

ACTION ITEM

ADOPTED

At the ORDINARY Meeting held on *13 December 2011*

User Instructions

To view the original Agenda Item, double-click on 'Agenda Report' blue hyperlink above.

Resolved Items Action Statement

Action is required for the following item as per the Council Decision or Resolution Under Delegated Authority.

ITEM: 279 CP - Planning Proposal - 77- 87 Old Bells Line of Road, Kurrajong - (95498)
 - (95498)

Mr Glenn Falson and Ms Natalie Smith, proponents, addressed Council.

MOTION:

RESOLVED on the motion of Councillor Tree, seconded by Councillor Paine.

Refer to RESOLUTION

452 RESOLUTION:

RESOLVED on the motion of Councillor Tree, seconded by Councillor Paine.

That:

1. A Planning Proposal to rezone the subject land at Nos. 77 - 87 Old Bells Line of Road, Kurrajong from Housing to Business General 3(a) under Hawkesbury Local Environmental Plan 1989 be prepared in the correct format and in accordance with this report and forwarded to the Minister for Planning and Infrastructure seeking a Gateway Determination.
2. Upon receipt of notification of the Gateway Determination to proceed, Council consult the public authorities and the public on the Planning Proposal in accordance with the requirements of the Gateway Determination and the Environmental Planning and Assessment Act, 1979.

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 Bassett	Nil
Councillor Calvert	
Councillor Conolly	
Councillor Ford	
Councillor Mackay	
Councillor Paine	
Councillor Porter	
Councillor Reardon	
Councillor Tree	
Councillor Whelan	
Councillor Williams	

Councillor Rasmussen absent from the meeting.

ORDINARY MEETING

Meeting Date: 13 December 2011

CITY PLANNING

Item: 279 CP - Planning Proposal - 77- 87 Old Bells Line of Road, Kurrajong - (95498)

REPORT:

Executive Summary

Council has received a Planning Proposal from Falson & Associates Pty Ltd to rezone the land at 77- 87 Old Bells Line of Road, Kurrajong (the subject site) from Housing to Business General 3(a) under Hawkesbury Local Environmental Plan 1989 (HLEP 1989) to allow continued and increased usage of the land for commercial/retail purposes.

This report recommends that a Planning Proposal be submitted to the Department of Planning and Infrastructure (DP&I) for a gateway determination.

Consultation

The Minister for Planning and Infrastructure will advise Council of requirements for consultation with public authorities and the community as part of the Gateway Determination of the Planning Proposal under Section 56 of the Environmental Planning and Assessment Act, 1979.

Background

Kurrajong is located at the foothills of the Blue Mountains and includes a small neighbourhood centre on Old Bells Line of Road. The Kurrajong neighbourhood centre provides various commercial/retail facilities and services to meet the needs of local residents and visitors.

The perceived commercial/retail core of the neighbourhood centre is physically located on both sides of Old Bells Line of Road. However, whilst a strip of land, consisting of ten properties, on the northern side of Old Bells Line of Road is zoned Business General 3(a), directly opposite, on the southern side of Old Bells Line of Road, (the subject site) the land has been used for commercial/retail uses (under the specific use provisions of the LEP) for many years but is currently zoned Housing (see Attachment 1 to this report).

There is no other potential and appropriately zoned land within or adjacent to the existing commercial/retail core to allow future expansion of commercial/retail activities in the neighbourhood centre. If the subject land was developed for future residential or any other purpose permitted within the current Housing zone the current operation of the land, as part of the commercial core of Kurrajong, would be lost and the viability of the existing centre would be significantly affected. Therefore, rezoning of the subject land to Business General 3(a) to formally recognise it as business land and its use as part of the existing commercial/retail core is recommended. The proposed rezoning would also provide opportunity for revitalisation of the neighbourhood centre in order to improve local businesses and employment activities, attract more visitors and cater for varying and changing needs of local residents and visitors.

Planning Proposal

The Planning Proposal seeks to rezone the subject properties (77 – 87 Old Bells Line of Road) from Housing to Business General 3(a) under the provisions of HLEP 1989 (or the equivalent zone in the LEP 2011) to allow a range of small scale retail, business uses consistent with the current land uses on the land and surrounding development (see Attachment 2 to this report).

The proposal does not include a concept plan or any other information explaining the future development of the land but it suggests that even if there are no immediate plans for redevelopment of the land it should be rezoned to reflect its current usage.

ORDINARY MEETING

Meeting Date: 13 December 2011

Site and Surrounds

The subject land is currently zoned Housing under Hawkesbury Local Environmental Plan 1989 and the corresponding new zoning under the draft HLEP 2011 is R2 Low Density Residential. The total site area is approximately 6120m² and consists of the following six properties:

Property Description	Street Address	Area (M ²)
Lot 12 DP 1003591	77 Old Bells Line of Road	347
Lot 11 DP 1003591	79 Old Bells Line of Road	323
Lot 18 DP 581895	81 Old Bells Line of Road	1150
Lot 17 DP 581895	83 Old Bells Line of Road	1153
Lot 16 DP 581895	85 Old Bells Line of Road	1145
Lot 1 DP 715623	87 Old Bells Line of Road	2003
TOTAL	77 - 87 Old Bells Line of Road	6121

The subject land has a main frontage of approximately 150m to Old Bells Line of Road and is irregular in shape (see Attachment 3). It has a significant fall to the south, away from Old Bells Line of Road to the rear boundary.

The following table shows the past approvals or uses and current use of the subject land. The current uses are also shown on Attachment 4 to this report.

Property	Past Approvals or Uses	Current Use
77 Old Bells Line of Road	Professional practitioners' room approved in August 1992. Home activity involving the making and selling of arts and crafts approved in December 1992.	Vacant
79 Old Bells Line of Road	Coffee shop and takeaway use commenced in early 1990s.	Café and shop/gallery
81 Old Bells Line of Road	Dental surgery use commenced late 1980. Medical practitioner's rooms approved in April 1999.	Bed and breakfast accommodation
83 Old Bells Line of Road	Gallery and refreshment room approved in January 2004.	Gallery and refreshment room
85 Old Bells Line of Road	Restaurant approved in 1981.	Restaurant
87 Old Bells Line of Road	Nil	Car park for a real state agency operating directly opposite this property

(Note: in order to allow a shop and/or refreshment room on 77 and 79 Old Bells Line of Road, HLEP 1989 was amended on October 2002 by way of Amendment No. 134 to permit such uses with Council consent.)

The surrounding area is predominantly zoned Housing and characterised by low density residential development. A number of other land uses including Kurrajong Memorial Park, Kurrajong Nursing Home, Kurrajong Public School and Church are located within a reasonable walking distance from the neighbourhood centre (see Attachment 5).

Applicant's Justification of the Proposal

The applicant has provided the following justification in support of the Planning Proposal.

ORDINARY MEETING

Meeting Date: 13 December 2011

1. The current Housing zoning and the corresponding new R2 Low Density Residential zoning under the draft HLEP 2011 do not reflect the current and long term commercial uses of the site. The Planning Proposal seeking rezoning of the land to Business General 3(a) under HLEP 1989 is consistent with the existing and long time use of the land for commercial/retail purposes.
2. Given the location of the subject land within the existing business/retail core the proposal will enable excellent land use and environmental outcomes for the site consistent with the land uses within the Kurrajong Neighbourhood Centre.
3. The proposal provides certainty for the property owners to continue and improve their current commercial/retail uses on the land.
4. The Planning proposal will address the existing zoning anomaly of the land.

Assessment

Metropolitan Plan for Sydney 2036

The strategic plan prepared by the NSW Government entitled the *Metropolitan Plan for Sydney 2036* updates and replaces the Metropolitan Strategy. The aim of this strategic plan is to integrate land use and transport planning to provide a framework for the growth and development of the Sydney region to 2036.

According to the centres hierarchy identified in the *Metropolitan Plan for Sydney 2036* Kurrajong can be classified as a 'Neighbourhood Centre' which is the smallest recognised centre type in this hierarchy containing a small group of shops and services serving up to 1,000 dwellings within a walking catchment radius of approximately 150-200 metres.

A number of objectives and actions have been identified in the *Metropolitan Plan for Sydney 2036* and the following objective and action are relevant to the Planning proposal:

Objective B1 - To focus activity in accessible centres

Action B1.1 - Plan for centres to grow and change over time

"Development will occur within walking catchments of centres. In the case of commercial development (including retail premises), this should occur in the central part of the centre, in or adjacent to existing commercial areas. LEPs will be used to provide capacity for the desired growth."

According to the criteria specified for a neighbourhood centre in the Metropolitan Plan for Sydney 2036 Kurrajong Neighbourhood is located within a reasonable walking distance with easy access from the surrounding population catchment. The subject land which is located within the existing business/retail core of the existing centre has been used for business/retail activities for many years.

The Planning Proposal seeking rezoning of the land to Business General 3(a) to allow the continued and increased use of the land for business/retail purposes to cater for the varying and changing needs of the existing and future population within the neighbourhood centre is considered generally consistent with the above objective and action of the Metropolitan Plan for Sydney 2036.

Draft North West Subregional Strategy

The draft North West Subregional Strategy 2007 identifies Kurrajong as a 'Neighbourhood Centre'.

The strategy provides a direction for local councils in preparing Local Environmental Plans (LEP). A general direction is to provide sufficient zoned and serviced employment land to meet the employment capacity targets within their local government areas. The Strategy identifies 3,000 new jobs target for Hawkesbury Local Government Area by 2031, and Council is required to plan for sufficient land and infrastructure to achieve this target.

ORDINARY MEETING

Meeting Date: 13 December 2011

The Planning Proposal seeking rezoning of the land to Business General 3(a) will enable increased local business/retail activities and employment opportunities. The Planning Proposal is therefore consistent with the strategy.

Hawkesbury Employment Lands Strategy 2008

In December 2008 Council adopted the Hawkesbury Employment Lands Strategy. The purpose of the strategy is to provide a planning framework for employment precincts (industrial, commercial, retail) and locations for a range of employment types to support and enhance the economic competitiveness of the Hawkesbury region.

The Employment Lands Strategy states that 1,339m² of additional retail floor space would need to be provided within neighbourhood centres in the LGA. According to the draft North West Subregional Strategy Bligh Park, Glossodia, Hobartville, Kurmond, Kurrajong, Pitt Town and Wilberforce are neighbourhood centres. Whilst none of these are specifically identified in the Employment Lands Strategy as a potential centre to accommodate this additional retail floor space, the strategy highlights that additional floor space could be accommodated within these existing centres through minor expansion or a renewal of existing business/retail areas. Therefore, the Planning Proposal seeking rezoning of the subject land within the existing business/retail core of the Kurrajong Neighbourhood Centre to allow increased business/retail opportunities is consistent with the Strategy.

Section 117 Directions (Ministerial Directions)

Direction 1.1 Business and Industrial Zones

The objectives of this direction are to:

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

The Planning Proposal seeks to rezone the subject site from Housing to Business General 3(a) under HLEP 1989. This will enable the improved and economical use of the land for business and retail purposes, increased local employment opportunities and strengthen the viability of the neighbourhood centre which can be easily accessed by the surrounding residential development. Also there is no other potential land available in the centre that is appropriately zoned for expansion of the centre in future. It is therefore considered that the Planning Proposal is consistent with this direction.

Direction 3.1 Residential Zones

The objectives of this Direction are:

- a) to encourage a variety and choice of housing types to provide for existing and future housing needs,
- b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- c) to minimise the impact of residential development on the environment and resource lands.

The Planning Proposal seeking rezoning of the land from Housing to Business General 3(a) is inconsistent with the above direction. However, the S117 Direction does permit inconsistency if justified in accordance with the provisions of that Direction. Given the location of the land within the retail/commercial core of the centre, its use for business/retail purposes and operation as part of the retail/commercial core of Kurrajong for many years, the proposed Business 3(a) zone is considered appropriate. The current Housing zoning of the land prohibits most commercial/business uses as well as the choice of housing types. It is therefore considered that the planning proposal's inconsistency with this direction is minor and acceptable.

Direction 3.4 Integrated Land Use and Transport

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

ORDINARY MEETING

Meeting Date: 13 December 2011

- (a) improving access to housing, jobs and services by walking, cycling and public transport,
- (b) increasing the choice of available transport and reducing dependence on cars,
- (c) reducing travel demand including the number of trips generated by development and the distances traveled, especially by car,
- (d) supporting the efficient and viable operation of public transport services, and
- (e) providing for the efficient movement of freight.

The Department of Planning's guidelines 'Integrated Landuse and Transport' seeks to improve the integration of land use and transport planning. The Planning Proposal will enable improved local services, business/retail activities and employment opportunities within a reasonable walking distance from the surrounding residential development thereby minimising likely travel demand and distance for shopping and employment activities. It is therefore considered that the proposed planning proposal is consistent with this Direction.

Direction 4.4 Planning for Bushfire Protection

The objectives of this direction are:

- (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- (b) to encourage sound management of bush fire prone areas.

The subject area is identified as bush fire prone land. Accordingly, Council is required to consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in accordance with section 57 of the Act, and take into account any comments so made.

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 planning proposal is consistent with this direction as it does not require 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 unnecessary restrictive site specific planning controls, such as those that currently apply to the land under the provisions of Schedule 3 of the Hawkesbury LEP 1989. The proposal is consistent with this direction as it does not specify any restrictive provisions for future development on the land other than those already specified in HLEP 1989 for the Business General 3(a) Zone.

Direction 7.1 Implementation of the Metropolitan Plan for Sydney 2036

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.

'Metropolitan Plan for Sydney 2036', which is one of the issues taken into consideration in the early part of the assessment of the Planning Proposal, establishes that the planning proposal is consistent with the NSW Government's *Metropolitan Plan for Sydney 2036* published in December 2010 ("the Metropolitan Plan").

ORDINARY MEETING

Meeting Date: 13 December 2011

Hawkesbury Local Environmental Plan 1989

The subject land is currently zoned Housing under HLEP 1989. This zone permits a number of land uses including bed and breakfast accommodations, boarding houses, dwelling houses, professional and commercial chambers and tourist facilities but commercial premises, refreshment rooms and shops are not permitted in this zone. Notwithstanding this zone the subject site has been continuously used for business/retail purposes over many years under a variety of approvals as listed earlier in this report. The Planning Proposal seeks rezoning of the land to Business General 3(a) thus permitting, with Council's consent, commercial premises, refreshment rooms and shops (see Attachment 6).

The main part of the commercial/retail core of the neighbourhood centre located directly opposite the site is zoned Business General 3(a). Given the existing and continued operation of the subject land as part of the retail core for many years and its location within the heart of the neighbourhood centre, the Business General 3(a) zone is considered to be a more appropriate zoning for the site not only to formally recognise and strengthen the current business/retail core but also to create increased opportunity for Kurrajong to be promoted as a potential 'Small Village Centre' in the centres hierarchy in future.

Traffic and Access

Currently the site is accessed via Old Bells Line of Road. The Planning Proposal does not include a traffic study or a concept plan showing how the land will be developed in future. Whilst not expected to be significant, the impact of increase of traffic on the road network in and around the locality is not likely to be significant and can be assessed at development application stage and controlled accordingly. This may include the preparation of an access control plan for the site to require a rear access lane off Timms Hill Road to service the rear of the properties and also assist in the management of stormwater from the site.

Vegetation

The site contains some remnant trees but there is not enough continuous vegetation to classify it as a community. However any future development proposal would require preparation of a report addressing the significance, habitat, structural integrity and amenity of the trees on site.

Services

The site is serviced by water, electricity and telecommunication. The applicant indicates that sewage disposal will be via commercial pump-out service as currently exists for all commercial properties within the centre and augmentation of supply of electricity might be required depending on future land use activities on the land. Given the site has reasonable access to the required services it is not likely to place a significant demand on the existing services. A public bus service is also available between Kurrajong Neighbourhood Centre and Richmond Station.

Site Contamination

Clause 6 of State Environmental Planning Policy No 55 - Remediation of Land requires consideration of contamination issues when assessing Planning proposals. According to Council's records the site has been used for various business/retail and residential purposes for over thirty (30) years and there are no records of previous approvals or use of the land for activities that may cause contamination and referred to in Table 1 - 'Some Activities that may Cause Contamination' of the Managing Land Contamination: Planning Guidelines. There are no records of any previous investigations, remediation plans/actions or land use restrictions on the subject land relating to possible contamination.

Given there was no adequate information or evidence on the use of the subject site prior to the 1980s there may be a potential that the site may be contaminated. However, at present this has not been investigated by the proponent or by Council.

It is considered that a detailed contamination assessment can be undertaken at development application stage in order for Council to be assured that the land is suitable for any proposed future use.

ORDINARY MEETING

Meeting Date: 13 December 2011

Conclusion

The assessment of the Planning Proposal to rezone the land to Business General 3(a) under the HLEP 1989 with regard to the matters considered in this report reveals that the Planning Proposal has merit and it is worthy of support.

It is therefore recommended that a Planning Proposal be prepared in the correct format and submitted to the Department of Planning and Infrastructure (DP&I) for a gateway determination.

Conformance to Community Strategic Plan

The proposal is consistent with the Supporting Business and Local Jobs Direction statement;

- Plan for a range of industries that build on the strengths of the Hawkesbury to stimulate investment and employment in the region.
- Offer an increased choice and number of local jobs and training opportunities to meet the needs of Hawkesbury residents and to reduce their travel times.

and is also consistent with the strategy in the Community Strategic Plan being:

- Implement Employment Lands Strategy.

The Planning Proposal will enable increased business, retail opportunities on the land and boost the Hawkesbury LGA's economic activities and employment opportunities, and therefore it will be an appropriate tool in the implementation of the Directions and Strategies contained in the Community Strategic Plan and the recommendations of the Employment Lands Strategy.

Financial Implications

The applicant has paid the planning application fees required by Council's Revenue Pricing Policy 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:

1. A Planning Proposal to rezone the subject land at Nos. 77 - 87 Old Bells Line of Road, Kurrajong from Housing to Business General 3(a) under Hawkesbury Local Environmental Plan 1989 be prepared in the correct format and in accordance with this report and forwarded to the Minister for Planning and Infrastructure seeking a Gateway Determination.
2. Upon receipt of notification of the Gateway Determination to proceed, Council consult the public authorities and the public on the Planning Proposal in accordance with the requirements of the Gateway Determination and the Environmental Planning and Assessment Act, 1979.

ORDINARY MEETING

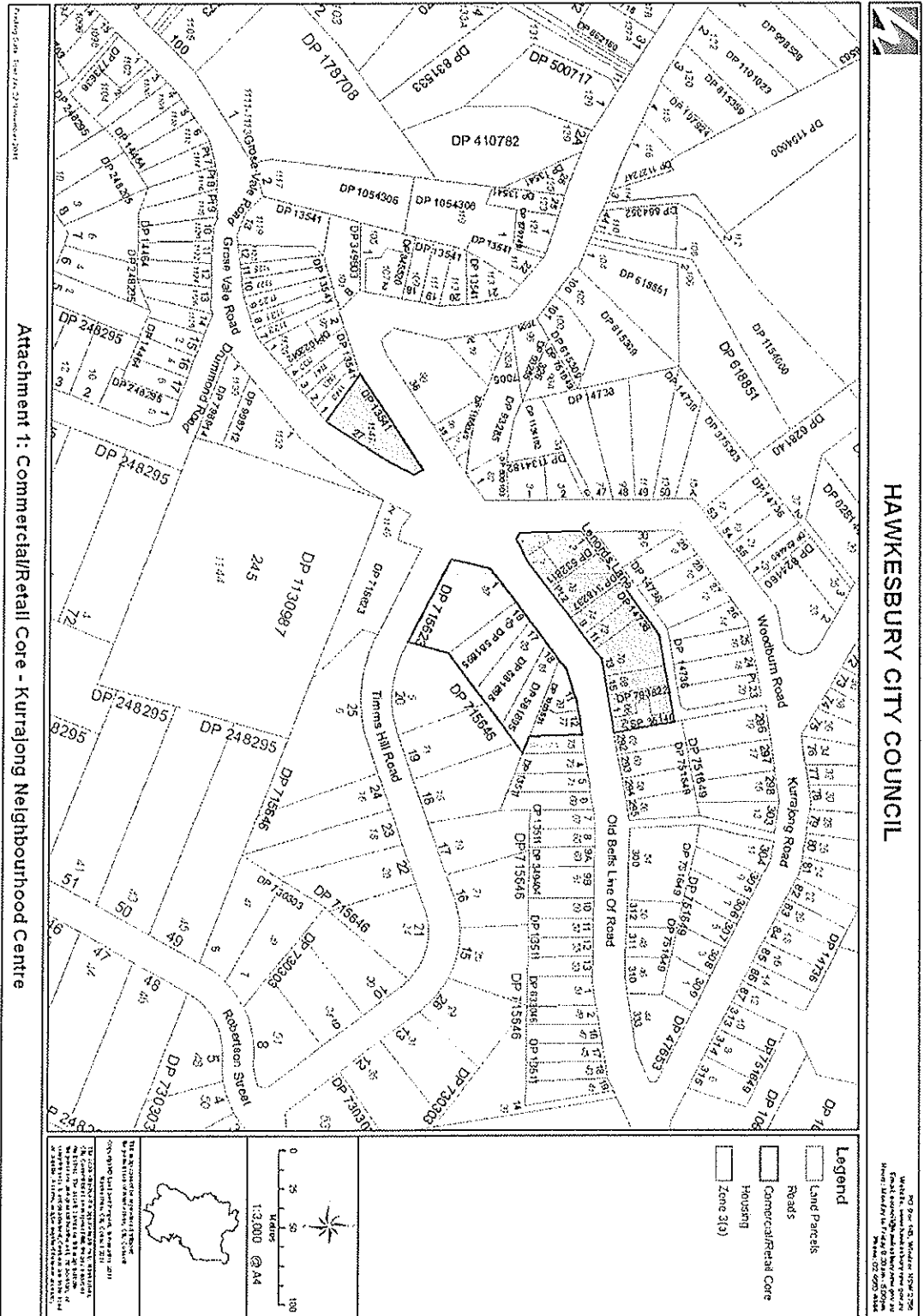
Meeting Date: 13 December 2011

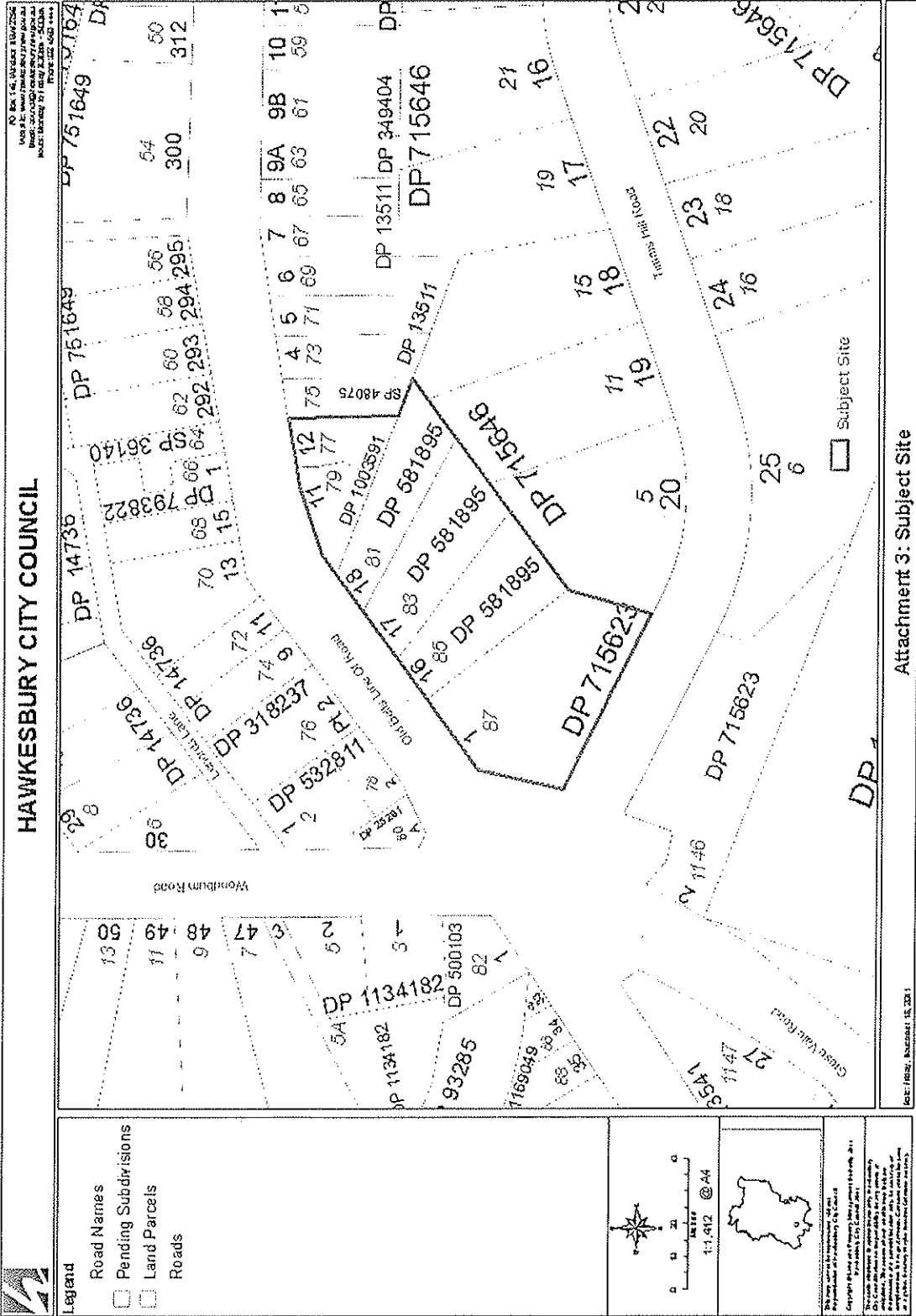
ATTACHMENTS:

- AT - 1 Commercial/Retail Core - Kurrajong Neighbourhood Centre
- AT - 2 Planning Proposal - (*Distributed Under Separate Cover*)
- AT - 3 Subject Site
- AT - 4 Current uses
- AT - 5 Aerial View - Surrounding Development
- AT - 6 Proposed Zoning Map

ORDINARY MEETING
Meeting Date: 13 December 2011

AT - 1 Commercial/Retail Core - Kurrajong Neighbourhood Centre





AT - 3 Subject Site

Attachment 3: Subject Site

AT - 4 Current uses



No. 77 Old Bells Line of Road - Vacant



Café at No. 79 Old Bells Line of Road



Bed & Breakfast at No. 81 Old Bells Line of Road -



Café and Gallery at No. 83 Old Bells Line of Road -

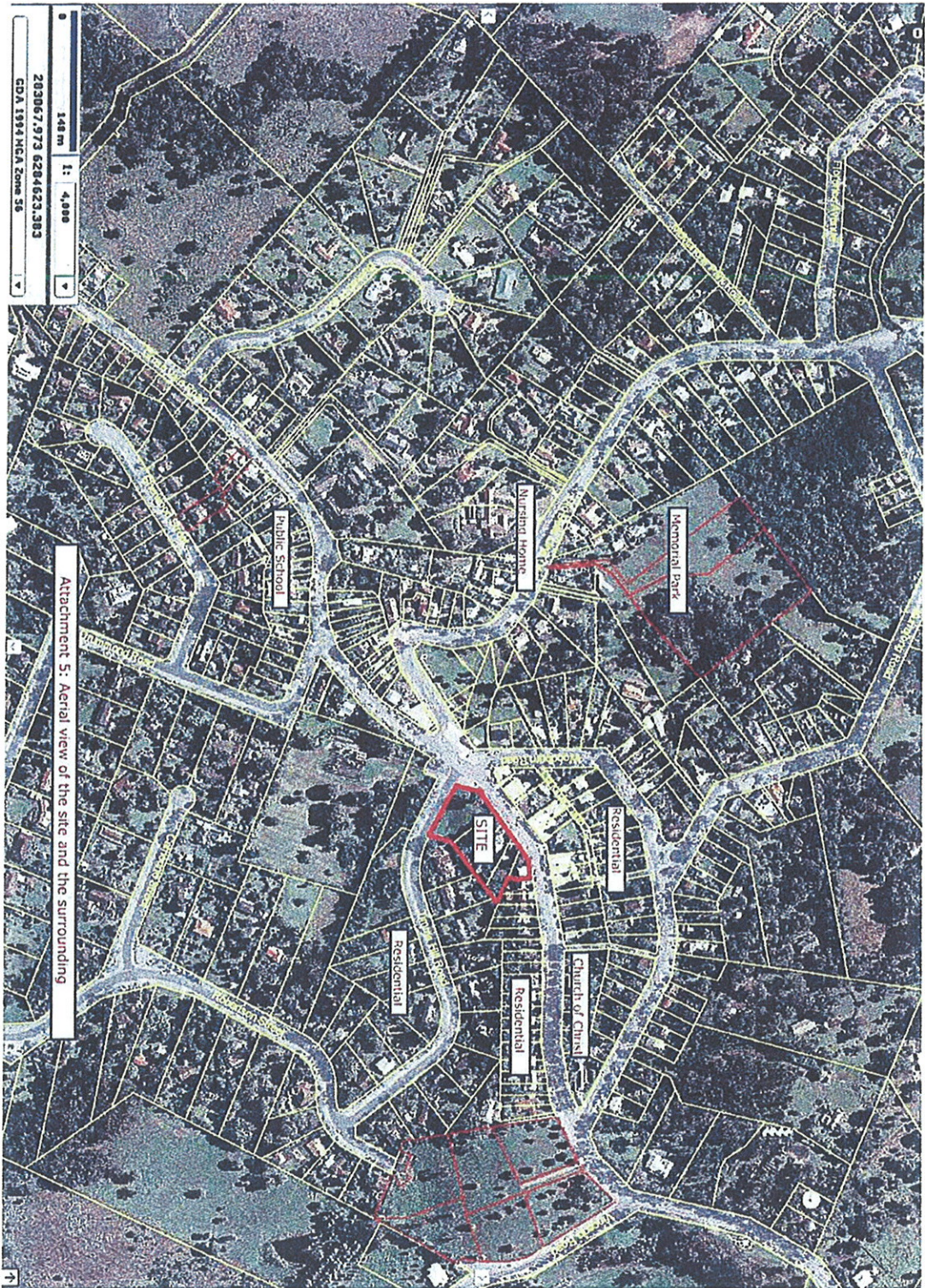


Kurrajong Restaurant at No. 85 Old Bells Line of Road



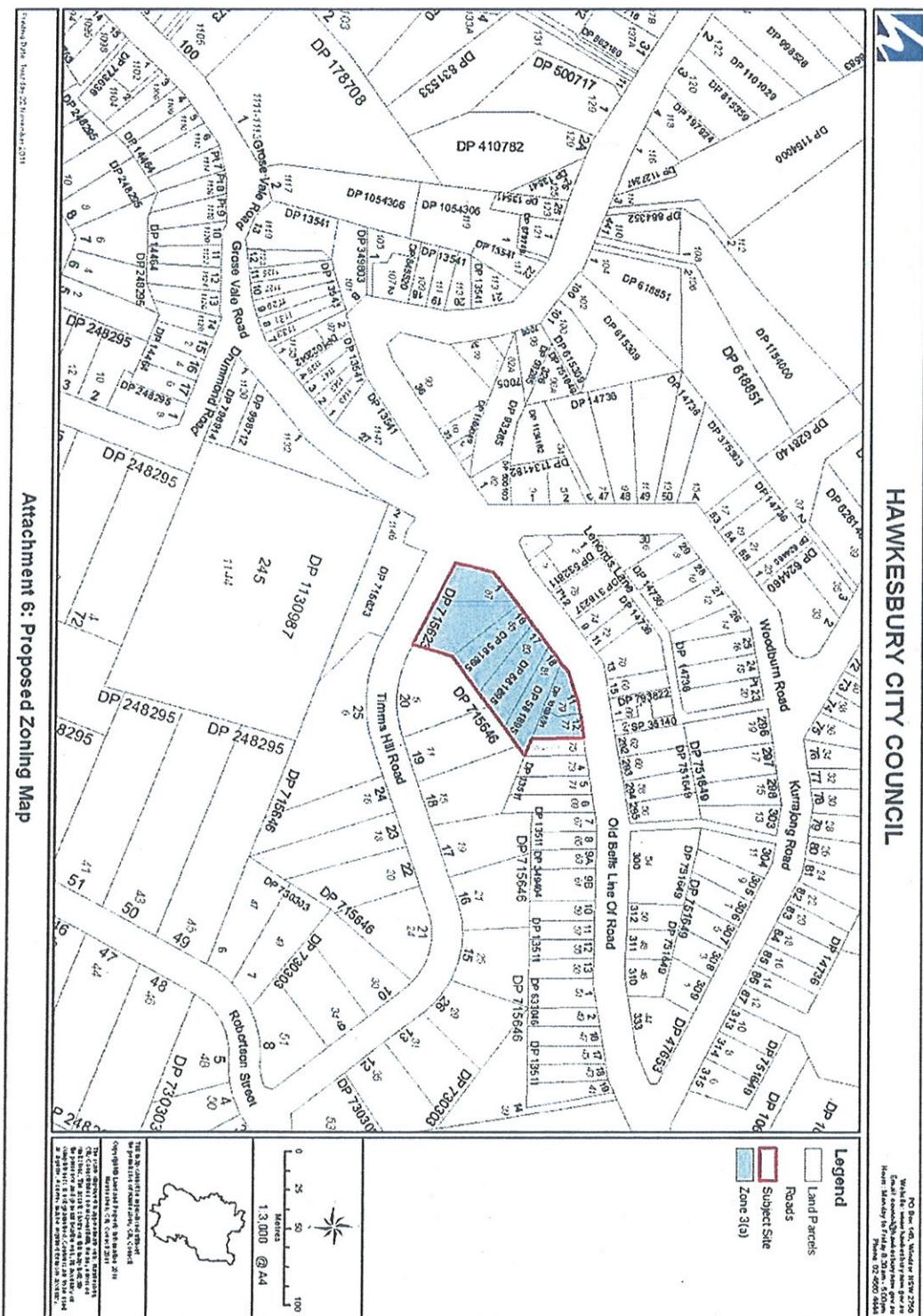
Car Park at No. 87 Old Bells Line of Road

AT - 5 Aerial View – Surrounding Development



ORDINARY MEETING
Meeting Date: 13 December 2011

AT - 6 Proposed Zoning Map



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