

ORDINARY MEETING

Meeting Date: 30 June 2015

Item: 89 CP - LEP001/15 - Amendment to Resolution - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 219 Bells Line of Road, North Richmond - (95498, 124414)

Previous Item: 76, Ordinary (26 May 2015)

Applicant Name:	Urban & Rural Planning Consultant
Planning Proposal No:	LEP001/15
Property Address:	219 Bells Line of Road, North Richmond
Owner/(s):	Rural Press Limited
Date Received:	17 December 2014
Fees Paid:	19 January 2015
Recommendation:	Council adopt the rectified Council recommendation Item 1 and replace previous Resolution Item 1 with the rectified Resolution Item 1

REPORT:

Executive Summary

On 26 May 2015 Council considered a report on a planning proposal submitted by Urban & Rural Planning Consultant (the applicant) seeking an amendment to *Hawkesbury Local Environmental Plan 2012* (the LEP) in order to permit the subdivision of Lot 87 DP 1040092, 219 Bells Line of Road, North Richmond into two lots with a minimum lot size of not less than 4ha. Council resolved to support the preparation of a planning proposal for the subject site.

The purpose of this report is to advise Council of a minor administrative error in part 1 of the resolution of 26 May 2015. As a result of this administrative error the recommendation and resolution with respect to the minimum lot size for the site was quoted as 4,000m² (being 0.4ha) rather than 4.0ha.

It is recommended that Council replace part 1 of the resolution of 26 May 2015 to specify the correct allotment size for subdivision on the site to be 4.0ha.

Consultation

The planning proposal has not yet been exhibited. If the planning proposal is to proceed it will be exhibited in accordance with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (the Act) and associated Regulations and as specified in the 'Gateway' determination.

Background

On 26 May 2015 Council considered a planning proposal submitted by the applicant seeking an amendment to the *Hawkesbury Local Environmental Plan 2012* (the LEP) in order to permit the subdivision of the subject land into two lots with a minimum lot size of not less than 4ha and resolved to support the preparation of a planning proposal for the land.

At that meeting part 1 of the resolution was as follows:

- "1. Council support the preparation of a planning proposal for Lot 87 DP 1040092, 219 Bells Line of Road, North Richmond to amend the Lot Size Map of Hawkesbury Local Environmental Plan 2012 to permit minimum lot sizes of not less than 4,000m² and 1ha on the land as shown in Attachment 1 to this report."

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Attachment 1 to that report was the 'Proposed Minimum Lot Size Map' which showed the recommended minimum lot size for the land as 4ha. In this regard the resolution should have stated a minimum allotment size of 4.0ha and not 4,000m². It is therefore recommended that part 1 of the previous Council be replaced with the following:

- "1. Council support the preparation of a planning proposal for Lot 87 DP 1040092, 219 Bells Line of Road, North Richmond to amend the Lot Size Map of Hawkesbury Local Environmental Plan 2012 to permit minimum lot size of not less than 4ha on the land as shown in Attachment 1 to the report for Item 76 in the meeting date of 26 May 2015."*

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Looking after People and Place Directions statement:

- Offer residents a choice of housing options that meet their needs whilst being sympathetic to the qualities of the Hawkesbury
- Population growth is matched with the provisions of infrastructure and is sympathetic to the rural, environmental, heritage values and character of the Hawkesbury
- Have development on both sides of the river supported by appropriate physical and community infrastructure.

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. Amend the minimum allotment size quoted in part one of the resolution in relation to Item 76 of the meeting of 26 May 2015 to 4.0ha so that the amended part one of that resolution reads as follows:
 1. *Council support the preparation of a planning proposal for Lot 87 DP 1040092, 219 Bells Line of Road, North Richmond to amend the Lot Size Map of Hawkesbury Local Environmental Plan 2012 to permit minimum lot size of not less than 4ha on the land as shown in Attachment 1.*
2. Advise the Department of Planning and Environment of the amended resolution.

ATTACHMENTS:

AT - 1 Previous Council Report and Resolution (26 May 2015)

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AT - 1 Previous Council Report and Resolution (26 May 2015)

Item: 76 CP - LEP001/15 - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 219 Bells Line of Road, North Richmond - (95498, 124414)

Previous Item: 183, Ordinary (30 August 2011)

REPORT:

Executive Summary

This report discusses a planning proposal from Glenn Falson Urban and Rural Planning Consultant (the applicant) which seeks to amend Hawkesbury Local Environmental Plan 2012 (the LEP) to enable the subdivision of Lot 87 DP 1040092, 219 Bells Line of Road, North Richmond (the subject site) into two lots with a minimum lot size of not less than 4ha.

The proposed subdivision of the subject site into two lots does not comply with the current 10ha minimum lot size provisions in the LEP. This planning proposal seeks an amendment to the Lot Size Map of the LEP to change the minimum lot size for the site to allow subdivision of the site into two lots with a minimum lot size of not less than 4ha.

The planning proposal does not seek to amend the existing RU1 Primary Production zoning of the site.

It is recommended that Council support the preparation of a planning proposal to allow development of the subject site primarily for large lot residential development.

Consultation

The planning proposal has not yet been exhibited. If the planning proposal is to proceed it will be exhibited in accordance with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (the Act) and associated Regulations and as specified in the 'Gateway' determination.

Background

In February 2011, Council received a development application (DA0097/11) seeking approval for a two lot Torrens title subdivision of the subject site. Given the proposed subdivision was not consistent with the 10ha minimum lot size requirement for the subdivision of the site under the provisions of the (then) Hawkesbury Local Environmental Plan 1989 the application included an objection under State Environmental Planning Policy No. 1 – Development Standards (SEPP 1) seeking a variation from the minimum lot size requirement.

On 30 August 2011, Council considered a report on the development application and resolved not to support the application.

This planning proposal seeks to amend the Lot Size Map of the LEP to allow subdivision of the land into two lots as depicted in the concept plan attached to the planning proposal. Should the planning proposal be supported a separate development application would be required to determine a future subdivision.

Planning Proposal

The planning proposal seeks an amendment to the LEP in order to permit the subdivision of the site into two lots with a minimum lot size of not less than 4ha. A concept plan for the proposed subdivision is attached to this report, for discussion purposes only in relation to the potential yield of the site and does not form part of the planning proposal. This can only be considered by Council when submitted with a development application.

The effect of the planning proposal would be to either:

- a) amend the Lot Size Map of the LEP (Map Identification No. 3800_COM_LSZ_008AA_020_20141010) to change the minimum lot size applying to the site as 4ha, or
- b) insert a new provision in the LEP to permit the site to be subdivided as proposed into a maximum number of two lots.

The Department of Planning and Environment (DP & E) will ultimately decide on the type of amendment to the LEP. However, it is understood that at present the DP & E's preferred option is to amend the Lot Size Map of the LEP rather than include a clause or provision in the LEP to limit the number of lots of subdivision of the site.

Subject Site and Surrounds

The subject site is legally described as Lot 87 DP 1040092 and known as 219 Bells Line of Road, North Richmond. The site is located on the western side of Bells Line of Road, and is approximately one kilometre from North Richmond Village Centre. The site has an area of 19.2ha and has an irregular shape. Redbank Road bisects the site into two parts. The northern part of the site has an area of 6.7ha and the southern part has an area of 12.5ha (see Figure 1).

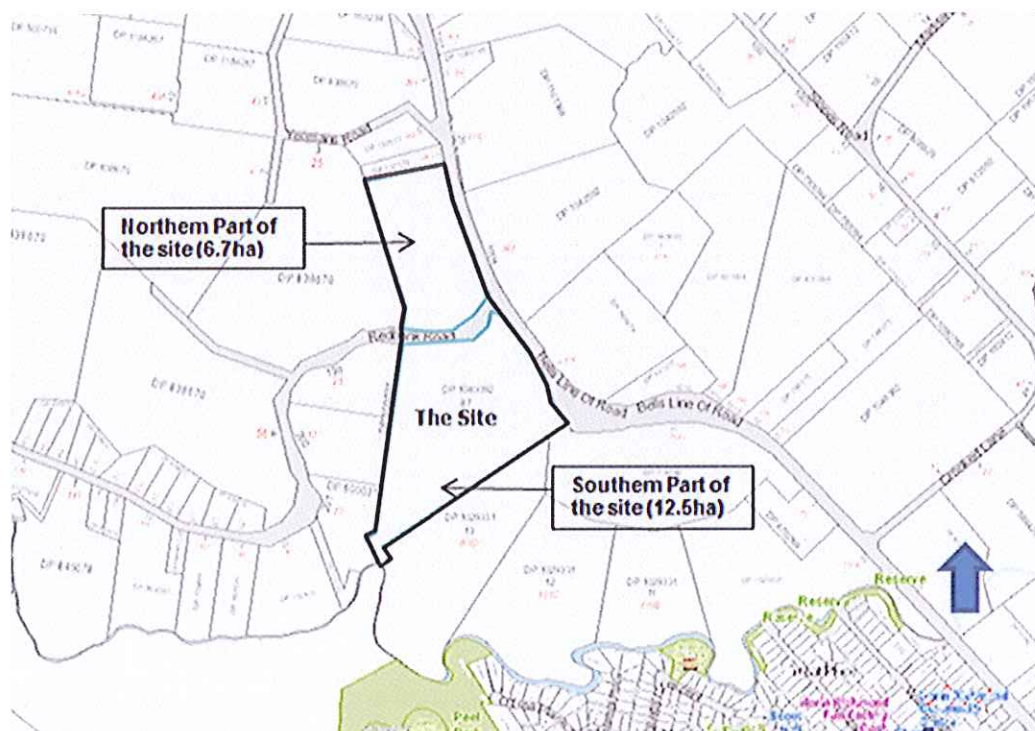


Figure 1: Subject site

The site is zoned RU1 Primary Production under the LEP. The current minimum lot size for subdivision of this site is 10ha.

The site is shown as being bushfire prone (bushfire vegetation category 1) on the NSW Rural Fire Service's Bushfire Prone Land Map.

The site is shown as being Agriculture Land Classification 3 on maps prepared by the former NSW Department of Agriculture.

The site is situated above the 1 in 100 year ARI flood level.

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The land has an elevation of approximately 65m AHD towards Bells Line of Road and then falls south-westerly direction towards the two existing two dams at a level of approximately 43 AHD.

According to Council's slope mapping land near the south-eastern and north-eastern corners of the site and the intersection of Bells Line of Road and Redbank Road has a slope greater than 15%. The remaining site area containing open grass land with some scattered clusters of trees and dense vegetation has a slope less than 15%.

The site is shown as being within Acid Sulfate Soil Classification 5. This represents a relatively low chance of acid sulfate soils being present on the site.

The majority area of the site area is shown as 'connectivity between remnant vegetation and records the site as containing Shale Plains Woodland and Shale Sandstone Transition Forest (High Sandstone influence).

The southern part of the site contains a local heritage listed residence known as 'Hillcrest', a tennis court, out buildings, part of the Fairfax (Rural Press) Media complex carpark and a dam. The southern part of the site contains grasslands with some scattered clusters of trees.

The northern part of the site is vacant and has been used in the past for grazing activities. The majority area of this part of the site is covered by vegetation with grasslands and scattered clusters of trees along the northern boundary. A small dam is contained within the grassland area.

The surrounding land uses include rural residential properties, Colo High School, Fairfax (Rural Press) Media complex, grazing lands and urban housing.

Applicant's Justification of Proposal

The applicant has provided the following justification for the planning proposal.

- *Approve the proposal from Bligh Park Community Services Inc. to enter into a licence agreement with Eagle Arts and Vocational College for the purpose of enabling the College to establish and operate an accredited learning and vocational training program from the Tiningi Youth Centre.*
- *"Technical site investigations have been carried out which has demonstrated that the land is capable of being subdivided into two lots and these two lots would be consistent with other lands in the vicinity and would form an appropriate allotment size near to the edge of the North Richmond township.*
- *The proposed lots are capable of containing on-site wastewater disposal and matters relating to vegetation management and bushfire control.*
- *The effluent disposal assessment, flora/fauna assessment and bushfire assessment indicate that there is ample room available for the erection of a dwelling on the proposed vacant northern lot without impact on vegetation.*
- *Water, electricity, telephone and transport are currently available to the site boundaries.*
- *The two components of the site already have the appearance of separate allotments and there are vehicular accesses off Redbank Road to each component. Subdivision in the manner proposed is a logical division of land already physically divided by Redbank Road.*
- *This proposal will allow the development of a new allotment on sustainable accessible land, which can support effluent disposal and provide for asset protection zones (APZs). Most importantly no impact to the existing heritage item 'Hillcrest' will occur due to this proposal.*

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- *It is considered that subdivision of the land as proposed would have no impact on primary production capacity and in fact could allow some form of low-density agricultural use if a dwelling was ultimately constructed on the northern parcel of the land as an individual lot as proposed."*

Metropolitan Strategy, Draft North West Subregional Strategy and Hawkesbury Residential Land Strategy

The NSW Government's 'A Plan for Growing Sydney' December 2014 (the Sydney Metropolitan Strategy) and Draft North West Subregional Strategy establish the broad planning directions for the Sydney metropolitan area and north-western sector of Sydney respectively. These documents identify a number of strategies, objectives and actions relating to the economy and employment, centres and corridors, housing, transport, environment and resources, parks and public places, implementation and governance.

These two documents have a high level metropolitan and regional focus and for the most part are not readily applicable to a singular rural residential planning proposal at North Richmond. Notwithstanding this the applicant has provided an assessment of the planning proposal against these two documents and concludes that the proposal is consistent with these strategies. Taking into consideration the location of the proposed development, i.e. on the western side of Hawkesbury River and on the fringe of North Richmond Village, and the unsuitability of the site to provide for an increased density of housing development beyond what is proposed it is considered that the proposal demonstrates satisfactory compliance with these strategies.

The Hawkesbury Residential Land Strategy (HRLS) is, in part, a response to the above mentioned State strategies and seeks to identify residential investigation areas and sustainable development criteria which are consistent with the NSW Government's strategies.

The proposal can be described as a rural residential development on the fringe of the North Richmond village.

The HRLS states that the future role of rural residential development is as follows:

"Rural residential developments have historically been a popular lifestyle choice within Hawkesbury LGA. However, rural residential development has a number of issues associated with it including:

- *Impacts on road networks;*
- *Servicing and infrastructure;*
- *Access to facilities and services;*
- *Access to transport and services;*
- *Maintaining the rural landscape; and*
- *Impacts on existing agricultural operations.*

Whilst this Strategy acknowledges rural residential dwellings are a part of the Hawkesbury residential fabric, rural residential dwellings will play a lesser role in accommodating the future population. As such, future rural development should be low density and large lot residential dwellings."

For the purposes of this proposal, the relevant criteria for rural residential development are that it be large lot residential dwellings and:

- *"be able to have onsite sewerage disposal;*
- *cluster around or on the periphery of villages;*
- *cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within a 1km radius);*
- *address environmental constraints and have minimal impact on the environment;*
- *be within the capacity of the rural village"*

Comment: The ability to dispose of effluent on site is discussed in later sections of this report.

The site is on the fringe of the North Richmond village centre.

Relevant environmental constraints are discussed in later sections of this report.

Council Policy - Rezoning of Land for Residential Purposes - Infrastructure Issues

On 30 August 2011, Council adopted the following Policy:

"That as a matter of policy, Council indicates that it will consider applications to rezone land for residential purposes in the Hawkesbury LGA only if the application is consistent with the directions and strategies contained in Council's adopted Community Strategic Plan, has adequately considered the existing infrastructure issues in the locality of the development (and the impacts of the proposed development on that infrastructure) and has made appropriate provision for the required infrastructure for the proposed development in accordance with the sustainability criteria contained in Council's adopted Hawkesbury Residential Land Strategy.

Note 1:

In relation to the term "adequately considered the existing infrastructure" above, this will be determined ultimately by Council resolution following full merit assessments, Council resolution to go to public exhibition and Council resolution to finally adopt the proposal, with or without amendment.

Note 2:

The requirements of the term "appropriate provision for the required infrastructure" are set out in the sustainability matrix and criteria for development/settlement types in chapter six and other relevant sections of the Hawkesbury Residential Land Strategy 2011."

Compliance with the HRLS has been discussed above. Compliance with CSP will be discussed later in this report.

Council Policy - Our City Our Future Rural Rezoning Policy

This Policy was adopted by Council on 16 May 1998 and had its origin in the Our City Our Future study of the early 1990s.

Since the time of adoption this Policy has essentially been superseded by subsequent amendments to Hawkesbury Local Environmental Plan 1989, NSW Draft North West Subregional Strategy, the Hawkesbury Residential Land Strategy, the Hawkesbury Community Strategic Plan, the commencement of LEP 2012, and the DP&E's 'Gateway' system for dealing with planning proposals.

The Policy is repeated below with responses provided by the applicant.

- a) Fragmentation of the land is to be minimised.

Applicant response

The land is within an area identified within Council's subsequent Residential Land Strategy as having urban potential. Fragmentation of land is envisaged by this subsequent strategy. In any case the land is already fragmented by the location of Redbank Road that dissects the site. The site already has the physical characteristics of separate lots.

- b) Consolidation within and on land contiguous with existing towns and villages be preferred over smaller lot subdivision away from existing towns and villages

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Applicant response

The site is close to North Richmond and the proposal is consistent with this principle.

- c) No subdivisions along main road and any subdivision to be effectively screened from minor roads

Applicant response

Whilst the site fronts a main road (Bells Line of Road) it does not rely on access to that road as existing access points are available to Redbank Road for each proposed lot. The subdivision as proposed would not be distinguishable from existing surrounding rural/residential development.

- d) No subdivision along ridgelines or escarpments

Applicant response

The site is not on a ridge line or in an escarpment area.

- e) Where on-site effluent disposal is proposed, lots are to have an area of at least one hectare unless the effectiveness of a smaller area can be demonstrated by geotechnical investigation.

Applicant response

Each proposed lot is well above this minimum area and the effluent disposal assessment indicates that each lot is suitable for effluent disposal.

- f) The existing proportion of tree coverage on any site is to be retained or enhanced.

Applicant response

The subdivision does not propose removal of vegetation. The construction of a subsequent additional dwelling would also not require removal of any vegetation.

- g) Any rezoning proposals are to require the preparation of Environmental Studies and Section 94 Contributions Plans at the applicant's expense.

Applicant response

The rezoning process has altered since this policy of Council. The 'Gateway' process will dictate whether further studies are required.

Staff response

Taking into consideration the scale of the development it is considered that an environmental study is not required. However, this will be a matter for the DP&E to advise Council on as a result of their 'Gateway' process.

The need for a Section 94 Contribution Plan or a Voluntary Planning Agreement can be further discussed with the applicant if this planning proposal is to proceed.

- h) Community title be encouraged for rural subdivision as a means of conserving environmental features, maintaining agricultural land and arranging for the maintenance of access roads and other capital improvements.

Applicant response

Community title is not proposed for this subdivision and would be of no advantage given that the land is already divided by the Redbank Road.

Section 117 Directions

The Minister for Planning, under section 117(2) of the Act, issues directions that relevant planning authorities including councils must comply with when preparing planning proposals. The directions cover the following broad range categories:

- Employment and resources
- Environment and heritage
- Housing, infrastructure and urban development
- Hazard and risk
- Regional planning
- Local plan making
- Implementation of a Plan for Growing Sydney

Section 117 Directions are issued by the Minister for Planning and Infrastructure and apply to planning proposals. Typically, the Section 117 Directions will require certain matters to be complied with and/or require consultation with government authorities during the preparation of the planning proposal. However all these Directions permit variations subject to meeting certain criteria (see the last part of this section of the report). The principal criterion for variation to a 117 Direction is consistency with an adopted Local or Regional Strategy.

A summary of the key Section 117 Directions applying to the planning proposal follows:

Direction 1.2 Rural Zones

Planning proposals must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone and must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

The planning proposal seeks an amendment to the Lot Size Map of the LEP and it does not propose any zoning changes or contain provisions to increase the permissible density of land. It is therefore considered that the planning proposal is consistent with this Direction.

Direction 1.3 Mining, Petroleum Production and Extractive Industries

The objective of this direction is to ensure that future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

Direction 1.3 (3) states that:

"This Direction applies when a relevant planning authority prepares a planning proposal that would have the effect of:

- (a) Prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or*
- (b) Restricting the potential development of resources of coal, other mineral, petroleum or extractive materials which are of State regional significance by permitting a land use that is likely to be incompatible with such development."*

The site is not located within the Identified Resource Area or the Potential Resource Area or the Transition Area - areas adjacent to identified resource areas as defined by mineral resource mapping provided by the NSW Resource & Energy Division of NSW Trade & Investment. Also, the subject land is not located within or in the vicinity of land described in Schedule 1, 2 and 5 of the *Sydney Regional Environmental Plan No. 9 - Extractive Industry (No 2- 1995)* nor will the proposed development restrict the obtaining of deposits of extractive material from such land.

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The planning proposal seeks amendments only to the Lot Size Map of the LEP, and does not propose any provisions prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or restricting the potential development of resources of coal, other mineral, petroleum or extractive materials which are of State regional significance by permitting a land use that is likely to be incompatible with such development.

The current RU1 Primary Production zoning of the land is to remain unchanged. However, given mining and extractive industries are prohibited land uses in this zone, consultation is required with the NSW Trade and Investment (NSW T&I) should Council resolve to proceed with the planning proposal and receive a gateway determination advising to proceed with the planning proposal from DP&E in accordance with this Direction.

Direction 2.3 Heritage Conservation

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

Direction 2.3(4)(a) states that:

"(4) A planning proposal must contain provisions that facilitate the conservation of:

- (a) Items, places, buildings, works, relics, movable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area."*

The site contains a heritage item known as "Hill Crest" which is included in Schedule 5 Environmental Heritage of the LEP as a heritage item with local heritage significance. Given the LEP contains provisions to conserve items, areas, objects and places of environmental heritage significance identified in Schedule 5 of the LEP, the planning proposal does not contain provisions to conserve the heritage significance of 'Hill Crest'. Therefore, it is considered that the planning proposal is consistent with this Direction.

Direction 3.1 Residential Zones

Planning proposals must include provisions that encourage the provision of housing that will:

- broaden the choice of building types and locations available in the housing market
- make more efficient use of existing infrastructure and services
- reduce the consumption of land for housing and associated urban development on the urban fringe
- be of good design.

Furthermore a planning proposal must contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it).

The planning proposal would enable the subdivision of the site into two large rural residential lots through an amendment to the Lot Size Map of the LEP and provide the local community with increased housing in close proximity to the North Richmond Village Centre.

Clause 6.7 Essential services of the LEP, makes provisions for essential services. As this clause ensures that all essential services are in place to accommodate future development on the site the planning proposal does not propose a provision for essential services. Therefore, it is considered that the planning proposal is generally consistent with this Direction.

Direction 3.3 Home Occupations

The objective of this Direction is to encourage the carrying out of low-impact small businesses in dwelling houses. Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.

The planning proposal seeks amendments only to the Lot Size Map of the LEP and the current RU1 Primary Production zoning of the land is to remain unchanged. This zone permits carrying out of home occupations in dwelling houses without development consent. The planning proposal is therefore consistent with this Direction.

Direction 3.4 Integrating Land Use and Transport

Planning proposals must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of Improving Transport Choice - Guidelines for planning and development (DUAP 2001).

In summary this document seeks to provide guidance on how future development may reduce growth in the number and length of private car journeys and make walking, cycling and public transport more attractive. It contains 10 'Accessible Development' principles which promote concentration within centres, mixed uses in centres, aligning centres with corridors, linking public transport with land use strategies, street connections, pedestrian access, cycle access, management of parking supply, road management, and good urban design.

The document is very much centres based and not readily applicable to consideration of a rural residential planning proposal. The document also provides guidance regarding consultation to be undertaken as part of the planning proposal process and various investigations/plans to be undertaken. It is recommended that if this planning proposal is to proceed Council seek guidance from the DP&E via the 'Gateway' process, regarding the applicability of this document.

Direction 4.1 Acid Sulfate Soils

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. This Direction requires consideration of the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of DP&E. The subject site is identified as containing "Class 5" (less constrained) on the Acid Sulfate Soils Planning Maps, and as such any future development on the site will be subject to Clause 6.1 Acid Sulfate Soils of the LEP which has been prepared in accordance with the Acid Sulfate Soils Model Local Environmental Plan provisions within the Acid Sulfate Soils Planning Guidelines adopted by the Director General.

This Direction requires that a relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act.

An acid sulfate soils study has not been included in the planning proposal. The DP&E will consider this as part of their 'Gateway' determination and if required can request further information/consideration of this matter.

Direction 4.4 Planning for Bushfire Protection

The site is identified as bushfire prone, containing Vegetation Category 1. The Direction requires consultation with the NSW Rural Fire Service following receipt of a Gateway determination, compliance with Planning for Bushfire Protection 2006, and compliance with various Asset Protection Zones, vehicular access, water supply, layout, and building material provisions.

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Direction 6.1 Approval and Referral Requirements

The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. This Direction requires that a planning proposal must:

- "(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and*
- (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:*
 - (i) the appropriate Minister or public authority, and*
 - (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act, and*
- (c) not identify development as designated development unless the relevant planning authority:*
 - (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and*
 - (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act."*

It is considered that the planning proposal is consistent with this Direction as it does not contain provisions requiring the concurrence, consultation or referral of development applications to a Minister or public authority, and does not identify development as designated development.

Direction 6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls. The planning proposal proposes an amendment to the Lot Size Map of the LEP only and does not include any restrictive site specific planning controls. It is therefore considered that the proposed amendment is consistent with this Direction.

Direction 7.1 Implementation of 'A Plan for Growing Sydney'

This Direction requires planning proposals to be consistent with the NSW Government's 'A Plan for Growing Sydney' (the Sydney Metropolitan Strategy) released in December 2014. 'A Plan for Growing Sydney' is the NSW Government's 20-year plan for the Sydney Metropolitan Area. It provides directions for Sydney's productivity, environmental management, and liveability; and for the location of housing, employment, infrastructure and open space.

The Section 117 Directions do allow for planning proposals to be inconsistent with the Directions. In general terms a planning proposal may be inconsistent with a Direction only if the DP&E is satisfied that the proposal is:

- a) justified by a strategy which:
 - gives consideration to the objectives of the Direction
 - identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites)
 - is approved by the Director-General of the Department, or

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- b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this Direction, or
- c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this Direction, or
- d) is of minor significance.

The HRLS has been prepared with consideration given to the various policies and strategies of the NSW Government and Section 117 Directions of the Minister. In this regard, a planning proposal that is consistent with the Hawkesbury Residential Land Strategy is more likely to be able to justify compliance or support for any such inconsistency.

State Environmental Planning Policies

The State Environmental Planning Policies of most relevance are *State Environmental Planning Policy No. 55 Remediation of Land*, *Sydney Regional Environmental Plan No. 9 - Extractive Industry (No 2- 1995)* and *Sydney Regional Environmental Plan No. 20 Hawkesbury - Nepean River (No.2 - 1997)*.

SEPP 55 requires consideration as to whether or not land is contaminated, and if so, is it suitable for future permitted uses in its current state or does it require remediation. SEPP 55 may require Council to obtain, and have regard to, a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

The applicant states that the land has not been used for an agricultural use for many years other than light grazing. Council records do not indicate the land has been used for any intensive agriculture or farming. Given the use of the land for low density grazing it is considered that the land would not be contaminated to such a degree as to cause harm.

If the planning proposal is to proceed further consideration of potential contamination can be dealt with after DP&E's 'Gateway' determination.

The primary aims of SREP No 9 (No.2 -1995) are to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of regional significance and to ensure consideration is given to the impact of encroaching development on the ability of extractive industries to realise their full potential. The site is not within the vicinity of land described in Schedule 1, 2 and 5 of the SREP nor will the proposal development restrict the obtaining of deposits of extractive material from such land.

The aim of SREP No 20 (No. 2 - 1997) is to protect the environment of the Hawkesbury - Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. This requires consideration of the strategies listed in the Action Plan of the Hawkesbury - Nepean Environmental Planning Strategy, impacts of the development on the environment, the feasibility of alternatives and consideration of specific matters such as total catchment management, water quality, water quantity, flora and fauna, agriculture, rural residential development and the metropolitan strategy.

Specifically the SREP encourages Council to consider the following:

- rural residential areas should not reduce agricultural viability, contribute to urban sprawl or have adverse environmental impact (particularly on the water cycle and flora and fauna)
- develop in accordance with the land capability of the site and do not cause land degradation
- the impact of the development and the cumulative environmental impact of other development proposals on the catchment
- quantify, and assess the likely impact of, any predicted increase in pollutant loads on receiving waters

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- consider the need to ensure that water quality goals for aquatic ecosystem protection are achieved and monitored
- consider the ability of the land to accommodate on-site effluent disposal in the long term and do not carry out development involving on-site disposal of sewage effluent if it will adversely affect the water quality of the river or groundwater. Have due regard to the nature and size of the site
- when considering a proposal for the rezoning or subdivision of land which will increase the intensity of development of rural land (for example, by increasing cleared or hard surface areas) so that effluent equivalent to that produced by more than 20 people will be generated, consider requiring the preparation of a Total Water Cycle Management Study or Plan
- minimise or eliminate point source and diffuse source pollution by the use of best management practices
- site and orientate development appropriately to ensure bank stability
- protect the habitat of native aquatic plants
- locate structures where possible in areas which are already cleared or disturbed instead of clearing or disturbing further land
- consider the range of flora and fauna inhabiting the site of the development concerned and the surrounding land, including threatened species and migratory species, and the impact of the proposal on the survival of threatened species, populations and ecological communities, both in the short and longer terms
- conserve and, where appropriate, enhance flora and fauna communities, particularly threatened species, populations and ecological communities and existing or potential fauna corridors
- minimise adverse environmental impacts, protect existing habitat and, where appropriate, restore habitat values by the use of management practices
- consider the impact on ecological processes, such as waste assimilation and nutrient cycling
- consider the need to provide and manage buffers, adequate fire radiation zones and building setbacks from significant flora and fauna habitat areas
- consider the need to control access to flora and fauna habitat areas
- give priority to agricultural production in rural zones
- protect agricultural sustainability from the adverse impacts of other forms of proposed development
- consider the ability of the site to sustain over the long term the development concerned
- maintain or introduce appropriate separation between rural residential use and agricultural use on the land that is proposed for development
- consider any adverse environmental impacts of infrastructure associated with the development concerned.

The site falls within the Middle Nepean & Hawkesbury River Catchment Area of SREP 20.

It is considered that some form of rural residential development on the subject land has the potential to either satisfy the relevant provisions SREP No 20 or be able to appropriately minimise its impacts.

Hawkesbury Local Environmental Plan 2012

The site is zoned RU1 Primary Production under the LEP. The current minimum lot size for subdivision of this site is 10ha. The proposed subdivision of the site is to create a separate lot on either side of Redbank Road recognising the current physical separation of the site, into two parts with areas of 12.5ha and 6.7ha, by Redbank Road as shown in the concept plan is not permissible under the current 10ha minimum lot size provision in the LEP. The site can be subdivided into two lots with areas of 10ha and 9.2ha and this would result in fragmentation of the proposed Lot 1 either side of Redbank Road. According to Council's records a previous development application (DA 0097/11) for subdivision of the site into two lots exactly the same as the current proposal (supported by an objection under SEPP 1 seeking a variation to the minimum lot size requirement) was refused by Council in September 2011. Given these circumstances it is considered reasonable to consider the following issues when determining the appropriateness of the proposed amendment to Lot Size Map of the LEP.

- Redbank Road is a quite busy public road which bisects the site into two parts and isolates the use of the northern part of the site from the southern part and imposes constraints for development of the site as a whole.

Redbank Road experiences a relatively high traffic volume including school traffic to and from both Colo High School and Kuyper Christian School. It is also expected that Redbank Road may experience an increase of traffic once the Redbank development project (enabling approximately 1,400 houses and the Seniors Living facility) currently under construction is completed.

- Given the physical separation of the site into two parts by Redbank Road with a relatively high speed limit of 80kph and a blind corner on eastern side approach causing difficulties in crossing the road or accessing the northern part of the site which creates an obvious physical constraint to develop the site as a whole. It is noted that the current development on the site is limited only to the southern part of the site and northern part with an area of 6.7ha is undeveloped and remained vacant.
- If the site is subdivided under the current 10ha minimum lot size provision it can be subdivided into 10ha and 9.2ha lots. This would result in fragmentation of the proposed Lot 1 either side of Redbank Road. This is not considered as a desirable land use planning outcome.
- If the site is to continue with its current form and this physical constraint it is considered that it would not be possible to develop the whole site to its full potential and is also inconsistent with the following objective of Section 5(a)(ii) of the Act:

"(a) to encourage:

(ii) the promotion and co-ordination of the orderly and economic use and development of land."

Given these circumstances, the planning proposal seeking amendment to the Lot Size Map of the LEP to allow the proposed subdivision of the site into two lots is considered appropriate provided that the site has an environmental capability to accommodate the proposed development on the site.

The rest of the report assesses the site's environmental capability against other relevant environmental issues such as site slope, on-site wastewater disposal, bushfire, flora and fauna, flooding and heritage.

Topography

The land has an elevation of approximately 65m AHD towards Bells Line of Road and then falls south-westerly direction towards the two existing dams at a level of approximately 43 AHD.

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According to Council's slope mapping land near the south-eastern and north-eastern corners of the site and the intersection of Bells Line of Road and Redbank Road has a slope greater than 15%. The remaining site area generally has a slope less than 15%. The HRLS recognises slopes greater than 15% act as a constraint to development. The steeper sloping part of the land with slopes greater than 15% act as constraints for the location and type of dwelling, any out building, effluent disposal system, and driveways for the proposed two lots.

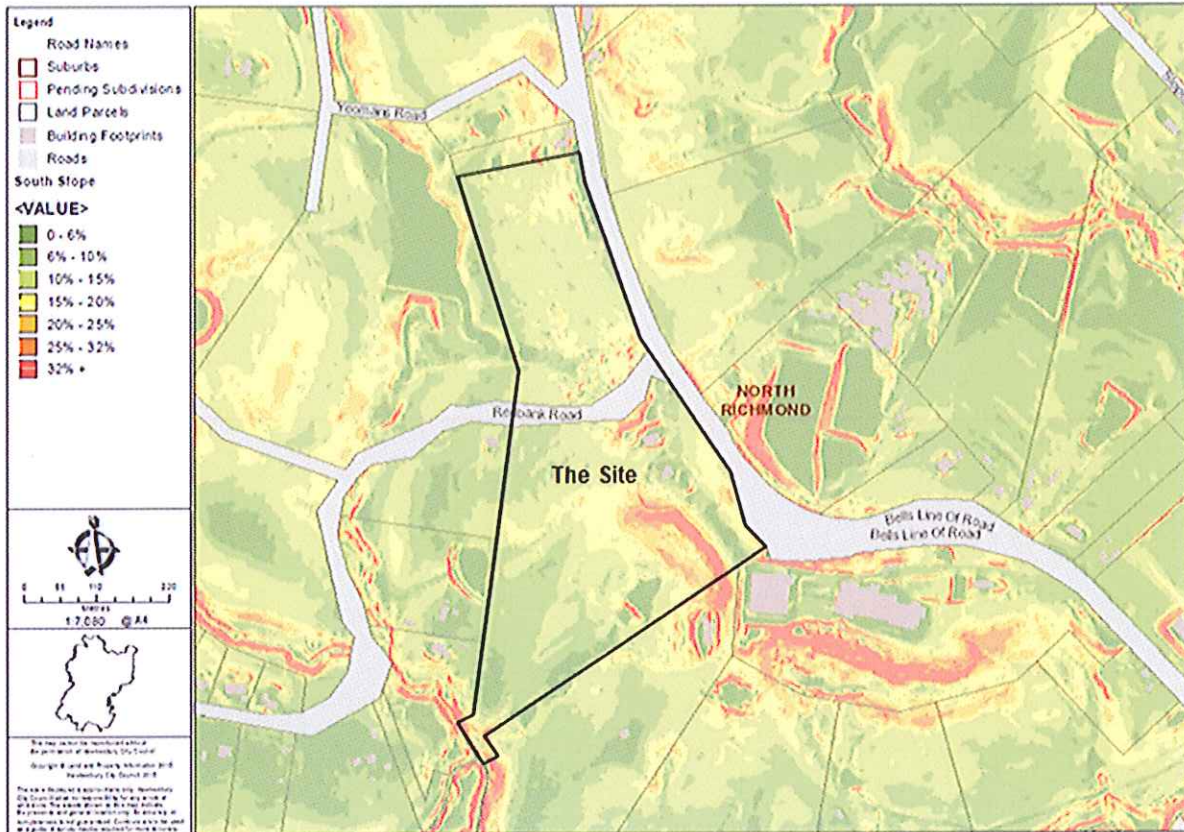


Figure 2: Slope analysis map

The land area identified for the future dwelling in the concept plan and 1000m² land area allotted for an irrigation disposal area associated with the future On-Site Sewerage Management (OSSM) system for the dwelling on the proposed Lot 1 as depicted in Figure 3 are generally within the land area with a slope less than 15% shown in Figure 2 above.

However, there may be a loss of some trees depending on the final locations of the proposed building platforms and the irrigation disposal area this likely impact could be determined at the development application stage.

Services

The applicant states that:

"Water, electricity, telephone and transport services are currently available to the site boundaries."

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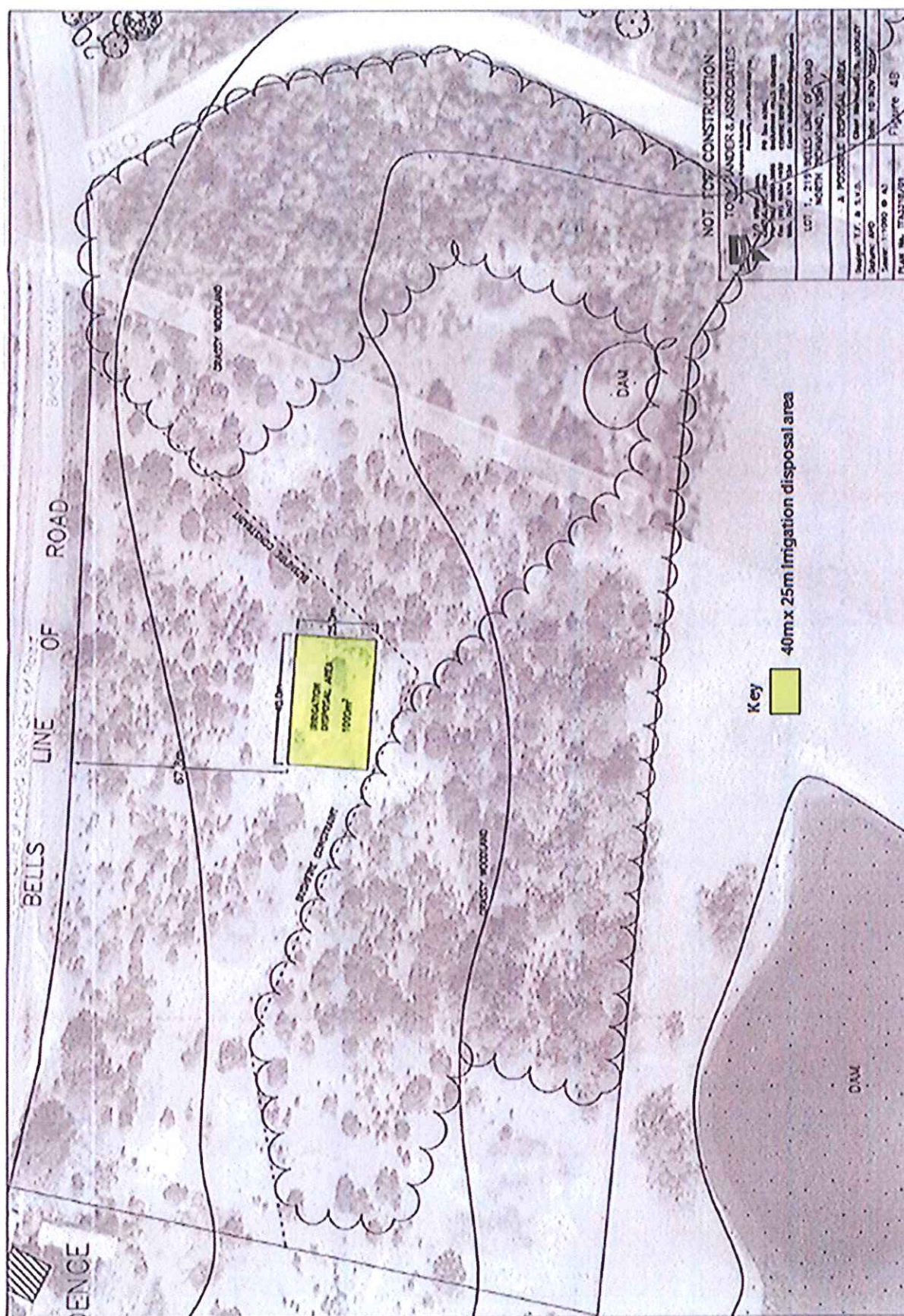


Figure 3: Irrigation Disposal Area for the Proposed Lot 1

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The site does not have an access to a reticulated sewerage system. The existing house on the proposed Lot 2 is serviced by an on-site sewerage management system. According to Council records the current system is operating under a five-year license issued by Council in May 2011.

A report prepared by H J Finder & Associates, titled "Subdivision and Associated On-site Wastewater Treatment & Disposal Systems 219 Bells Line of Road, North Richmond" dated 29 October 2010 was submitted in support of the planning proposal. The report provides the following information.

The existing onsite sewerage disposal system meets the required standards.

There is sufficient land area available on each proposed lot for house and associated structures, wastewater treatment and disposal and appropriate buffer zones. Surface or sub-surface irrigation can be carried out at this site provided an appropriate buffer zone is in place.

The report concludes that:

"It is considered that with respect to on-site waste management issues this site is capable of being subdivided under the current proposal. It will be feasible to dispose of wastewater produced on each block efficiently with no adverse impacts on the adjoining land, nearby watercourses and existing dams."

It is considered that the site has a reasonable access to the required level of service infrastructure to accommodate the proposed development on the site.

Public Transport, Accessibility and Traffic Generation

Public transport is limited in the locality. The Westbus Route 680 service operates along Bells Line of Road between Richmond and Bowen Mountain. This service operates every 30-45 minutes during morning and afternoon peaks and two trips during off period. The Westbus Route 682 service operates along Bells Line of Road between Richmond and Kurrajong. This service operates every 30 minutes during morning and afternoon peaks and every 120 minutes during off peak. During weekends both these services are very limited. There are only four trips on Saturdays and two daily trips on Sundays and public holidays.

Given the limited frequency of service operating in the locality the future residents of the proposed subdivision will most likely need to rely upon private vehicles.

The site is currently accessed via Redbank Road which is classified as a 'local road' under the *NSW Roads Act 1993*. The applicant states that the access to the proposed two lots site will be from Redbank Road.

It is considered that the planning proposal seeking subdivision of the site into two lots would not make any adverse impact on the existing traffic in the area.

Bushfire Hazard

The site is shown as being bushfire prone (bush fire vegetation category 1) on the NSW Rural Fire Services Bushfire Prone Land Map.

The planning proposal is supported by a bushfire threat evaluation report prepared by McKinlay Morgan & Associates Pty Ltd in July 2011. This report concludes that asset protection zones can be provided consistent with the provisions of *Planning for Bushfire Protection 2006*.

If the planning proposal is to proceed it will be referred to the NSW Rural Fire Service (RFS), being the responsible authority of bushfire protection, for comment.

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Flora and Fauna

The Terrestrial Biodiversity (TBV) Map of LEP 2012 identifies approximately 60% of the site area as 'connectivity between remnant vegetation and Endangered Ecological Communities. Council's vegetation mapping records the site as Shale Plains Woodland and Shale Sandstone Transition Forest which is a sub-set of Cumberland Plain Woodland which is a critically Endangered Ecological Community under the *Threatened Species Conservation Act 1995*.

The planning proposal is supported by a flora and fauna survey and assessment report prepared by T J Hawkeswood in May 2011. The report provides the following information on flora and fauna within and adjacent to the site.

None of the flora or fauna species defined under the *Threatened Species Conservation Act 1995 (TSC Act)* or the *Environmental Protection and Biodiversity Conservation Act 2000 (EPBC Act)* was present within the survey area.

The report concludes that there are no impediments, based on flora and fauna concerns, for the development of the surveyed area as proposed.

Council's Land Management Officer provides the following comments with respect to the flora and fauna assessment report. The report provided for the proposed subdivision cannot be accepted as a true representation of the potential impacts of the proposed activity for the following reasons.

- As with any environmental assessment the study area should always be larger than the subject site as it includes adjacent areas that will be directly or indirectly affected by the proposal. It is not sufficient to only address the area of the development site.
- The limited fauna detected on site suggests an inadequate survey effort and in no way constitutes the absence of threatened biodiversity. Survey times have been reported as two hours in the morning and one hour at night.
- A simple Bionet search offers an extensive list of threatened biodiversity that does or has the potential to frequent the site. The author's list is not locally specific and disregards a number of species that have been observed locally.
- The habitat survey is totally inadequate and provides no information about the habitat elements present on site.
- If suitable habitat for a particular threatened species is present on site then it must be assumed that the threatened species is also present, regardless of whether the author observes them or not, and as such an assessment of significance should be applied.
- The dominance of *Acacia decurrens* suggests that the vegetation community is Shale Sandstone Transition Forest rather than Cumberland Plain Woodland.
- None of the author's claims are substantiated by supporting evidence or reference.
- The report is inadequate and out-dated and does not meet the requirements outlined in Council's '*How will Council assess flora/fauna reports and assessment of significance*' guidelines.

The preparation of a flora and fauna assessment report could be undertaken at the post Gateway determination stage prior to the commencement of the government agency consultation and the public exhibition of the planning proposal. However, the DP&E will be able to consider this matter as part of their "Gateway" determination.

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Agricultural Land Classification

The site is shown as being Agriculture Land Classification 3 on maps prepared by the former NSW Department of Agriculture. This land is described by the classification system as:

- "3. *Grazing land or land well suited to pasture improvement. It may be cultivated or cropped in rotation with sown pasture. The overall production level is moderate because of edaphic or environmental constraints. Erosion hazard, soil structural breakdown or other factors, including climate, may limit the capacity for cultivation and soil conservation or drainage works may be required.*"

According to this classification the overall production level is moderate and existing environmental constraints may limit the cultivation capacity. Given the site has not been used for agricultural purposes other than light grazing for many years, site's agricultural land classification 3, its proximity to surrounding rural residential properties and the size and slope of the site it is considered that it is unlikely the site could be used for a substantial or sustainable agricultural enterprise. However the land could still be used for light grazing.

Heritage

The planning proposal is supported by a 'Statement of Heritage Impacts 219 Bells Line of Road, North Richmond ('Hillcrest')' prepared by Archnex Designs and dated November 2010. This assessment was based on the previous DA 0097/11 for the proposed two lot subdivision for the site. This report concluded:

"The portion of the land proposed to be subdivided off parcel is effectively separated by the intervening Redbank Road, and there is little evidence of a functional relationship between the house and the subject part of the land.

In my opinion, the proposed subdivision will have a nil effect on the significance of 'Hillcrest'. The proposed subdivision is, in essence a matter of re-designation of the proposed allotments, and is potentially a lesser physical impact than the conventional 'lines on paper' of a subdivision."



Figure 4: Heritage listed 'Hillcrest'

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Given this site is bisected by Redbank Road the planning proposal seeking amendment to the Lot Size Map of the LEP to allow two lot subdivision of the site would not cause any further adverse impacts on the heritage value of 'Hillcrest'.

However, given the site containing 'Hillcrest' residence is heritage listed, the planning proposal will be referred to the NSW Environment & Heritage Office for comments should Council resolve to proceed with the planning proposal and receive a gateway determination advising to proceed with the planning proposal from DP&E.

Character

The predominant character of the immediate locality is rural residential (see Figure 5 below).

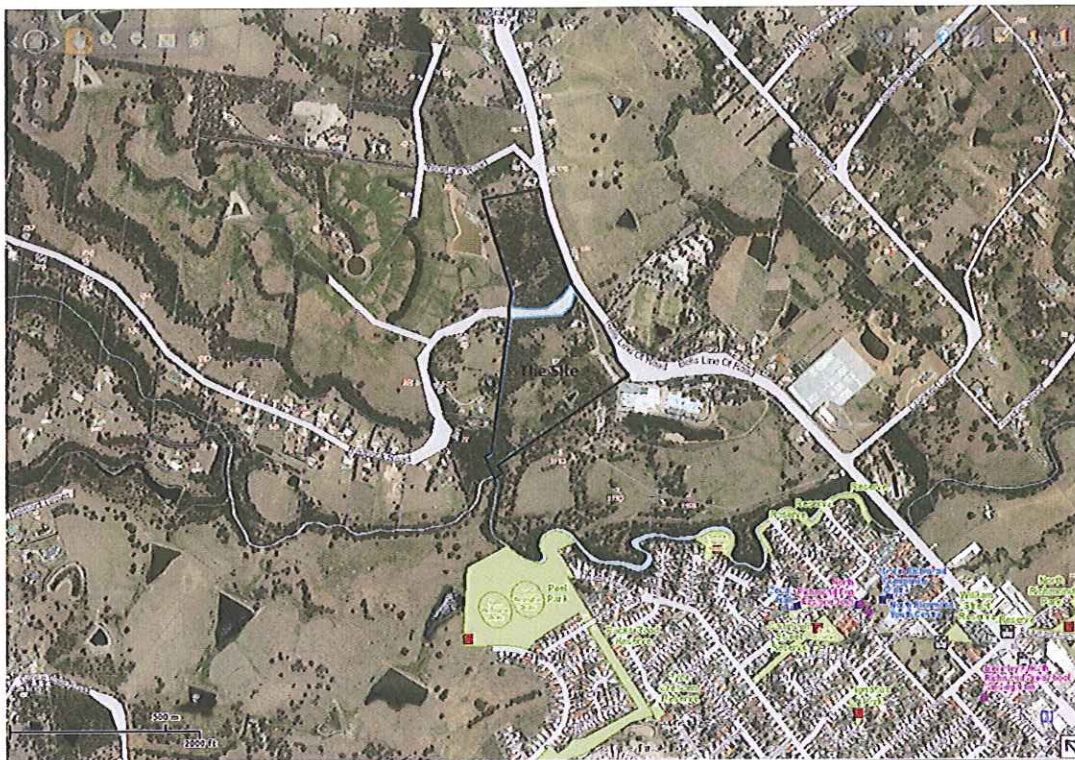


Figure 5: Aerial view of the site and surrounds

The area surrounding the site contains a mix of lot sizes and in particular there are a number of relatively small rural residential lots with minimum lot sizes ranging from $4,000\text{m}^2$ – 2ha fronting Redbank Road to the south-west of the site. The lot sizes of properties in the immediate vicinity of the proposed Lot 1 and the proposed Lot 2 are ranging from approximately $8,000\text{m}^2$ – 16ha and 2.6ha - 10ha respectively.

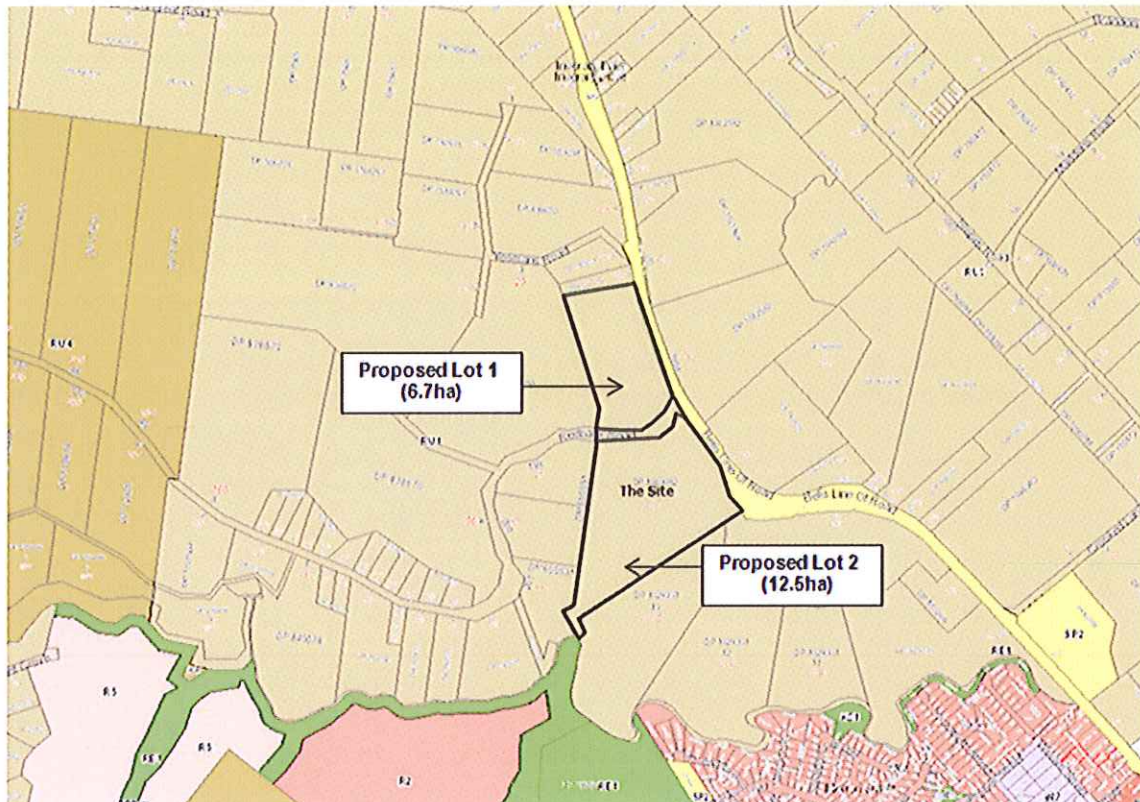


Figure 6: Lot site of the surrounding properties

Therefore the planning proposal seeking subdivision of the site into two large lots with a minimum lot size of not less than 4ha to allow rural residential dwellings on these two lots is considered consistent with the existing land use and the character of the locality.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Looking after People and Place Directions statement.

- Offer residents a choice of housing options that meet their needs whilst being sympathetic to the qualities of the Hawkesbury.
- Population growth is matched with the provisions of infrastructure and is sympathetic to the rural, environmental, heritage values and character of the Hawkesbury.
- Have development on both sides of the river supported by appropriate physical and community infrastructure.

Financial Implications

It is considered that some form of rural residential subdivision on the site is appropriate and it is recommended that Council support the preparation of a planning proposal to amend the LEP to reduce the lot size to a minimum of 4ha.

The preparation of a revised flora and fauna report will need to be completed prior to the government agency consultation and the public exhibition of the planning proposal.

Planning Decision

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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:

1. Council support the preparation of a planning proposal for Lot 87 DP 1040092, 219 Bells Line of Road, North Richmond to amend the Lot Size Map of Hawkesbury Local Environmental Plan 2012 to permit minimum lot sizes of not less than 4,000m² and 1ha on the land as shown in Attachment 1 to this report.
2. Council does not endorse any proposed subdivision layout/plan submitted with the planning proposal as this will need to be subject to a development application should the planning proposal result in making the plan.
3. The planning proposal be forwarded to the Department of Planning and Environment for a 'Gateway' determination.
4. The Department of Planning and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.

ATTACHMENTS:

AT - 1 Proposed Minimum Lot Size Map

