

Hawkesbury LEP 2012 (Amendment No 8) - 396 Bells Line of Road, Kurmond

Proposal Title : **Hawkesbury LEP 2012 (Amendment No 8) - 396 Bells Line of Road, Kurmond**

Proposal Summary : **The proposal aims to allow subdivision of land comprising Lot 2 DP 607906, 396 Bells Line of Road, Kurmond, to a minimum lot size of 4000m2 with a maximum yield of 23 lots.**

PP Number : **PP_2013_HAWKE_002_00** Dop File No : **13/15730**

Proposal Details

Date Planning Proposal Received : **09-Sep-2013** LGA covered : **Hawkesbury**

Region : **Sydney Region West** RPA : **Hawkesbury City Council**

State Electorate : **LONDONDERRY** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **396 Bells Line of Road**

Suburb : **Kurmond** City : **Hawkesbury** Postcode : **2757**

Land Parcel : **Lot 2 DP 607906**

DoP Planning Officer Contact Details

Contact Name : **Chris Browne**

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Derryn John**

Contact Number : **0298601505**

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Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Metro North West subregion** Consistent with Strategy : **Yes**

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MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	23	No. of Dwellings (where relevant) :	23
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :	To the best of the knowledge of the regional team, the Department's Code of Practice in relation to communications and meetings with Lobbyists has been complied with. Sydney West has not met with any lobbyist in relation to this proposal, nor has the Regional Director been advised of any meetings between other departmental officers and lobbyists concerning this proposal.		
Have there been meetings or communications with registered lobbyists? :	Yes		
If Yes, comment :	The Department's Lobbyist Contact Register has been checked on 26 September 2013, and there have been no records of contact with lobbyists in relation to this proposal.		

Supporting notes

Internal Supporting Notes :	The site is subject to a briefing note (qA245407) regarding approaches to infrastructure provision for sites to the north and west of the Hawkesbury River within the Hawkesbury LGA. This briefing note has not yet been approved by the Deputy Director General, Planning Strategies, Housing & Infrastructure. The briefing note is a response to growing infrastructure pressures in the area as a result of a number of planning proposals currently under consideration for residential and rural residential development. These include the proposal for 580 dwellings at Jacaranda Ponds (PP_2012_HAWKE_003_00), the proposal for 1200 dwellings at Redbank at North Richmond (PP_2012_HAWKE_002_00) and the proposal for 5 dwellings at 1411 Kurmond Road, Kurmond (PP_2012_HAWKE_005_00). The recommendations of the briefing note are that the Deputy Director General agree in-principle that: • all future planning proposals which create additional residential entitlements (regardless of size) north and west of the Hawkesbury River within the Hawkesbury LGA be subject to the State infrastructure clause, and • the Department should not finalise rezonings unless there is evidence to demonstrate that arrangements can be put in place to provide the required road network capacity or to make contributions equivalent to other developments.
External Supporting Notes :	BACKGROUND: The site occupies 13.07 hectares on the north-east side of 396 Bells Line of Road, Kurmond, with a frontage of 88m on Bells Line of Road. It is currently zoned RU1 Primary Production, with a minimum lot size of 10 hectares. This is the fourth proposal the Department has received aiming to amend Hawkesbury LEP 2012 to allow residential development to the north and west of the Hawkesbury River within the Hawkesbury LGA. The previous three are a proposal for 580 dwellings at Jacaranda Ponds (PP_2012_HAWKE_003_00), a proposal for 1200 dwellings at Redbank at North Richmond (PP_2012_HAWKE_002_00) and a proposal for 5 dwellings at 1411

Kurmond Road, Kurmond (PP_2012_HAWKE_005_00). Gateway Determinations have been provided for all of these, and they are currently proceeding towards finalisation. The cumulative impact of these proposals, particularly on the already stretched transport network, will be significant, and it is crucial that they be considered in light of the necessary infrastructure provision.

Council has resolved that, should the proposal proceed, either a Section 94 Contributions Plan will be prepared to provide infrastructure for the vicinity of Kurmond, or Council will commence negotiations with the applicant for a Voluntary Planning Agreement.

Adequacy Assessment

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

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

Comment : The objective of the proposal is to allow for up to 23 lots of large lot residential development on the subject land.

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

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

Comment : The primary objective of allowing large lot residential development is to be achieved by amending the lot size map to show 4000m2 (rather than the existing 10 hectare minimum lot size). Council has also indicated a willingness to consider achieving this objective by adding the land to Schedule 1 Additional Permitted Uses, but it is considered that the mapping change is a more appropriate approach.

The means of achieving the secondary objective of capping the site at 23 lots has not been well explained by Council or by the proponent. It appears that the intention is to insert a map layer showing the maximum yield for the site, as well as inserting a clause in the written instrument. It is not clear how this clause would function, particularly in terms of identifying the land, but it is not necessary to establish this prior to exhibition, as the intent of the proposal is clear.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

7.1 Implementation of the Metropolitan Plan for Sydney 2036

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

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

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

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

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

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

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

If No, explain :

1.2 Rural Zones

This Direction requires, among other things, that a planning proposal 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 applicant has argued that the land is effectively within the village of Kurmond; this claim is dubious, but it is true that the land is adjacent to Kurmond village. As such, it is considered that any inconsistency with the Direction is of a minor nature.

It is therefore recommended that the Director General's delegate agree that any inconsistency with this Direction is justified and/or of minor significance.

1.3 Mining, Petroleum Production and Extractive Industries

There is not currently enough information to determine consistency with this Direction. Consultation with NSW Trade and Investment is therefore required.

3.1 Residential Zones

This Direction requires, among other things, that a planning proposal 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.

Council has resolved to either prepare a Section 94 Plan or a Voluntary Planning Agreement to ensure the adequate provision of infrastructure for the development, and it is considered that this will meet the requirements of this Direction.

It is therefore recommended that the Director General's delegate agree that any inconsistency with this Direction is justified and/or of minor significance.

3.4 Integrating Land Use and Transport

The direction applies to a planning proposal that creates, alters or removes a zone or provision relating to 'urban land' including land zoned for residential, business, industrial, village or tourist purposes.

For the purposes of this Direction, it is considered that the subject land would be deemed 'urban land' should this planning proposal proceed, and therefore this Direction applies.

Under this Direction, a planning proposal must include provisions that give effect to and are consistent with the aims, objectives and principles of:

- (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001) and
- (b) The right Place for Business and Services – Planning Policy (DUAP 2001).

Central to these two documents is the objective of improving access to housing, jobs and services by walking, cycling and public transport, and reducing travel demand including the number of trips generated by development and the distance travelled, especially by car. It is noted that Kurmond is a small village, served by sporadic public transport, and car trips will be necessary for almost all shopping, employment and services.

An inconsistency with this Direction may only be waived if there is a strategy/study justifying the proposal, or if the inconsistency is of minor significance. The proposal is justified by the Hawkesbury Residential Land Strategy. In addition, the Direction is only applicable insofar as the proposed rural residential development can be regarded as 'urban' - given the tenuousness of this, it is considered that any inconsistency with the

Direction is of minor significance.

It is therefore recommended that the Director General's delegate agree that any inconsistency with this Direction is justified and/or of minor significance.

4.1 Acid Sulfate Soils

The site is situated on Class 5 Acid Sulfate Soils. As such, any development on the land will be subject to Clause 6.1 (Acid Sulfate Soils) of Hawkesbury LEP 2012. It is considered that this measure is sufficient to ensure avoidance of significant adverse environmental impacts from development of the land; any inconsistency with this Direction is therefore of minor significance.

It is therefore recommended that the Director General's delegate agree that any inconsistency with this Direction is justified and/or of minor significance.

4.4 Planning for Bushfire Protection

The land is bushfire-prone, and a preliminary assessment has been carried out by the proponent. This indicates that the proposal will be able to comply with 'Planning for Bushfire Protection 2006'. To ensure consistency with this Direction, Should the proposal proceed, Council must consult with the Commissioner of the NSW Rural Fire Service and address any concerns raised prior to exhibition of the proposal.

6.1 Approval and Referral Requirements

The proposal 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. It is therefore consistent with this Direction.

6.2 Reserving Land for Public Purposes

The site includes a narrow strip of land along Bells Line of Road which is zoned SP2 Infrastructure (Classified Road) and identified on the Land Reservation Acquisition map. The intent of the proposal appears to be to leave this unchanged, but Roads and Maritime Services must be consulted in satisfaction of this Direction.

6.3 Site Specific Provisions

A number of options have been suggested for delivering the objectives of the proposal. A number of these options (specifically the use of Schedule 1 Additional Permitted Uses, the insertion of a clause capping the site's yield at 23 lots, and the addition of a map layer showing a maximum yield of 23 lots) constitute site-specific provisions.

The proposal's primary objective - a reduction in minimum lot size from 10 hectares to 4000m² - can be achieved without introducing a site-specific provision. It is therefore considered that, whatever measure is taken to achieve the proposal's secondary objective - the capping of the site's yield at 23 lots - that measure's inconsistency with this Direction is of minor significance.

It is therefore recommended that the Director General's delegate agree that any inconsistency with this Direction is justified and/or of minor significance.

7.1 Implementation of the Metropolitan Plan for Sydney 2036

The proposal is broadly consistent with the Metropolitan Plan. See the Assessment section of this report for more information.

SEPP No 55—Remediation of Land

The land has previously been used for low intensity animal grazing, meaning that there is a small possibility of contamination. The proponent has argued that SEPP 55 is more appropriately addressed in this case at the development application stage, and Council has not expressed an opinion beyond this. It is noted that the Gateway Determination for a very similar earlier proposal at Kurmond (PP_2012_HAWKE_005_00) did not require the preparation of a contamination study as part of the preparation of the plan. The proponent's position is therefore supported, and no study is required at this stage.

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

The site is not located in the vicinity of land identified in Schedules 1, 2 and 5 of the SREP, and the proposal will not affect the extraction of material from such land. As such, the proposal is in keeping with the SREP.

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

The aim of SREP is to protect the environment of the Hawkesbury – Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. Part 2 of SREP 20 provides general planning considerations, specific planning policies and recommended strategies.

It is considered that the proposal is a minor spot rezoning and can be achieved without any significant adverse impact on the Hawkesbury River Catchment.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Council has provided a locality plan, an aerial photograph and a concept plan in addition to the extensive mapping provided in the proponent's proposal.

It is considered that the maps are adequate for consultation purposes.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council's submission indicates a willingness to conduct community consultation in accordance with the Gateway Determination.

Additional Director General's requirements

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

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **September 2012**

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

Assessment Criteria

Need for planning proposal :

Council has advised that the planning proposal is not the result of any strategic study or report. Rather, it is a direct result of an application from the proponent.

The proposal will, in providing housing, assist in delivering the objectives of a number of strategies, including the Hawkesbury Residential Land Strategy, the Metropolitan Plan for Sydney and the draft North West Subregional Strategy.

Consistency with strategic planning framework :

DRAFT METROPOLITAN STRATEGY FOR SYDNEY 2031

The site is not identified in the draft Metropolitan Strategy for Sydney 2031.

The Strategy categorises the land within the Sydney Region into the Metropolitan Urban Area and Metropolitan Rural Area. Kurmond falls within the Metropolitan Rural Area. Housing growth in the Metropolitan Rural Area is generally encouraged, particularly where it does not detract from rural land uses. Given that this site has limited agricultural capability, the proposal is generally consistent with this.

DRAFT NORTH WEST SUBREGIONAL STRATEGY

The draft North West SRS does not refer to the site specifically. However, the Proposal is considered generally consistent with the draft NWSRS as it is in keeping with the principle of concentrating new housing in or near existing centres, and within 30 minutes of a strategic centre.

HAWKESBURY RESIDENTIAL LAND STRATEGY

The Strategy discusses rural residential development and notes the issues surrounding it. It states that, "...future rural development should be low density and large lot residential dwellings." It also notes a number of criteria for rural residential development, and the draft plan will need to adhere to these.

Environmental social economic impacts :

ENVIRONMENTAL

There are a number of environmental issues applicable to the site.

Firstly, the entirety of the site is identified as bushfire-prone; this can be addressed by consultation with the NSW Rural Fire Service and through the development application process.

Secondly, the proponent has provided advice to the effect that the land is suitable for on-site effluent disposal, but adequate information regarding how this is to be achieved has not yet been provided. It is expected that the proponent will work with Council to establish how this will be delivered and how this delivery will affect the lot yield. This can be addressed through the development application process.

Thirdly, the proponent has provided a preliminary ecological assessment, which notes the presence of Shale Sandstone Transition Forest on the site. This is an endangered ecological community, and section 34A of the EP&A Act requires the RPA to consult the Office of Environment and Heritage. Prior to this, a flora and fauna study should be undertaken.

SOCIAL

The proposal is unlikely to have any significant social impact. There will be a slight increase in use of local shops and services, and there will be a small impact on the character of Kurmond. In addition, there will be a slight intensification of traffic, which may cause significant problems given that the area's traffic network is currently at or near

capacity.

ECONOMIC

The proposal is unlikely to have any economic impact beyond a slight increase in use of local shops and services and a small, temporary boost in construction work.

Assessment Process

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

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

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

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

Flora

Fauna

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Cover letter and Council report.pdf	Proposal Covering Letter	Yes
Bushfire Hazard Preliminary Report - 396 Bells Line of Road Kurmond.pdf	Study	Yes
MPS Planning Proposal - 396 Bells Line of Road Kurmond Revision 4.pdf	Proposal	Yes
Preliminary Ecological Assessment - 396 Bells Line of Road Kurmond.pdf	Study	Yes
Traffic Impact Statement - 396 Bells Line of Road Kurmond.pdf	Study	Yes
Wastewater Investigation June 13 - 396 Bells Line of Road Kurmond.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.4 Planning for Bushfire Protection
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

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

(1) Consultation with (a) Roads and Maritime Services, (b) the Office of Environment and Heritage, (c) the Hawkesbury-Nepean Catchment Management Authority, (d) NSW Trade and Investment, and (e) NSW Rural Fire Service;

(2) The Director General's delegate agrees that any inconsistencies with section 117 directions 1.2 (Rural Zones), 3.1 (Residential Zones), 3.4 (Integrating Land Use and Transport), 4.1 (Acid Sulfate Soils) and 6.3 (Site Specific Provisions) are justified and/or of minor significance;

(3) A flora and fauna study must be carried out;

(4) Prior to exhibition, Council must obtain written advice from the Commissioner of the NSW Rural Fire Service to the effect that the NSW Rural Fire Service does not object to the progression of the planning proposal.

(5) Any inconsistencies with Section 117 Directions 1.3 (Mining, Petroleum Production and Extractive Industries) and 6.2 (Reserving Land for Public Purposes) must be adequately addressed prior to finalisation of the plan;

(6) Community consultation for 14 days; and

(7) The timeframe for completing the local environmental plan is to be 9 months from the week following the date of the Gateway Determination.

Supporting Reasons : The proposal will assist in delivering housing in the Metropolitan Rural Area, and represents a rational use of the land.

Signature:



Printed Name:

Chris Browne (Acting Team Leader)

Date:

27/09/2013

