 Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- 2.7 Headings, any table of contents or index are for convenience only and do not affect interpretation of this Agreement.
- 2.8 An explanatory note which relates to this Agreement does not affect the interpretation of this Agreement.
- 2.9 A provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible wholly or partly for the preparation of this Agreement or the inclusion of a term or condition in this Agreement.



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- 2.10 If an act and thing must be done on a specific day which is not a business day, it must be done instead on the next business day.
- 2.11 A person means and includes a person, a body corporate, Authority, firm, body of persons, association, trust, joint venture or other legal commercial entity or undertaking recognized by law whether or not incorporated.

3 Planning Agreement

- 3.1 This Agreement:
- 3.1.1 applies to the Development Land
- 3.1.2 is a planning Agreement within the meaning set out in section 93F of the Act
- 3.1.3 is to be registered on the title of the Development Land under section 93H of the Act
- 3.1.4 is not a confidential document and may be exhibited without restriction by either party.
- 3.2 Subject to clause 3.3, this Agreement operates from the date it is executed.
- 3.3 Clause 6 of this Agreement will only operate if and when Council grants Development Approval (or Development Approvals as the case may be) to the Proposed Development on the Development Land.

4 Application of Section 94 and Section 94A of the Act to the Development

- 4.1 This Agreement excludes the application of Section 94A and Section 94 of the Act to the Proposed Development.
- 4.2 Notwithstanding Clause 4.1, should a Section 94 Plan which applies to the land come into force prior to the issue of any development consent for subdivision of the land, this Agreement shall be terminated immediately and the adopted contribution rate within such Section 94 Plan shall be applied in place of the Developer's Contribution cited within this Agreement.
- 4.3 Clause 4.2 does not allow the Council or the Developer to retrospectively apply a Section 94 contribution for allotments for which development contributions have been paid in accordance with this Agreement.
- 4.4 Subject to Clause 16 should this Agreement be terminated in accordance with clause 17, Section 94A or Section 94 of the Act, whichever is applicable, will apply to the Proposed Development.

5 Registration of this Agreement

- 5.1 Within 30 days from the commencement of this Agreement the Developer must take all reasonable steps to procure the registration of the Agreement, in accordance with Section 93H of the Act on the relevant folios of the register held by the LPI pertaining to the Development Land.
- 5.2 The Council agrees:
- a) to provide a release and discharge of this Agreement with respect to the Development Land or any lot created on subdivision of the Development Land on satisfaction by the Developer of the obligation to provide the Developer's Contribution: and
- b) to do all things reasonably necessary, including the execution of any documents, to enable the Developer to remove the notation of this Agreement on the relevant folios of the register, held by the LPI pertaining to the Land.



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- 5.3 The Council acknowledges that the registration of this Agreement on the relevant folios of the register held by the LPI pertaining to the Development Land constitutes suitable means of enforcement of this Agreement for the purposes of s93F(3)(g) of the Act.

6 Developer's Contribution

- 6.1 Subject to the terms of this Agreement, including clause 3.3, the Developer agrees to provide the Developer's Contribution, subject to clause 8, in the form of the Cash Contribution via a condition of Development Consent at the rate of \$30,000, subject to clause 9, for the creation of the additional Housing Lot.
- 6.2 For the avoidance of doubt, the parties agree and acknowledge that the maximum Cash Contribution is calculated on the basis of \$30,000 for the additional Housing Lot created by subdivision of the Development Land.

7 Calculation of Developer's Contributions

The Developer and Council acknowledge and agree that subject to Clause 6, the Developer will contribute cash to the value of the Cash Contribution for the additional Housing Lot.

8 CPI Adjustment of Developer's Contributions

On each CPI Review Date the Developer Contribution will be calculated as follows:

$$RAC_C = RAC_B \times \frac{\text{Current CPI}}{\text{Base CPI}}$$

Where:

RAC_B = The Housing Lot contribution at the commencement of this Agreement (i.e. \$ 30,000)

RAC_C = Adjusted Housing Lot Contribution at CPI review date.

9 Payment of Cash Contribution

The Cash Contribution must be paid to Council, prior to the issue of the Subdivision Certificate.

10 GST

- 10.1 Unless otherwise expressly stated all money or other sums payable or consideration to be provided under this Agreement are exclusive of GST.
- 10.1 Despite clause 6, to the extent that the Commissioner of Taxation, a Court or Tribunal determines that any supply made under or in connection with this Agreement is a taxable supply, the GST exclusive consideration otherwise to be paid or provided for that taxable supply is increased by the amount of any GST payable in respect of that taxable supply and that amount must be paid at the same time and in the same manner as the GST exclusive consideration is otherwise to be paid or provided and a valid Tax invoice is to be delivered to the recipient of the taxable supply and this clause will not merge on completion or termination of the Agreement.

11 Dispute Resolution

11.1 Reference to Dispute

If a dispute arises between the Parties in relation to this Agreement, then the Parties must resolve that dispute in accordance with this clause.

11.2 Notice of Dispute



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The Party wishing to commence the dispute resolution processes must notify the other Party in writing of:

- a) the intent to invoke this clause
- b) the nature or subject matter of the dispute, including a summary of any efforts made to resolve the dispute other than by way of this clause
- c) the outcomes which the notifying Party wishes to achieve (if practicable).

11.3 Representatives of Parties to Meet

- a) The representatives of the Parties must promptly (and in any event within 15 Business Days of the written notice provided in accordance with clause 12.2 meet in good faith to attempt to resolve the notified dispute
- b) The Parties may, without limitation:
 - (i) resolve the dispute during the course of that meeting
 - (ii) agree that further material, expert determination in accordance with clause 12.5 or consideration is needed to effectively resolve the dispute (in which event the Parties will, in good faith, agree to a timetable for resolution)
 - (iii) agree that the Parties are unlikely to resolve the dispute and, in good faith, agree to a form of alternative dispute resolution (including expert determination, arbitration or mediation) which is appropriate for the resolution of the relevant dispute.

11.4 No party may constrain

If:

- a) at least one meeting has been held in accordance with clause 12.3
- b) the Parties have been unable to reach an outcome identified in clause 12.3
- c) any of the Parties, acting in good faith, forms the view that the dispute is reasonably unlikely to be resolved in accordance with a process agreed under clause 12.3(b)(iii), then, that Party may, by 15 Business Days written notice to the other Party, terminate the dispute resolution process in respect of that dispute. The termination of the process set out in this clause does not of itself amount to a breach of this Agreement.



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11.5 Expert Determination

- a) If a Dispute arises between Parties to this Agreement, the Parties may agree to refer the Dispute to expert determination in Sydney, New South Wales administered by the Australian Commercial Dispute Centre (ACDC).
- b) The expert determination will be conducted in accordance with the ACDC Rules for Expert Determination (Rules) in force at the date of this Agreement. The Rules set out the procedures to be adopted, the process of selection of the expert and the costs involved, including the Parties' respective responsibilities for the payment of the expert's costs and other costs of the expert determination.
- c) The expert determination will be final and binding on the Parties.
- d) This clause survives termination of this Agreement.

11.6 Urgent Relief

At any time, a Party may, without inconsistency with anything in this clause 12, seek urgent interlocutory relief in respect of a dispute under this Agreement from any Court having jurisdiction.

12 Agreement of the Developer

12.1 The Developer warrants that it:

12.1.1 is the legal and beneficial owner of part of the Development Land

12.1.2 will take all practicable steps and use best endeavours and do all acts and things required to procure:

12.1.2.1 the execution of any documents necessary to effect registration of this Agreement with LPI

12.1.2.2 the production of the relevant certificates of title for the Development Land and the registration of this Agreement at LPI on the title of the Development Land within 30 days of the date of the commencement of this Agreement.

12.2 Council shall not be required to seal any sub-division plan made pursuant to the Development Approval unless and until this Agreement has been registered at LPI on the title of the Development Land.

13 Enforcement by any party

- a) Without limiting any other remedies available to the Parties, this Agreement may be enforced by any Party in any court of competent jurisdiction.
- b) Nothing in this Agreement prevents:
 - (i) a Party from bringing proceedings in a court of competent jurisdiction to enforce any aspect of this Agreement or any matter to which this Agreement relates, subject to compliance with clause 15
 - (ii) the Council from exercising any function under the Act or any other Act or law.



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14 Assignment and dealings

14.1 The Developer is not to:

14.1.1 sell, transfer, mortgage or charge the Land, or

14.1.2 assign the Developer's rights or obligations under this Deed, or novate this Deed, to any person unless:

14.1.2.1 the Developer has, at no cost to the Council, first procured the execution by the person to whom the Land or part is to be sold, transferred, mortgaged or charged or the Developer's rights or obligations under this Deed are to be assigned or novated, of a deed in favour of the Council on terms reasonably satisfactory to the Council, and

14.1.2.2 the Council has given written notice to the Developer stating that it reasonably considers that the purchaser, transferee, mortgagee, charge, assignee or novatee, is reasonably capable of performing its obligations under this Deed, and

14.1.2.3 the Developer is not in breach of this Deed, and

14.1.2.4 the Council otherwise consents to the transfer, mortgage, charge, assignment or novation, such consent not to be unreasonably withheld.

14.2 Clause 15.1 does not apply in relation to any sale, transfer, mortgage or charge of the Land if this Deed is registered on the title to the Land at the time of the sale.

14.2.1 Upon the commencement of this Deed, the Council is deemed to have acquired, and the Developer is deemed to have granted, an equitable estate and interest in the Land for the purposes of section 74F(1) of the *Real Property Act 1900* (NSW) and consequently the Council has a sufficient interest in the Land to lodge and maintain with the Land and Property Management Authority a caveat notifying that interest.

14.2.2 The Developer consents to the Council lodging a caveat on the Land where this Deed is not registered on the title to the Land due to a breach by the Developer of its obligations.

15 Release

When the Developer has satisfied all of the obligations imposed on it under this Agreement in respect of the Development Land for which a Subdivision Certificate has been issued and for which the Developer's Contribution has been delivered then the Council must promptly at the request and at the reasonable expense of the Developer do all acts and things necessary to remove this Agreement from the title of that part of the Development Land.

16 Termination

16.1 This Agreement may be terminated by the Council by written notice to the Developer if:

16.1.1 the Developer commits a breach of any of the terms and conditions of this agreement and fails to remedy such a breach within 14 days of receipt of a written notice (which specifies the breach and requires the Developer to remedy the breach) whereupon the date of such termination will be effective on the 15th day from receipt of such written notice; or

16.1.2 an Event of Insolvency occurs.



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17 Review Procedures

The parties may agree to review this Agreement in circumstances and in a manner determined by the parties. Any amendment, modification, supplement or replacement document which results from a review must be in writing, signed by the parties and registered at LPI under Section 93H of the Act.

18 Notices

18.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- a) delivered or posted to that Party at its address set out below
- b) faxed to that Party at its fax number set out below.

18.2 For the purposes of this clause the parties' contact details for service are:

The Developer

Nicole Hatherly

Address: 452 Greggs Road
Kurrajong NSW 2758

Email: hatherlynicole@gmail.com

Telephone: 0438 048 003

Council

Address: Hawkesbury City Council

Attention: General Manager
366 George Street

WINDSOR NSW 2576

Telephone: (02) 4560 4444

Facsimile: (02) 4587 7740

18.3 If a Party gives the other Party three business days' notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.

18.4 Any notice, consent, information, application or request is to be treated as given or made at the following time:

- a) If it is delivered, when it is left at the relevant address
- b) If it is sent by post, two business days after it is posted
- c) If it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.



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- 18.5 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

19 Proper Law and Jurisdiction

This Agreement is made and will be construed and governed in accordance with the Law of the State of NSW South Wales. Each party submits to the exclusive jurisdiction of each and every Court or Tribunal of the said State having jurisdiction to hear the matter submitted to it.

20 Severance

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

21 Waiver

- 21.1 No failure on the part of a party to exercise and no delay in exercising and no cause of dealing with respect to, any condition and the rights, powers or remedies of that party under this Agreement will impair any of those rights, powers or remedies, nor constitute a waiver of any of those rights, powers or remedies.
- 21.2 No single or partial exercise by a party of any condition and rights, powers or remedies under this Agreement will preclude any other or further exercise of those or exercise of any other conditions rights or remedies.
- 21.3 Any condition and the rights, powers or remedies under or relating to this Agreement are cumulative and will not exclude any other rights, powers or remedies under or relating to this Agreement at Law.
- 21.4 No waiver of any of the conditions of this Agreement will be effective unless in writing signed by the party against whom such waiver is sought to be enforced.
- 21.5 Any waiver of the conditions of this Agreement will be effective only in the specific instance and for the specific purpose given and the waiver will not be deemed a waiver of such obligations or of any subsequent breach of the same or some other obligation.

22 Approvals and Consent

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

23 Entire Agreement

This Agreement contains all the terms and conditions to which the parties have agreed on in relation to the matters which they have dealt with. No party can rely on an earlier document, anything said or done by another party, or omitted to be relied upon, said or done except as permitted by Law.



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452 Greggs Road, Kurrajong

24 No Fetter

24.1 Nothing in the Agreement is to be construed as requiring the Council to do anything

24.1.1 that would cause it to be in breach of any of its obligations at Law

24.1.2 limiting or fettering in any way the exercise of any statutory discretion or duty; at Law

24.1.3 imposing any obligations to grant an Approval.

25 Representatives and Warranties

Each party agrees that it has the power and authority to enter into this Agreement and comply with its obligations and that entry into this Agreement will not result in a breach of Law.

26 Costs

Each party must bear and pay its own costs of and incidental to the preparation and execution of this Agreement.

Executed as an agreement on

2017

Execution by Council

THE COMMON SEAL of HAWKESBURY CITY)
COUNCIL was hereunto affixed on the ____th day of)
_____ 2017 pursuant to a resolution)
passed on the ____th day of _____ 2017 in)
the presence of:)

.....
Peter Conroy - General Manager

.....
Clr Mary Lyons-Buckett - Mayor

Execution by Nicole Hatherly

Signed by:

Signature of Developer Given Name Initial and
Last Name

Signature of Developer Given Name
Initial and Last Name

Print name

Print name

ORDINARY MEETING
Meeting Date: 12 December 2017

AT - 3 Explanatory Note - Draft Voluntary Planning Agreement

Hawkesbury City Council



Explanatory Note – Draft Voluntary Planning Agreement

Lot E DP 373372, 452 Greggs Road, Kurrajong

This Explanatory Note has been prepared in accordance with clause 25E of *Environmental Planning and Assessment Regulation 2000* (the Regulation).

The purpose of this Explanatory Note is to provide a plain English summary to support the notification, in accordance with section 93G of the *Environmental Planning and Assessment Act 1979* (the Act), of a draft Voluntary Planning Agreement (draft VPA) under section 93F of the Act.

This Explanatory Note is not to be used to assist in construing the draft VPA.

The Parties

The Parties subject to this draft VPA are as follows:

Hawkesbury City Council (ABN 54 659 038 834) ('Council')

Nicole Hatherly, (the Developer)

Description of Subject Land

This draft VPA applies to Lot E DP 373372, 452 Greggs Road, Kurrajong.

Summary of objectives, nature and effect of the Planning Agreement

The draft VPA is complementary to a proposed amendment to *Hawkesbury Local Environmental Plan 2012* which will enable the subdivision of the subject site into two large Housing lots with minimum lot sizes of not less than 4,000m².

The objective, nature and effect of the draft VPA is for the Developer to provide Council with a cash contribution of \$30,000 for the additional Housing lot created. This amount is to be paid and is subject to consumer price index adjustment as per clauses 3, 6, 7, 8 and 9 of the draft VPA. It is anticipated that contributions collected by Council will be expended on local and district infrastructure and facilities such as, but not necessarily limited to, cycleways, bus shelters, landscape and park embellishments and road improvements to serve the needs of the community as a consequence of the development.

The agreement will only operate if and when Council grants development approval(s) to the proposed development of the site. The agreement excludes the application of section 94A and section 94 of the Act to the proposed development of the site.

Assessment of the merits of the Planning Agreement

The merits of the draft VPA are that it will provide Council with cash contributions to provide local and district infrastructure and facilities which are required by the community as a consequence of the development.

The draft VPA will have a positive impact on the public in that it will enable the provision of local and district infrastructure and facilities and for the orderly and economic development of the subject land.

366 George Street (PO Box 146) Windsor NSW 2756 | Phone: (02) 4560 4444 | Facsimile: (02) 4587 7740 | DX: 8601 Windsor
Hours: Monday to Friday 9:30am - 5pm | Email: council@hawkesbury.nsw.gov.au | Website: www.hawkesbury.nsw.gov.au



Interpretation Service 131 450

تفسير لغة



Service Interpret

ORDINARY MEETING

Meeting Date: 12 December 2017

Hawkesbury City Council



How does the Planning Agreement promote the public interest and one or more of the objects of the Act?

The draft VPA promotes the public interest by ensuring that a cash contribution is made for the provision of local and district infrastructure and facilities which are required by the community as a consequence of the development.

The draft VPA promotes the following objects of the Act through the provision of cash contributions to be used for the provision of local and district infrastructure and facilities:

- to encourage the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment (Section 5(a)(i))
- to encourage the promotion and co-ordination of the orderly and economic use and development of land (Section 5(a)(ii))
- to encourage the provision and co-ordination of community services and facilities (Section 5(a)(v)).

How does the Planning Agreement promote the objects of the Local Government Act 1993?

By requiring the payment of cash contributions, the draft VPA provides Council with the ability to provide local and district infrastructure and facilities appropriate to the needs of the incoming community and also provides Council with a role in the management, improvement and development of resources in the area.

In this way, the draft VPA promotes the purposes set out in section 7(e) of the *Local Government Act 1993*.

How does the Planning Agreement promote the Principles for local government under Chapter 3 of the Local Government Act 1993?

The draft VPA makes provisions for Council to receive cash contributions that can be used for the provision of local and district infrastructure and facilities, hence the VPA promotes the following elements of Principles for local government under Chapter 3 Sections 8A and 8B of the *Local Government Act 1993*:

- 8A (1) (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way
- 8A (1) (g) Councils should work with others to secure appropriate services for local community needs
- 8A (1) (h) Councils should act fairly, ethically and without bias in the interests of the local community
- 8A (2) (b) Councils should consider social justice principles
- 8A (2) (c) Councils should consider the long term and cumulative effects of actions on future generations
- 8B (d) Councils should have regard to achieving intergenerational equity, including ensuring the following: (i) policy decisions are made after considering their financial effects on future generations.

What are the planning purposes served by the Planning Agreement?

The planning purpose of the draft VPA is to enable the collection of contributions that can be used for the delivery of local and district infrastructure and facilities required as a result of the proposed development.

The agreement will only operate if and when Council grants development approval(s) to the proposed development of the site. If the proposed development does occur then the planning purpose will be achieved. If the proposed development does not occur the planning purpose will not be achieved nor will it be required.

Does the Planning Agreement conform with Council's Capital Works Program?

It is anticipated that the contributions collected will be used to provide local and district infrastructure and facilities that are supplementary and consistent with Council's current capital work program.

oooO END OF REPORT Oooo

ORDINARY MEETING

Minutes: 12 December 2017

SECTION 3 - Reports for Determination

PLANNING DECISIONS

Item: 225 **CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012
- Lot E DP 373372, 452 Greggs Road, Kurrajong - (95498, 124414)**

Previous Item: 96, Ordinary (31 May 2016)

Mr Glenn Falson addressed Council, speaking for the recommendation.

MOTION:

RESOLVED on the motion of Councillor Conolly, seconded by Councillor Zamprogno.

Refer to RESOLUTION

393 RESOLUTION:

RESOLVED on the motion of Councillor Conolly, seconded by Councillor Zamprogno.

That Council:

1. Proceed with the making of a plan to amend the Hawkesbury Local Environmental Plan 2012 in order to permit the subdivision Lot E DP 373372, 452 Greggs Road, Kurrajong into two large rural residential lots with a minimum lot size of not less than 4,000m² as detailed in this report.
2. Request that the Parliamentary Counsel's Office prepare a draft Local Environmental Plan to give effect to the exhibited planning proposal in accordance with Section 59(1) of the Environmental Planning and Assessment Act 1979.
3. Adopt and make the draft local environmental plan, under the authorisation for Council to exercise delegation issued by the Gateway determination, upon receipt of an opinion from Parliamentary Counsel's Office that the plan can be legally made.
4. Following the making of the Plan, advise the Department of Planning and Environment that the Plan has been made and request to notify the Plan on the NSW Legislation website.
5. Publically exhibit the Draft Voluntary Planning Agreement attached to this report for a minimum of 28 days and the Draft Voluntary Planning Agreement be reported back to Council following public exhibition prior to finalisation.
6. Officers initiate discussions with the land owner with a view to confirming the heritage value of the former dwelling located on 452 Greggs Road, Kurrajong and reporting the outcome of those discussions to Council in February 2018.

ORDINARY MEETING

Minutes: 12 December 2017

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

For the Motion	Against the Motion
Councillor Calvert	Councillor Ross
Councillor Conolly	
Councillor Garrow	
Councillor Kotlash	
Councillor Lyons-Buckett	
Councillor Reynolds	
Councillor Richards	
Councillor Wheeler	
Councillor Zamprogno	

Councillors Rasmussen and Tree were absent from the meeting.

GENERAL MANAGER

Item: 226 GM - Recording of Telephone Calls - Legal Advice - (79351, 105109, 138879)

Previous Item: NM2, Ordinary (8 August 2017)

MOTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Conolly.

Refer to RESOLUTION

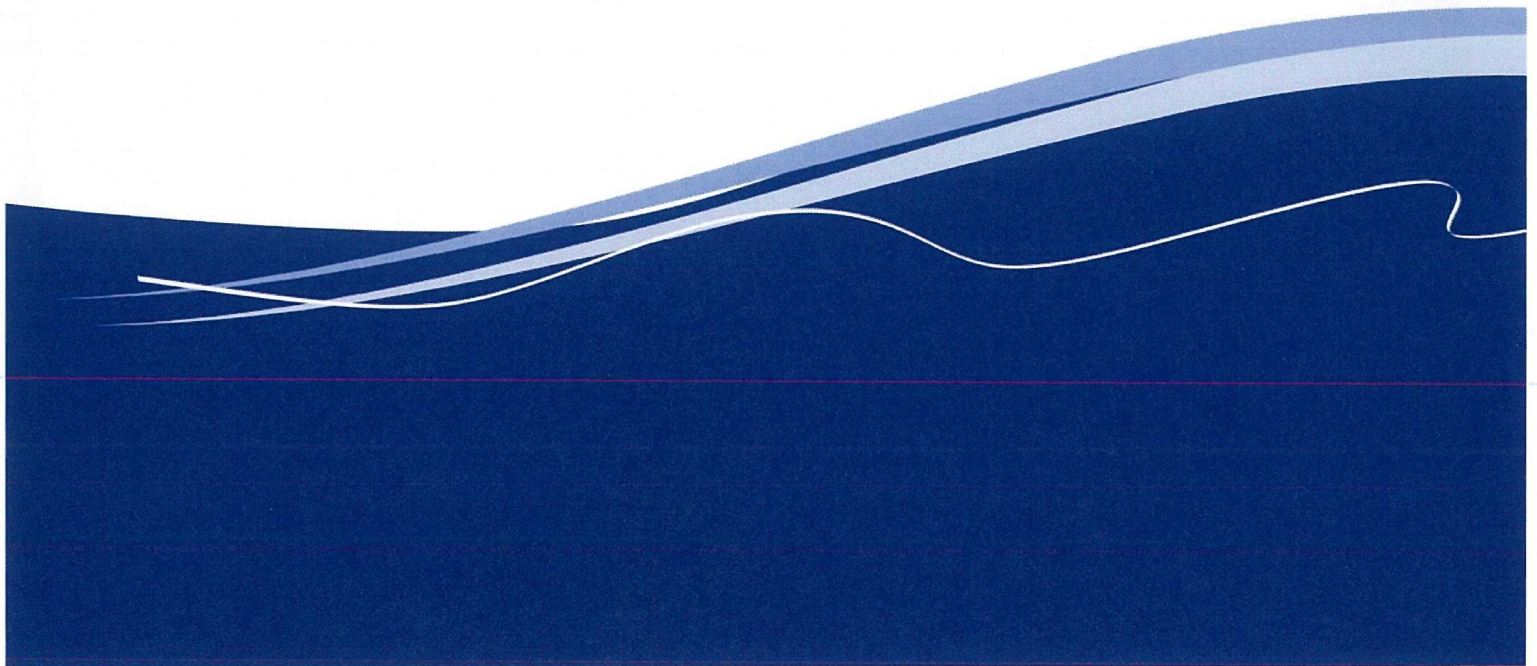
394 RESOLUTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Conolly.

That the report be received and noted.

Attachment 2

Public Authority Submissions





23rd August 2016

Karu Wijayasinghe
Senior Strategic Land Use Planner
Hawkesbury City Council
PO Box 146
Windsor NSW 2756

Emailed: council@hawkesbury.nsw.gov.au

Your Reference: LEP004/16
Our Reference (TRIM): OUT16/31055

Dear Karu

Re: Planning Proposal (LEP004/16) – Lot E DP373372, 452 Greggs Rd Kurrajong

Thank you for the opportunity to provide advice on the above matter. This is a response from NSW Department of Industry – Geological Survey of New South Wales (GSNSW).

General Information

The GSNSW has no resource issues to raise in regards to the proposal as there are no current mineral, coal or petroleum titles over the site, nor any identified regional or state significant resources covering the subject site

Geoscience Information Services

The GSNSW has a range of online data available on line through the following website address:

<http://www.resources.nsw.gov.au/geological/online-services>

This site hosts a range of data to enable research into exploration, land use and general geoscience topics. Additionally, the location of exploration and mining titles in NSW may be accessed by the general public using the following online utilities:

1. **MinView** allows on-line interactive display and query of exploration tenement information and geoscience data. It allows spatial selection, display and download of geological coverages, mineral deposits and mine locations, geophysical survey boundaries, drillhole locations, historical and current exploration title boundaries and other spatial datasets of New South Wales. This online service is available at:
<http://www.resources.nsw.gov.au/geological/online-services/minview>
2. **NSW Titles** enables the public to access and view frequently updated titles mapping information across NSW. This online service is available at:
<http://nswtitles.minerals.nsw.gov.au/nswtitles/>

Queries regarding the above information, and future requests for advice in relation to this matter, should be directed to the GSNSW Land Use team at landuse.minerals@industry.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cressida Gilmore', written in a cursive style.

Cressida Gilmore
Manager- Land Use



NSW RURAL FIRE SERVICE



The General Manager
Hawkesbury City Council
PO Box 146
WINDSOR NSW 2756

Your reference: LEP004/16
Our reference: L12/0038

6 September 2016

Attention: Karu Wijayasinghe

Dear Sir/Madam,

Planning Instrument for Lot E Sp 373372, 452 Greggs Road Kurrajong NSW

Reference is made to Council's correspondence dated 12 August 2016 seeking comments in relation to the above planning proposal which seeks to rezone the above land to allow for a two lot subdivision.

The New South Wales Rural Fire Service has reviewed the proposal and raises no objections subject to a requirement that the future subdivision of the land complies with *Planning for Bush Fire Protection 2006*. This includes, but is not limited to:

- Provision of Asset Protection Zones (APZs) within the proposed lots in accordance with Table A2.4;
- Access to be provided in accordance with the design specifications set out in section 4.1.3; and,
- Services to be provided in accordance with section 4.1.3.

If you have any queries regarding this advice, please contact Matthew Apps, Development Assessment and Planning Officer, on 1300 NSW RFS.

Yours sincerely,

Jason Maslen
Team Leader, Development Assessment and Planning
Planning and Environmental Services (East)

Postal address
NSW Rural Fire Service
Records Management
Locked Bag 17
GRANVILLE NSW 2141

Street address
NSW Rural Fire Service
Planning and Environmental Services (East)
42 Lamb Street
GLENDENNING NSW 2761

T 1300 NSW RFS
F (02) 8741 5433
E csc@rfs.nsw.gov.au
www.rfs.nsw.gov.au





Office of
Environment
& Heritage

DOC16/420937
LEP004/16

The General Manager
Hawkesbury City Council
PO Box 146
WINDSOR NSW 2756

Attention: Karu Wijayasinghe

Dear Mr Jackson

Planning Proposal, 452 Greggs Road, Kurrajong (LEP004/16)

I refer to your letter of 12 August 2016 seeking advice from the Office of Environment and Heritage (OEH) on the above in accordance with the Gateway Determination.

OEH notes this site may contain Shale Sandstone Transition Forest vegetation – a listed Critically Endangered Ecological Community under the *NSW Threatened Species Conservation Act 1995*. It is also noted the Gateway Determination requires the preparation of a flora and fauna study prior to public exhibition of the Planning Proposal. OEH recommends this be undertaken in accordance with the draft *Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities* (DEC, November 2004) which can be downloaded from the OEH website.

If you have any queries regarding this matter please contact Richard Bonner on 9995 6917 or richard.bonner@environment.nsw.gov.au.

Yours sincerely

S. Harrison 05/09/16

SUSAN HARRISON
Senior Team Leader Planning
Greater Sydney Region



6 September 2016

Roads and Maritime Reference: SYD16/01087 (A14359399)
Council Reference: LEP004/16

General Manager
Hawkesbury City Council
PO Box 146
Windsor NSW 2756

Attention: Karu Wijayasinghe

Dear Sir/Madam,

**PLANNING PROPOSAL - LOT E DP 373372, 452 GREGGS ROAD KURRAJONG –
AMENDMENT TO HAWKESBURY LOCAL
ENVIRONMENTAL PLAN 2012 MINIMUM LOT SIZE MAP**

Reference is made to Council's letter dated 12 August 2016, concerning the abovementioned planning proposal, which was referred to Roads and Maritime for comment in accordance with the consultation requirements under Section 56(2) of *Environmental Planning and Assessment Act 1979*.

Roads and Maritime has reviewed the submitted documentation and raises no objection to the proposed amendment to the minimum lot size for the subject site to 4,000m² to facilitate a two lot subdivision, as it is not likely to result in a significant increase in traffic generation potential for the subject site.

However, Roads and Maritime understands that Council is considering preparing an overarching residential development strategy for the subject locality which would include a study into the infrastructure required to support the growth in the area. Roads and Maritime would suggest that site specific planning proposals be put on hold until such time that the overarching strategy and supporting studies are completed. This would ensure that the cumulative impact of residential growth in the area is assessed, the necessary infrastructure to support development is identified, and that a developer contribution/funding mechanism is in place for the provision of infrastructure. This is particularly important for planning proposals which facilitate incremental developments which cumulatively contribute to the need for the road network upgrades, but do not individually warrant upgrades.

If you have any questions in relation to the above matters, please contact the nominated Land Use Planner Rachel Nicholson on phone 8849 2702 or development.sydney@rms.nsw.gov.au.

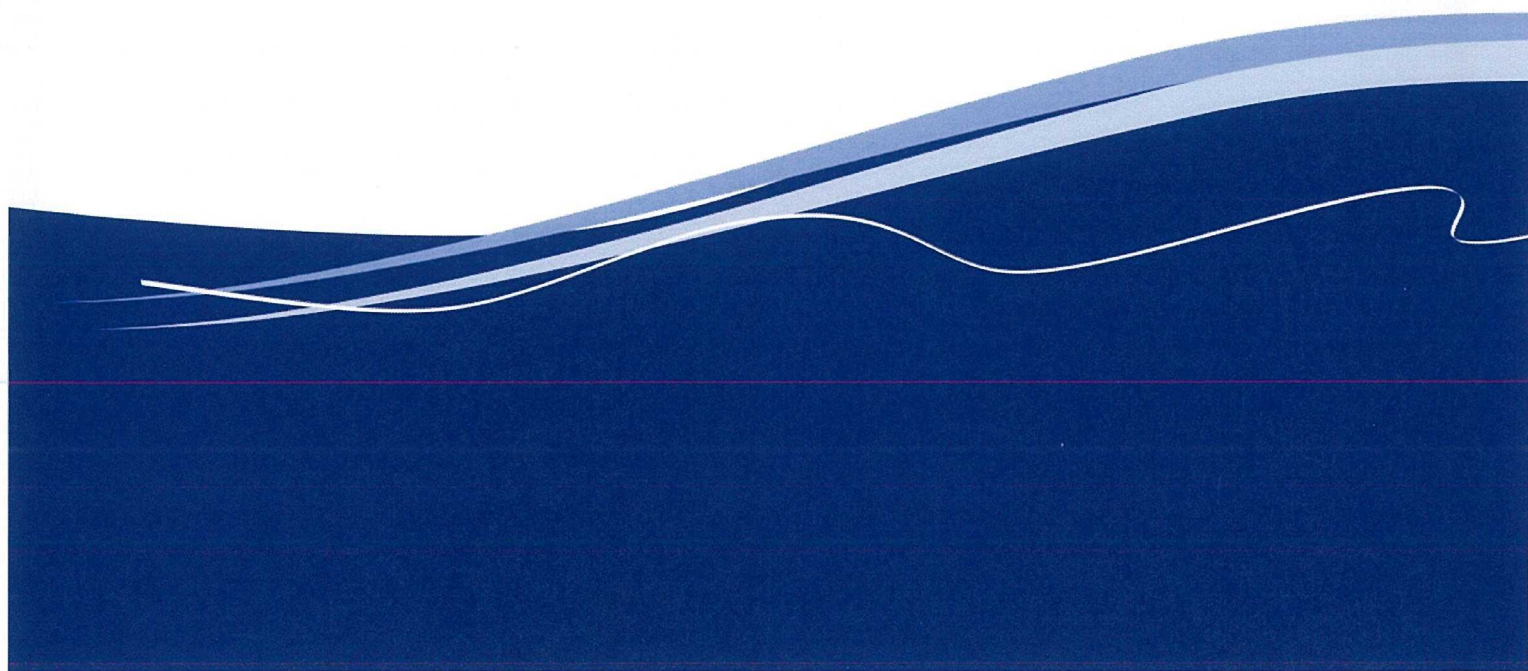
Yours sincerely,

Greg Flynn
Manager Strategic Land Use
Network Sydney

Roads and Maritime Services

Attachment 3

Parliamentary Counsel's Opinion





New South Wales

PARLIAMENTARY COUNSEL

Opinion

Environmental Planning and Assessment Act 1979
Proposed Hawkesbury Local Environmental Plan 2012 (Amendment No 20)

Your ref: PP_2016_HAWKE_006_00
Our ref: e2018-036.d02

In my opinion the attached draft environmental planning instrument may legally be made.

When the environmental planning instrument is made, a map cover sheet that lists the final form of the maps adopted by the instrument should be signed by the person making the instrument.

A handwritten signature in black ink, appearing to read 'D Colagiuri'.

(D COLAGIURI)
Parliamentary Counsel
27 April 2018



New South Wales

Hawkesbury Local Environmental Plan 2012 (Amendment No 20)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

.....

Hawkesbury Local Environmental Plan 2012 (Amendment No 20)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Hawkesbury Local Environmental Plan 2012 (Amendment No 20)*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

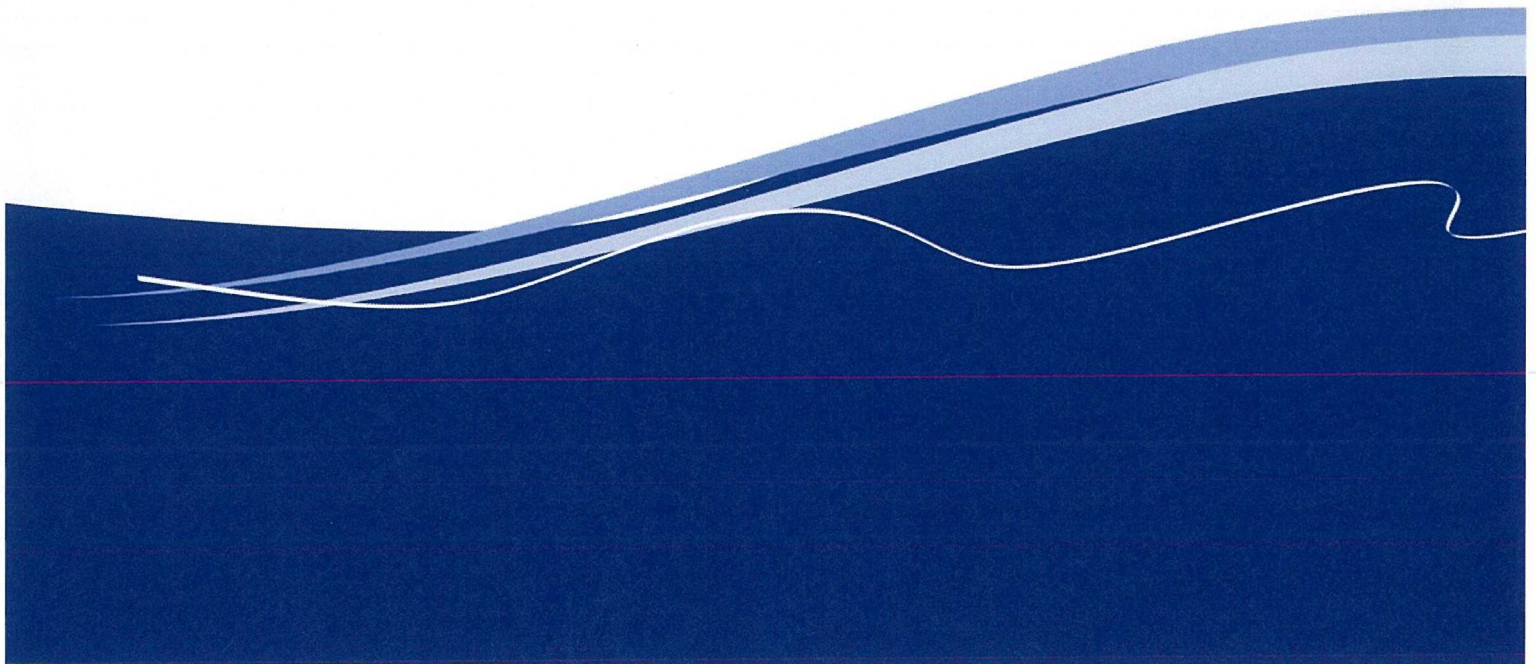
This Plan applies to Lot E, DP 373372, being 452 Greggs Road, Kurrajong.

4 Maps

The maps adopted by *Hawkesbury Local Environmental Plan 2012* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this Plan.

Attachment 4

Map Cover Sheet and Associated Maps



Hawkesbury Local Environmental Plan 2012 (Amendment No 20)

Hawkesbury City Council
366 George Street
Windsor NSW
2756

Map Cover Sheet

The following map sheet is revoked:

Map Sheet	Map Identification Number
Lot Size Map LSZ_008A	3800_COM_LSZ_008A_040_20170616

The following map sheet is adopted:

Map Sheet	Map Identification Number
Lot Size Map LSZ_008A	3800_COM_LSZ_008A_040_20180122

Certified



Director City Planning Date: 31/5/18 Minister for Planning
Hawkesbury City Council
Delegate Greater Sydney Commission

Date:



Hawkesbury Local Environmental Plan 2012

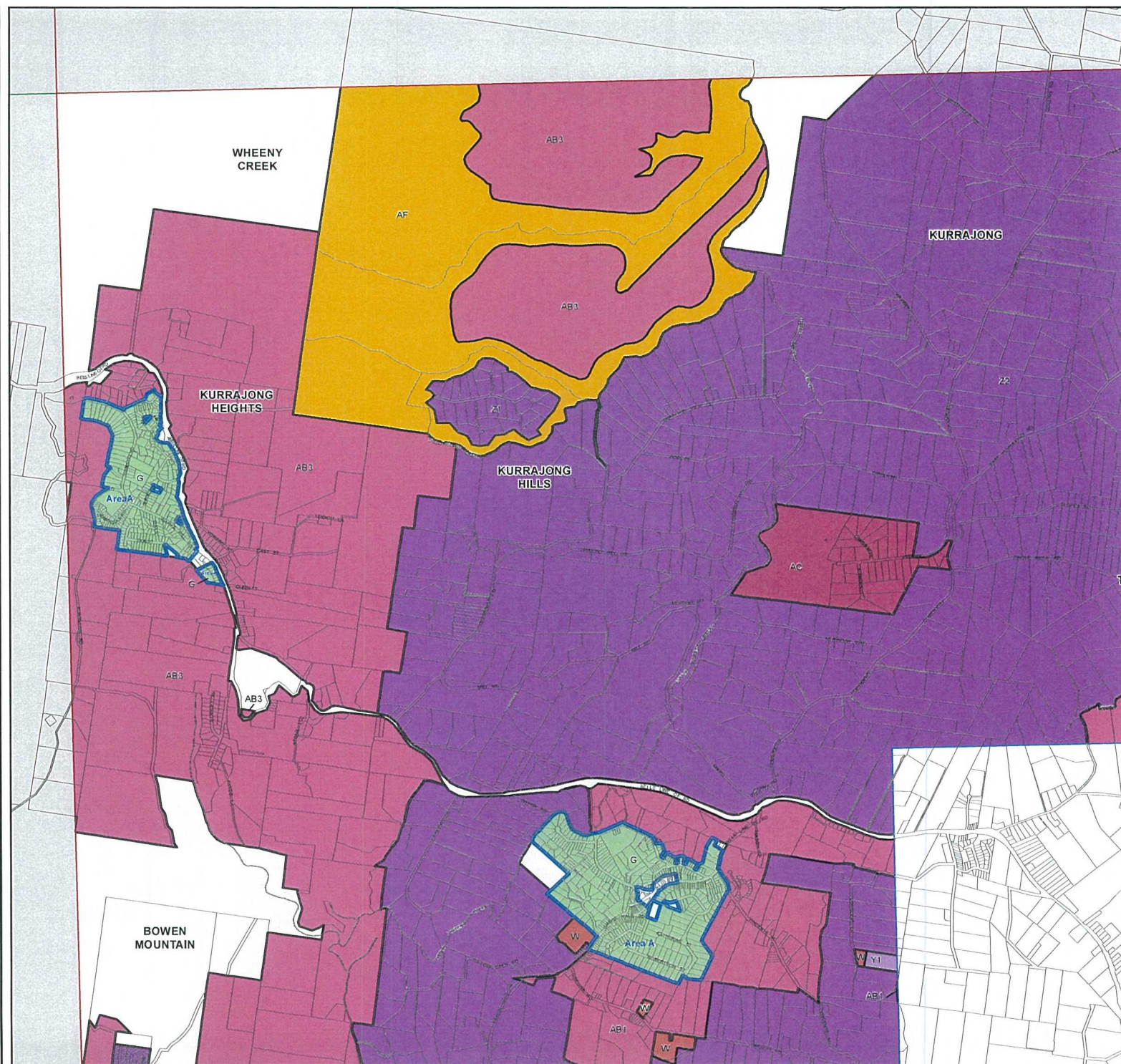
Lot Size Map - Sheet LSZ_008A

Minimum Lot Size (sq m)

A	180
E	375
G	450
K	550
M	600
O	650
R	750
U1	1000
U2	1500
V1	2000
V2	2500
W	4000
Y1	10000
Y2	15000
Z1	2 ha
Z2	4 ha
AB1	10 ha
AB2	25 ha
AB3	40 ha
AC	50 ha
AD	100 ha
AE	200 ha
AF	400 ha
Area A	Refer to Clause 4.1D(1)
Area B	Refer to Clause 4.1E
Area C	Refer to Clause 4.1F

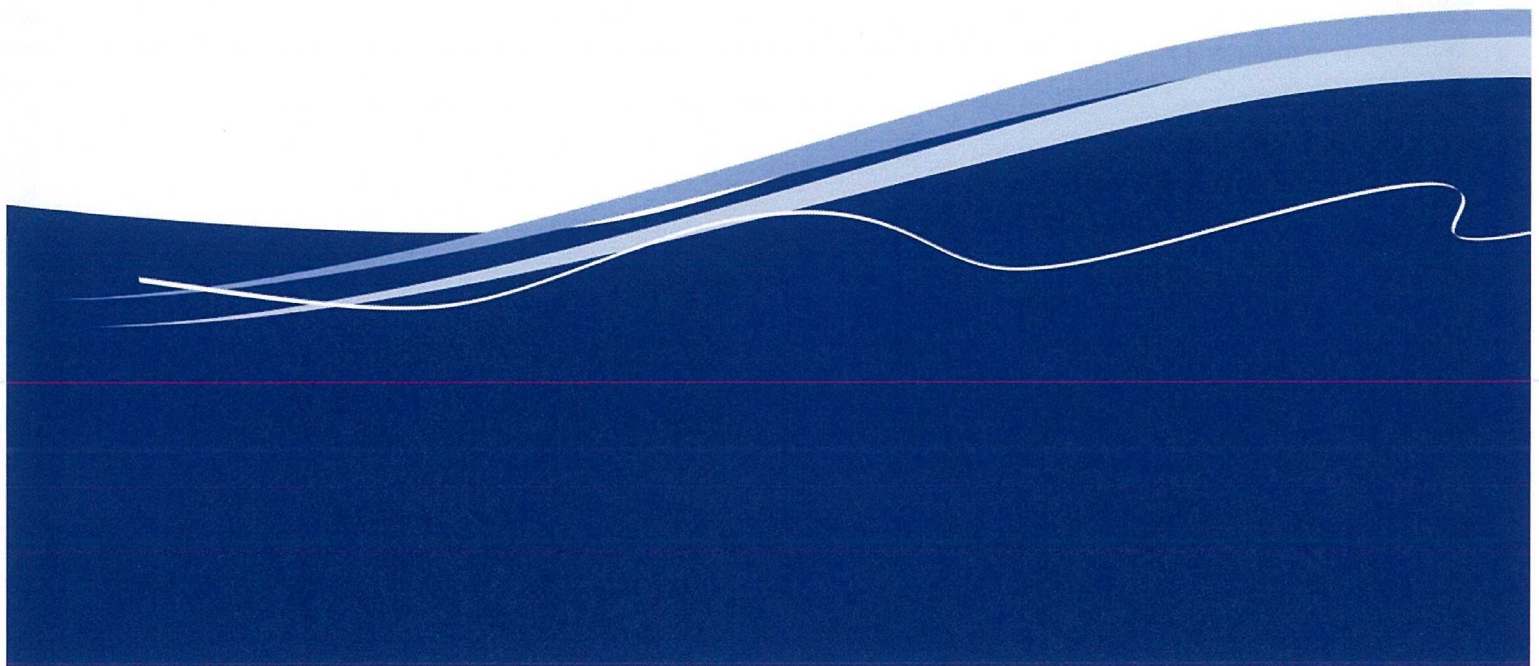
Cadastre

Cadastre 22/01/2018 © Spatial Services



Attachment 5

Hawkesbury Local Environmental Plan 2012 (Amendment 20)





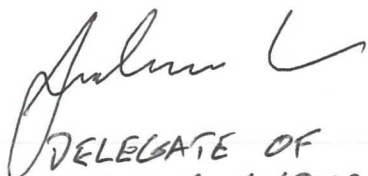
New South Wales

Hawkesbury Local Environmental Plan 2012 (Amendment No 20)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

.....

DELEGATE OF
GREATER SYDNEY
COMMISSION
31/5/18

Hawkesbury Local Environmental Plan 2012 (Amendment No 20)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Hawkesbury Local Environmental Plan 2012 (Amendment No 20)*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

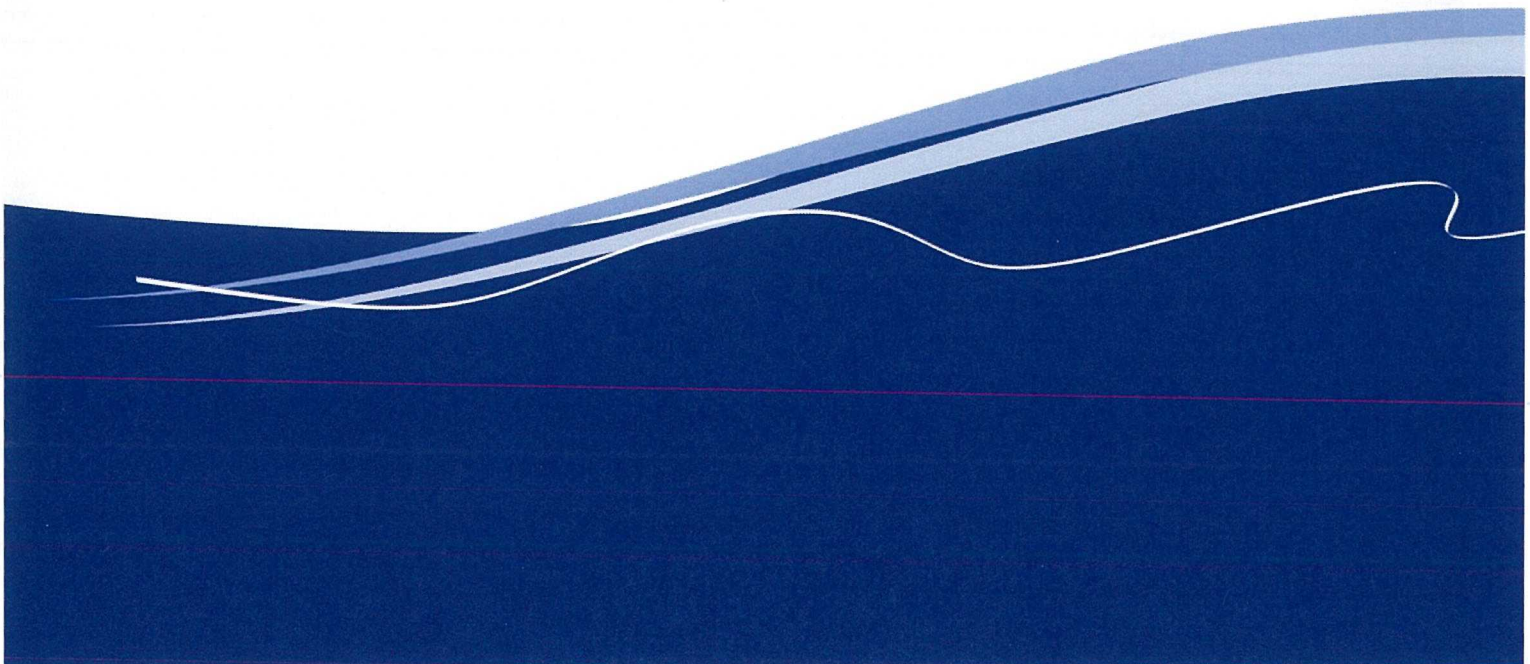
This Plan applies to Lot E, DP 373372, being 452 Greggs Road, Kurrajong.

4 Maps

The maps adopted by *Hawkesbury Local Environmental Plan 2012* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this Plan.

Attachment 6

Council Delegate's Details



Council Delegate's Details

Name of Council Delegate: **Andrew Kearns**

Position of Council Delegate: **Manager Strategic Planning, Hawkesbury City Council**

Under the provisions of Section 378(2) of the *Local Government Act 1993* Mr Peter Jackson, General Manager, Hawkesbury City Council sub-delegated plan making functions under Part 3 of the *Environmental Planning and Assessment Act, 1979* delegated to him by Council at its meeting of 11 December 2012 to the Director City Planning, Hawkesbury City Council on 24 April 2014. The below is a copy of the General Manger's memorandum advising sub-delegation of plan making functions to the Director City Planning for your information.



I n t e r O f f i c e
M E M O R A N D U M

TO: *Director City Planning*

FROM: *General Manager*

SUBJECT: *Delegations and Independent Reviews of Local Environmental Plan Making Decisions*

FILE:

DATE: *24 April 2014*

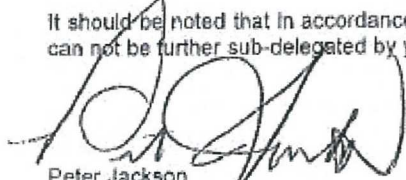
As you are aware, following receipt of correspondence from the Department of Planning and Minister for Planning and Infrastructure regarding new delegations and independent reviews related to plan-making under Part 3 of the *Environmental Planning and Assessment Act 1979* the Council, at its meeting held on 11 December 2012 considered a report in connection with this matter and subsequently resolved as follows:

"That:

1. Council accept the plan-making delegations as described in Circular PS 12-006, dated 29 October 2012, and the Director-General be advised of this acceptance.
2. These delegations be delegated to the General Manager subject to the following conditions:
 - (a) Exercise of the delegations can be used without the need for a subsequent report to Council following public exhibition of a planning proposal only if no submissions are received, or,
 - (b) Where public submissions are received following public exhibition of the planning proposal, a report addressing the submissions is to be brought to council for determination prior to the use of the delegations."

In connection with the part 2 of Council's resolution under the provisions of Section 378(2) of the *Local Government Act 1993* I hereby delegate to you the authority delegated to me by Council in this regard.

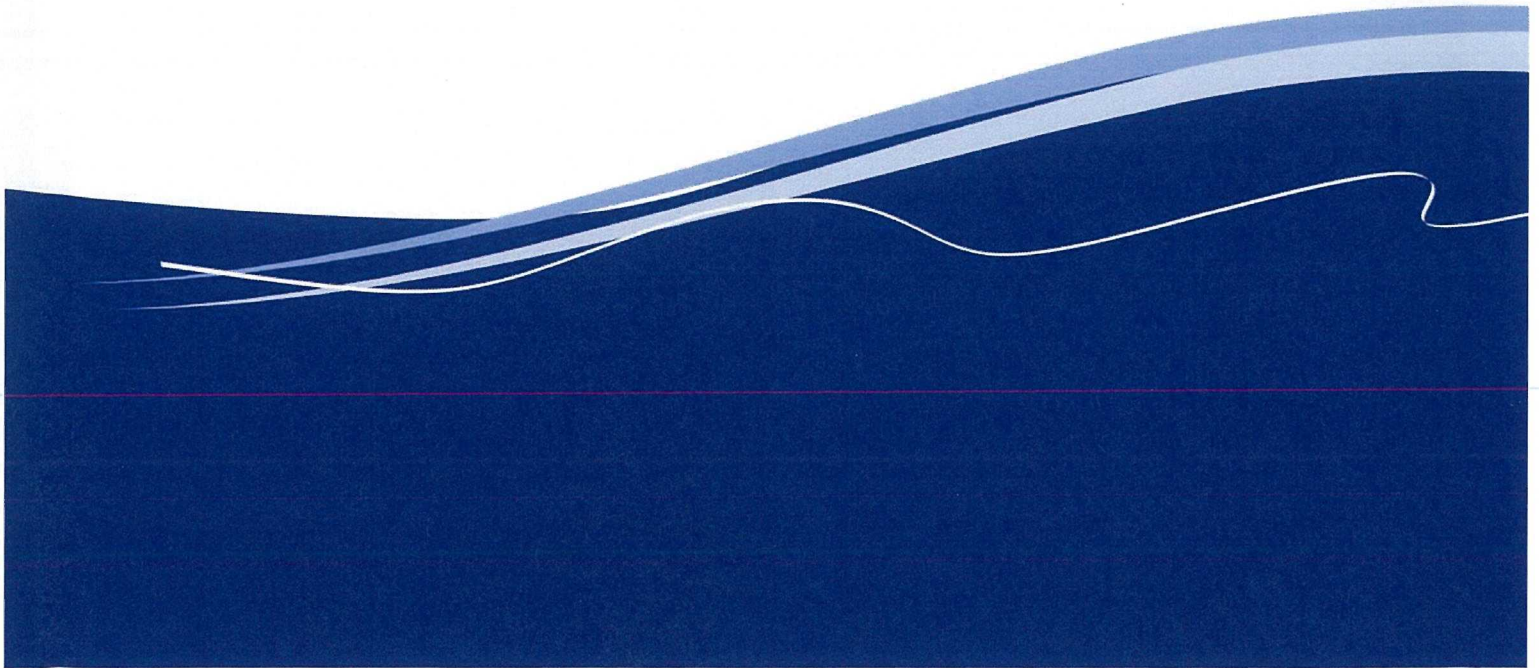
It should be noted that in accordance with the provisions of Section 378(1) of the Act this authority can not be further sub-delegated by yourself.



Peter Jackson
General Manager

Attachment 7

Delegated plan making reporting template



Attachment 7 – Delegated plan making reporting template

Reporting Template for delegated LEP Amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2016_HAWKE_006_00 (16/09174)
Date Sent to Department under s56	09/06/2016
Date considered at LEP Review Panel	N/A
Gateway determination date	11/07/2016

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited	01/09/17 - 2/10/17	Syd. West
Date of public hearing (if held)	N/A	N/A
Date sent to PCO seeking Opinion	19/02/18	Syd. West
Date Opinion received	27/04/18	Syd. West
Date Council Resolved to Adopt LEP	12/12/17	Syd. West
Date LEP made by GM (or other) under delegation	31/05/18	Syd. West
Date sent to DP&I requesting notification		Syd. West

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information:

