

Hawkesbury City Council

Our Ref: LEP001/12



PCU047788

4 September 2013



366 George Street
(PO Box 146)
Windsor NSW 2756
Phone: 02 4560 4444
Facsimile: 02 4587 7740
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Ms Rachel Cumming
Acting Regional Director
Sydney West
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Department of Planning
Received
9 SEP 2013
Scanning Room

Dear Ms Cumming

396 Bells Line of Road, Kurmond

Planning proposal to allow subdivision of land to a minimum lot size of 4000m2 with a maximum yield of 23 lots

Council at its meeting of 26 March 2013 resolved as follows:

1. Council support the preparation of a Planning Proposal for the land comprising of Lot 2 DP 607906, 396 Bells Line of Road, Kurmond to allow development of the land primarily for large lot residential development.
2. The concept plan titled "Concept Layout over Lot 2 in DP 607906 at Bells Line of Road, Kurmond L.G.A Hawkesbury", prepared by North Western Surveys and dated 10/10/2012 attached to this report be adopted for the purposes of preparing the planning proposal only and the proposed allotment layout not be adopted until finalised as part of the development application process.
3. The planning proposal be forwarded to the Department of Planning and Infrastructure for a "gateway" determination.
4. The Department of Planning and Infrastructure be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.
5. If the Department of Planning and Infrastructure determines that the planning proposal is to proceed, Council commence the preparation of a Section 94 Contributions Plan for the vicinity of Kurmond to ensure that all proposed developments in the locality contribute to the required infrastructure, especially road upgrade and provision, in the locality. Alternatively the applicant and Council can commence Voluntary Planning Agreement negotiations to address this issue.
6. The Department of Planning and Infrastructure and the applicant be advised that in addition to all other relevant planning considerations being addressed, final Council support for the proposal will only be given if Council is satisfied that satisfactory progress, either completion of the Section 94 Developer Contributions Plan or a Voluntary Planning Agreement, has been made towards resolving infrastructure provision for this planning proposal.

Where people make the difference.

All communications to be addressed to the General Manager
P.O. Box 146, Windsor NSW 2756
Website: www.hawkesbury.nsw.gov.au
E-mail: council@hawkesbury.nsw.gov.au
Hours: Monday to Friday 8.30am - 5.00pm

English

This document contains important information.

If you do not understand it please contact the Telephone Interpreting Service on 131 450 and ask them to contact Hawkesbury City Council on 02 4560 4444.

Arabic

هذه الوثيقة تحتوي على معلومات هامة
إذا لم تفهم الوثيقة يرجى الاتصال بخدمات الترجمة
والتفسير على الرقم 131 450 وطلب منهم الاتصال
بمجلس مدينة هوكسبوري على الرقم 02 4560 4444

Chinese

這份文件載有重要的資訊。如果你不懂它，

請致電 131 450，電話傳譯服務。

要求他們致電(02) 4560 4444

聯絡 Hawkesbury City Council 查詢。

Hindi

यह दस्तावेज़ महत्वपूर्ण जानकारी को प्रदान करता है।
यदि आप इसे समझ नहीं सकते हैं, तो कृपया दूरभाष
व्याख्या सेवा पर 131 450 पर संपर्क करें और उनसे
हॉक्सबरी सिटी काउंसिल से 02 4560 4444 पर
संपर्क करने का अनुरोध करें।

Filipino- Tagalog

Ang dokumentong ito ay mayroong mahalagang impormasyon.
Kung hindi ninyo nauunawaan ito pakiusapang mag Telephone
Interpreting Service sa 131 450 at hingin sa kanila na tumawag
ang Hawkesbury City Council sa 02 4560 4444.

Isiendonesian

Oleh dokumentasi sudi'va'na informasi.

Ako ne go razhate ve molina da se javite na slu'ba za
kolikawo prelu leklon (Telephone Interpreting Service) na
131 450 i poderaje da gu kontakran Hawkesbury City Council na
02 4560 4444

Accordingly the proponent, Montgomery Planning Solutions, has provided Council with the enclosed planning proposal.

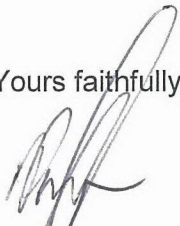
The Department is advised that this office proposes to seek further clarification from the proponent regarding the exact nature of the Shale-Sandstone Transition Forest (SSTF) on the site, the potential impacts on the SSTF, and whether or not there are opportunities to enhance the SSTF as part of the proposed development. The result of these future investigations may impact on the overall proposed yield of 23.

The planning proposal is being referred to the Department prior to these investigations in order to determine whether or not the Department is receptive to the proposed LEP amendment i.e. the proposed minimum lot size and the proposed maximum yield provision.

Finally, also enclosed is the Council report and resolution of 26 March 2013.

Should you have any enquiries in relation to this matter please contact me on (02) 4560 4544.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Philip Pleffer', written over the 'Yours faithfully' text.

Philip Pleffer
Strategic Planning Co-ordinator

ACTION ITEM

ADOPTED

At the ORDINARY Meeting held on *26 March 2013*

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: 51 **CP - Planning Proposal - Amendment to Hawkesbury Local Environmental Plan 2012 - 396 Bells Line of Road, Kurmond - (95498)**

Previous Item: 10, Ordinary (5 February 2013)

Mr Robert Montgomery, proponent, addressed Council.
Mr Michael Want, respondent, addressed Council.

MOTION:

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

Refer to RESOLUTION

An AMENDMENT was moved by Councillor Rasmussen, seconded by Councillor Lyons-Buckett.

That this matter be deferred until either:

1. The Mayor and Council hold a public meeting to canvas public opinion, or;
2. The traffic infrastructure problems at North Richmond are successfully addressed.

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 amendment, the results of which were as follows:

For the Amendment	Against the Amendment
Councillor Calvert	Councillor Conolly
Councillor Lyons-Buckett	Councillor Creed
Councillor Paine	Councillor Ford

Councillor Rasmussen	Councillor Mackay
	Councillor Reardon
	Councillor Tree

Councillors Porter and Williams were absent from the meeting.

The amendment was lost.

The motion was put and carried.

83 RESOLUTION:

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

That:

1. Council support the preparation of a Planning Proposal for the land comprising of Lot 2 DP 607906, 396 Bells Line of Road, Kurmond to allow development of the land primarily for large lot residential development.
2. The concept plan titled "Concept Layout over Lot 2 in DP 607906 at Bells Line of Road, Kurmond L.G.A Hawkesbury", prepared by North Western Surveys and dated 10/10/2012 attached to this report be adopted for the purposes of preparing the planning proposal only and the proposed allotment layout not be adopted until finalised as part of the development application process.
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6. The Department of Planning and Infrastructure and the applicant be advised that in addition to all other relevant planning considerations being addressed, final Council support for the proposal will only be given if Council is satisfied that satisfactory progress, either completion of the Section 94 Developer Contributions Plan or a Voluntary Planning Agreement, has been made towards resolving infrastructure provision for this planning proposal.

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Councillor Creed	Councillor Lyons-Buckett

Councillor Ford	Councillor Paine
Councillor Mackay	Councillor Rasmussen
Councillor Reardon	
Councillor Tree	

Councillors Porter and Williams were absent from the meeting.

ITEM: CP - Planning Proposal - Amendment to Hawkesbury Local Environmental Plan 2012 - 396 Bells Line of Road, Kurmond - (95498)

Previous Item: 10, Ordinary (5 February 2013)

REPORT:

Executive Summary

This report discusses a planning proposal which seeks to amend Hawkesbury Local Environmental Plan 2012 (LEP 2012) in order to permit the subdivision of 396 Bells Line of Road, Kurmond into approximately 27 lots with a minimum lot size of not less than 4,000m².

It is recommended that Council support the preparation of a planning proposal to allow development of the land 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* and associated Regulations and as specified in the "Gateway" determination.

Background

This planning proposal was briefly discussed in a report to Council on 5 February 2013. The purpose of the 5 February 2013 report was to advise Council of large lot residential / rural residential development related planning proposals and enquiries that Council staff have received in response to the Hawkesbury Residential Land Strategy, advise Council of recent advice from Department of Planning and Infrastructure (DP&I) to consider these proposals in a holistic strategic manner, and recommend that Council adopt an investigation area within the vicinity of the Kurmond village for the purposes of large lot residential / rural - residential development so that the cumulative impact of current and future planning proposals in the vicinity of Kurmond could be considered and addressed. That report did not propose a significant delay in the processing of any of those planning proposals.

In response Council resolved as follows:

1. *Council carry out investigations within the area on the map entitled "Kurmond Village large lot residential/rural-residential Investigation Area". These investigations are to determine the suitability of the identified lands for large lot residential and/or rural residential development and are to be funded by planning proposal application fees.*
2. *Investigations already undertaken by applicants for Planning Proposals within the Kurmond area be utilised by Council as a basis for their further investigations as appropriate.*
3. *The applicants be consulted by Council with a view of assisting the investigations where appropriate.*
4. *Council resolve to carry out similar investigations for other rural villages within the LGA which would meet the criteria of the Hawkesbury Residential Land Strategy.*
5. *The planning proposals for 1411 Kurmond Road and 396 Bells Line of Road, Kurmond be reported to the Ordinary Meeting as soon as practical.*

6. *The planning proposal for 1442 and 1442A Kurmond Road, Kurmond be reported to Council as soon as practical after the receipt of additional information.*
7. *Council consider any new planning proposals on their merit and compliance with the relevant criteria of the Hawkesbury Residential Land Strategy, unless and until the strategy is changed by Council.*

In accordance with Part 5 of the above resolution, the subject planning proposal is being reported to Council.

Throughout this report comment is made regarding the need for additional information to be provided by the applicant either prior to referring the planning proposal to the DP&I for a gateway determination or after the gateway determination. The applicant has not been requested to provide such information as it is considered that either the information is not necessary at this stage or because of the potential for the existing applications to be considered collectively as outlined in the report to Council of 5 February 2013.

Planning Proposal

The applicant Montgomery Planning Solutions (MPS) seeks an amendment to Hawkesbury Local Environmental Plan 2012 (LEP 2012) in order to permit the subdivision of 396 Bells Line of Road, Kurmond into approximately 27 lots with a minimum lot size of not less than 4,000m².

MPS propose the following amendment to LEP 2012, either:

1. Amend LEP 2012 Lot Size Map Sheet LSZ_008AA to fix the minimum lot size for the land at 4,000m².
- or
2. Add the following entry to the table to Schedule 1 - Additional permitted uses of LEP 2012

Lot Description	Address	Additional permitted use	Conditions
Lot 2 DP 607906	396 Bells Line of Road, Kurmond	Subdivision	Minimum lot size 4,000m ²

A concept plan of the proposal subdivision is attached to this report.

Subject Site and Surrounds

The site has an area of 13.07ha, is generally rectangular in shape with a width of approximately 250m and a depth of approximately 570m. The site is orientated north-east to south-west and has a frontage of approximately 88m to Bells Line of Road, Kurmond.

The land falls from Bells Line of Road, with an elevation of approximately 94m AHD, to a minor watercourse running north-west to south-east through the centre of the property at approximately 58m AHD. The land then rises to a level of approximately 85m AHD in the northern corner. The majority of the land has a slope of less than 15% however there are some areas towards Bells Line of Road and in the rear half of the site that have slopes in excess of 15%.

Most of the site consists of scattered vegetation including Shale Sandstone Transition Forest (an endangered ecological community) and regenerating Acacia Scrub. A dwelling is located near Bells Line of Road with two dams located behind.

All the land is shown as being bushfire prone on the NSW Rural Fire Service's Bushfire Prone Land Map. The front third of the property is predominantly bushfire vegetation category 2 with the balance of the property being predominantly bushfire vegetation category 1.

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

The land 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 being:

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

The land is zoned RU1 Primary Production and SP2 Infrastructure - Classified Road under LEP 2012 with the SP2 zoned land consisting of a narrow strip of land approximately 3.3m wide immediately adjacent to Bells Line of Road. This narrow strip is also shown on the Land Reservation Acquisition Map of LEP 2012. The current minimum lot size for subdivision of the RU1 Primary Production land is 10ha.

A small portion of land towards the front of the property and approximately the rear two thirds of the property is shown as either *Significant Vegetation* or *Connectivity Between Significant Vegetation* on the Terrestrial Biodiversity Map of LEP 2012.

The site falls within the Middle Nepean & Hawkesbury River Catchment Area of *Sydney Regional Environmental Plan No.20 Hawkesbury - Nepean River (No.2 - 1997)* and is not within an area of scenic significance under this SREP.

Land to the north-west along Bells Line of Road up to Kurmond Road comprises a number of large residential lots, generally in the order of 1500m² to 8200m². Land to the south-east along Bells Line of Road comprises a number of residential lots of approximately 2,000m² in area. The land between the south-western boundary and Bells Line of Road is 9,242m² and is occupied by the former Kurmond Bar and Grill. The remainder of the land is surrounded by rural-residential lots ranging in size from approximately 2.5ha to 10ha. Land on the opposite side of Bells Line of Road comprises rural-residential lots ranging in size from approximately 8,000m² to 8ha.

Applicant's Justification of Proposal

MPS has provided the following reasons in support of the planning proposal:

It is considered that the land is unsuitable for intensive agriculture due to the close proximity of residential development along Bells Line of Road and the relatively small lot size in terms of agricultural production.

Most of the lots in this locality are well below the minimum lot size. The lots which do not meet the minimum lot size . . . are not large enough to support viable agriculture or to provide sufficient buffers between agricultural and residential uses.

Providing additional land for housing in this location is logical and represents "the promotion and coordination of the orderly and economic use and development of land" as stated in the Objects of the Environmental Planning and Assessment Act, 1979.

The proposal satisfies the criteria for rural village expansion as contained within the Hawkesbury Residential Land Strategy.

The land has the appropriate physical characteristics to support large lot residential development as proposed.

The proposed rezoning will make use of existing infrastructure, therefore no additional infrastructure is required.

There will be no adverse environmental or visual impact as a consequence of development of the land. The proposal effectively represents infill development.

The proposal represents a suitable expansion of the existing Kurmond village.

The proposal is consistent with all State, Regional and Local Strategies, including the Hawkesbury Residential Land Strategy.

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

The NSW Government's 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 Kurmond. Notwithstanding this MPS have 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 Kurmond 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 / large lot residential development on the fringe of the Kurmond 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 meeting existing neighbourhood criteria services as a minimum (within a 1km radius);
- address environmental constraints and have minimal impact on the environment;
- within the capacity of the rural village

MPS have provided a preliminary assessment of site soils that conclude the site soils are suitable for on-site wastewater treatment. This advice is preliminary only and no assessment has been undertaken regarding the likely land area required for irrigation of wastewater.

The site is on the periphery of the Kurmond 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.

In response to this Policy MPS state:

It is submitted that the Planning Proposal is consistent with the directions and strategies contained in Council's adopted Community Strategic Plan. The proposal also satisfies the sustainability criteria contained with the Hawkesbury residential Land Strategy.

It is considered that the proposal has not adequately addressed the "Rezoning Land for Residential Purposes – Infrastructure Issues" in that the proposed development would increase the cumulative impact on the existing road system and no mitigation measures are proposed in this application. This issue is discussed later in this report.

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&I's gateway system for dealing with planning proposals.

The Policy is repeated below with responses provided by MPS. Where appropriate additional staff responses are provided.

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

MPS response

It is considered that the proposal minimises fragmentation of rural land by creating mostly 4,000m² residential lots, allowing for an acceptable increase in population, while not fragmenting larger viable agricultural 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*

MPS response

It is submitted that the proposal is within a location which has access to services and facilities and is contiguous with residential lots associated with Kurmond Village.

This policy statement has been adopted by the Hawkesbury Residential Lands Strategy in Section 6.5 - Rural Village Criteria:

Cluster around or on the periphery of villages

Cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within 1km radius)

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

MPS response

The subject land has frontage to a main road, however access to all proposed allotments will be via an internal road which intersects with Bells Line of Road. The land falls away from Bells Line of Road which means that the proposed subdivision will not be readily visible from the main road.

Staff response

The proposed access to Bells Line of Road is a matter for the Roads and Maritime Service (RMS). It is anticipated that the planning proposal will be referred to RMS for comment.

- d. *No subdivision along ridgelines or escarpments*

MPS response

Bells Line of Road follows a minor ridgeline or saddle. The land which is proposed to be subdivided falls away from Bells Line of Road to a minor creek and then rises up to a height which is some 12 metres lower than Bells Line of Road at a horizontal distance of some 580 metres. It is therefore submitted that the proposal is consistent with this statement.

- e. *where on site effluent disposal is proposed, lots are to have an area of at least 1 (one) hectare unless the effectiveness of a smaller area can be demonstrated by geotechnical investigation.*

MPS response

This policy statement has been adopted by the Hawkesbury Residential Land Strategy in Section 6.5 Rural Village Criteria:

Be able to have onsite sewerage disposal.

The size of the proposed lots is 4,000m². A preliminary geotechnical investigation was carried out by Australian Wetlands Consulting Pty Ltd, which confirms that the land is suitable for on-site effluent disposal. It is submitted that the Planning proposal is consistent with this policy statement.

Staff response

Whilst the preliminary geotechnical investigation confirms that the soil on the property is suitable for on-site effluent disposal the report does not state the likely minimum area of land required for irrigation of wastewater. Taking into consideration existing systems within the locality and previous assessments provided by various waste water consultants it is expected that the irrigation area for a typical aerated waste water treatment system on this property would be approximately 800m² to 1200m² with the potential need for an alternate disposal area of the same size. In this regard the submitted concept subdivision layout plan should not be endorsed as part of the planning proposal and should be considered as part of a future development application.

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

MPS response

The Planning Proposal will have minimal impact on tree coverage, as the land is cleared grazing paddocks with scattered trees. Additional planting as part of the subdivision works will enhance the overall tree coverage of the land.

Staff response

Whilst the property may be used for grazing purposes Council's vegetation mapping and aerial photographs show significant tree coverage over the site. The proposed subdivision and resultant development of the new properties, will result in a reduction of tree coverage due to the area of land required to be cleared, in whole or in part, for the purposes of the internal road, driveways, dwellings and associated ancillary structures, effluent disposal areas, and bushfire related asset protection zones.

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

MPS response

It is submitted that an environmental study is not required, as sufficient information is provided with the Planning Proposal. Whether or not a Section 94 contributions plan is required for the proposal is a matter for Council decision.

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&I 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 MPS 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.*

MPS response

The form of title of subdivisions is more appropriate for discussion in the lead up to a development application, once the Planning Proposal has progress to the final stage.

Section 117 Directions

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. A summary of the key Section 117 Directions 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).

Direction 1.3 Mining, Petroleum Production and Extractive Industries

Requires consultation with NSW Industry and Investment.

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, and
- make more efficient use of existing infrastructure and services, and
- reduce the consumption of land for housing and associated urban development on the urban fringe, and
- 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).

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&I 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 sulphate soils. This Direction requires consideration of the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of DP&I. The subject site is identified as "Class 5" (less constrained) on the Acid Sulphate Soils Planning Maps. The DP&I 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

Requires consultation with the NSW Rural Fire Service, compliance with Planning for Bushfire Protection 2006, and compliance with various Asset Protection Zones, vehicular access, water supply, layout, and building material provisions.

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. It is considered that the 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 6.2 Reserving Land for Public Purposes

Due to the existing SP2 Infrastructure - Classified Road zone and Land Acquisition Map affectation the planning proposal may require referral to RMS.

Direction 6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessary restrictive site specific planning controls. The planning proposal proposes as one option amendment Schedule 1 of HLEP 2012 to enable the proposed subdivision. This option is to be discussed with DP&I.

Direction 7.1 Implementation of the Metropolitan Strategy

Requires planning proposals to be consistent with the NSW Government's Metropolitan Strategy City of Cities, A Plan for Sydney's Future.

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&I is satisfied that the proposal is:

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

MPS advise that the:

land has been used for agriculture in the form of animal grazing for many years. However, there is no evidence to suggest that any activities have occurred on the land which would give rise to contamination. In terms of this planning proposal, it is considered that no study is warranted in order to progress the draft LEP. Any future development application for subdivision may then require further investigation.

If the planning proposal is to proceed further consideration of potential contamination can be dealt with after DP&I'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;

- 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.

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.

Character of the Area

The area surrounding the site contains a mix of lot sizes and in particular there are a number of relatively small rural-residential lots to the north-west and south-east fronting Bells Line of Road. The proposed lots are of similar size to these existing properties.

The existing small rural-residential lots in the vicinity are typically in close proximity to the Bells Line of Road ridgeline or other local road with a larger rural-residential/rural lot behind as the land form falls away from the ridge/local road. The proposal, being a subdivision of the entire property both towards Bells Line of Road and then down into a valley and beyond is not consistent with this existing character. However, the location is an area in transition and if the broader area is to be developed in accordance with the HRLS for large lot residential / rural-residential development, over time land beyond the immediate road frontage will be developed.

Topography

The land falls from Bells Line of Road, with an elevation of approximately 94m AHD, to a minor watercourse running north-west to south-east through the centre of the property at approximately 58m AHD. The land then rises to a level of approximately 85m AHD in the northern corner. The majority of the land has a slope of less than 15% however there are some areas towards Bells Line of Road and in the rear half of the land that have slopes in excess of 15%. The steeper lands are generally found on proposed lots 6-8, 10-13, 16-21, and 25-27.

The HRLS recognises slopes greater than 15% act as a constraint to development.

The steeper sloping part of the land will, to varying degrees, act as a constraint for the location and type of dwelling, outbuilding, effluent disposal system, and driveways for the above mentioned lots. One way of minimising these constraints would be to reconsider the concept subdivision and possibly increase the minimum lot size in order to avoid as much as practicable development of the steeper sloping land. It is recommended that this be further explored, particularly at the DA stage, with MPS upon receipt of additional information relating to on site waste water irrigation and flora and fauna impacts.

Public transport, Traffic generation and Access

Public transport is limited to the Westbus Route 682 service along Bells Line of Road between Richmond and Kurrajong. The service operates every 30 minutes during peak period. The closest bus stop is located near the Kurmond Post Office. Given the limited frequency of service and the location of the bus stop it is anticipated that the occupants of the proposed subdivision will be private vehicle dependent.

The planning proposal is supported by a traffic impact statement. The statement considers existing traffic conditions and the likely traffic to be generated by the proposed development. The assessment forecasts that the proposed development would generate 27 vehicle movements in the morning and afternoon peak hour and concludes this will be a minor increase in traffic. The assessment proposes localised road widening on the north-eastern side of Bells Line of Road and the provision of a channelised right turn lane at the proposed access to the subdivision to enable north-west bound vehicles to pass decelerating and stationary vehicles turning right into the access road.

The assessment notes the existing traffic congestion problems at North Richmond, in particular, at the intersection of Grose Vale Road/Bells Line of Road/Terrace Road and suggests that the projected additional peak hour vehicle trips generated by this development will not have any noticeable impacts on existing traffic conditions.

Bells Line of Road is an RMS road hence it is anticipated that the planning proposal will be referred to RMS for consideration of the proposed access, intersection treatment and impact on regional road network.

The cumulative impact of similar proposals that may occur in the future has not been considered in the planning proposal. It is considered that this is a matter for Council and the RMS to address with the outcome being incorporated into affected planning proposals.

Council has received petitions from residents west of the Hawkesbury River concerned about rezoning of land for residential purposes in the absence of necessary infrastructure upgrades. To address this it is recommended that Council commence the preparation of a Section 94 Contributions Plan for the land within the vicinity of Kurmond to ensure that all proposed developments in the locality contribute to the required infrastructure, especially road upgrade and provision, in the locality. Alternatively the applicant and Council can commence Voluntary Planning Agreement negotiations to address this issue. It is considered this will be a fundamental matter to be dealt with by Council prior to the finalisation of any planning proposals in the locality as the cumulative impact of these types of development will be unacceptable if no traffic improvements are made.

Services

Reticulated water, power and telecommunication services are available for connection to the land.

MPS have provided preliminary advice stating that the soils on the land are suitable for on-site effluent disposal, however, the type, size and location of proposed systems requires further consideration. It is recommended that this be further discussed with MPS prior to the matter being forwarded to DP&I for a gateway determination as this may affect the proposed minimum lot size and require the planning proposal to be amended.

Ecology

As stated previously Council's vegetation mapping and aerial photographs show significant tree coverage over the site with a small portion of land towards the front of the property and approximately the rear two thirds of the property is shown as either *Significant Vegetation* or *Connectivity Between Significant Vegetation* on the Terrestrial Biodiversity Map of LEP 2012.

Council's mapping indicates that the significant vegetation includes Shale Sandstone Transition Forest an endangered ecological community. Due to the presence of this endangered ecological community the DP&I guidelines for preparing planning proposals require the submission of a assessment of significance under Section 5A of the *Environmental Planning and Assessment Act 1979*. MPS have not provided such an assessment with the planning proposal and at present MPS have not been requested to provide such an assessment. If the planning proposal is to proceed the assessment will be needed prior to forwarding the matter to DP&I for a gateway determination.

MPS however have provided a general comment stating that the area identified as significant vegetation is concentrated within a riparian corridor along the minor watercourse running through the middle of the site and that the area identified as connectivity between significant vegetation is slashed pasture with scattered trees, comprising a number of dead trees and mostly immature trees. Further MPS claim that there is no native ground cover or shrub layer and no continuous canopy and it is unclear how the land provides any real connectivity between significant vegetation other than via the riparian corridor. MPS conclude that the proposal will have no adverse impact on threatened species populations or ecological communities.

Whilst the effect of proposal development is best assessed by a suitably qualified and experienced flora and fauna consultant the following observations are made about Shale Sandstone Transition Forest and connectivity between significant vegetation.

The main threat to Shale Sandstone Transition Forest is further clearing for urban/rural development and the subsequent impacts from fragmentation. The vegetation on the subject property contains a natural drainage line and represents significant connectivity between "Regional Core Vegetation" located to the south-east and north-west. It is listed under Hawkesbury Council's Conservation Significance Assessment as "S1 - Support for Core". This means the vegetation corridor connects significant remnant vegetation and that connectivity provides opportunities for species to move,

interact, adapt and evolve. Rivers and creeks are commonly the main remaining linkages in urban areas, and therefore are important components of a habitat network at local and regional scales.

Consideration will need to be given to the impacts of the proposed development on the downstream catchment and, where possible, retention of natural drainage corridors with vegetated buffer zones at least 30m wide should be provided. This will assist in maintenance of the natural drainage function, stream habitat, wildlife corridors and landscape values, to minimise erosion of stream banks and verges and to reduce polluted surface runoff from adjacent land uses.

Bushfire hazard

The planning proposal is supported by a preliminary bush fire hazard assessment that concludes that whilst there would be bushfire related consent conditions at both subdivision and dwelling construction phases of the development none of these should ultimately be overly restrictive or prohibit development approval by bushfire regulatory provisions. The assessment states that the proposed subdivision will require that the entire site where not built upon to be maintained to the requirements of an inner protection area of an asset protection zone and maintained to this standard for the lifetime of the development.

Standards for an inner protection area include a tree canopy cover of less than 15% and the tree canopy should be located greater than 2 metres from any part of the roofline of a dwelling. Trees should have lower limbs removed up to a height of 2 metres above the ground. Ground fuels such as fallen leaves, twigs (less than 6mm in diameter) and branches should be removed on a regular basis, and grass needs to be kept closely mown and where possible green. The recommendations of the bushfire assessment will be to considered in the flora and fauna assessment.

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.

Agricultural Land Classification

The site consists of Class 3 agricultural land which is described as follows:

Class 3 - Moderately productive lands suited to improved pasture and to cropping within a pasture rotation. The overall level of production is moderate as a result of edaphic or environmental constraints. Erosion hazard or soil structural breakdown limit the frequency of ground disturbance, and conservation or drainage works may be required.

Given the proximity of the site 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.

Compliance with DP&I Guidelines for Preparing Planning Proposals

Excluding some minor errors and certain additional information mentioned previously in this report, the planning proposal is generally consistent with the requirements of DP&I guidelines published in 2009. At the time of MPS submitting the planning proposal DP&I issued new guidelines in October 2012. As a result the planning proposal will require minor amendment to satisfy the new guidelines prior to forwarding the matter to the DP&I. If the planning proposal is to proceed these amendments can be dealt with by MPS and Council staff.

Conformance to Community Strategic Plan

MPS state that the following provisions of the CSP are of most relevance to the planning proposal.

Looking after people and place

Vision: In 2030 we want the Hawkesbury to be a place where we have: A community in which the area's character is preserved and lifestyle choices are provided with sustainable planned, well serviced development, within strongly connected, safe and friendly neighbourhoods.

Directions:

- *Be a place where we value, protect and enhance the historical, social, cultural and environmental character of Hawkesbury's towns, villages and rural landscapes.*
- *Offer residents a choice of housing options that meets their needs whilst being sympathetic to the qualities of the Hawkesbury.*
- *Population growth is matched with the provision 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.*
- *Have friendly neighbourhoods, connected communities, and supported households and families*
- *Have future residential and commercial development designed and planned to minimise impacts on local transport systems allowing easy access to main metropolitan gateways*

Goals:

- *Maintain and foster the rural character of villages within the Hawkesbury.*
- *Accommodate at least 5,000 new dwellings to provide a range of housing options (including rural residential) for diverse population groups whilst minimising environmental footprint.*
- *Towns and villages to be vibrant places that people choose to live in and visit.*
- *Plan, provide and advocate for a range of community, cultural, recreational, sporting, health and education services and facilities to meet the needs of residents and visitors.*

Caring for Our Environment

Vision: In 2030 we want the Hawkesbury to be a place where we have: A community dedicated to minimising its ecological footprint, enjoying a clean river and an environment that is nurtured, healthy, protected and provides opportunities for its sustainable use.

Directions:

- *Be a place where we value, protect, and enhance the cultural and environmental character of Hawkesbury's towns, villages and rural landscapes.*
- *To look after our cultural and environmental assets for future generations so that they too can enjoy and benefit from a clean river and natural eco-systems, rural and cultural landscape.*
- *Take active steps to encourage lifestyle choices that minimise our ecological footprint.*
- *Work with our communities and businesses to use our resources in a sustainable way and employ practices and technologies that are in harmony with our natural environment.*

Goals:

- *Balance the needs of our ecology, recreational and commercial activities.*
- *Sustainable use of potable and recycled water*
- *Reduce greenhouse gas emissions*

Linking the Hawkesbury

Directions:

- *Have a comprehensive system of transport connections which link people and products across the Hawkesbury and with surrounding regions*
- *Be linked by accessible, viable public transport, cycleways and pathways to the major growth and commercial centres within and beyond the Hawkesbury.*
- *Have a comprehensive system of well maintained local and regional roads to serve the needs of the community.*
- *Plan for, maintain and renew our physical infrastructure and community services, facilities and communication connections for the benefit of residents, visitors and businesses.*

Goals:

- *An efficient transport network that links the Hawkesbury internally and to regional growth centres.*

Supporting Business and Local Jobs

Vision: In 2030 we want the Hawkesbury to be a place where we have: New and existing industries which provide opportunities for a range of local employment and training options, complemented by thriving town centres.

Directions

- *Help create thriving town centres, each with its own character that attracts residents, visitors and businesses.*

Goals:

- *Increased patronage of local businesses and attract new residents and visitors.*

Shaping Our Future Together

Vision: In 2030 we want the Hawkesbury to be a place where we have: An independent, strong and engaged community, with a respected leadership which provides for the future needs of its people in a sustainable and financially responsible manner.

Directions

- *A balanced set of decisions that integrate jobs, housing, infrastructure, heritage, and environment that incorporates sustainability principles.*

Goals

- *Work together with the community to achieve a balanced set of decisions that integrate jobs, housing, infrastructure, heritage and environment.*
- *Council demonstrates leadership by implementing sustainability principles.*

In response to these provisions of the CSP, MPS claim that:

The planning proposal will assist in the achievement of some of the above mentioned Direction and Goals, particularly in terms of the dwelling house target, increased patronage of local business and attracting new residents to the Hawkesbury

The further consideration of matters pertaining to on site waste water irrigation, flora and fauna impacts, Section 94 contributions/voluntary planning agreement, and referral to government agencies such as the RMS and RFS as previously identified in this report will enable further consideration of the planning proposal with respect to the above mentioned provisions of the CSP.

Financial Implications

MPS has paid the fees required by Council's fees and charges for the preparation of a local environmental plan.

Conclusion

It is considered that some form of large lot residential development on the subject site is appropriate and feasible and it is recommended that Council support amending LEP 2012 to allow the subject land to be developed for large lot residential development.

This report identifies certain matters such as on site waste water irrigation, flora and fauna impacts, avoidance of steep sloping land, and compliance with DP&I guidelines that need to be addressed prior to forwarding the proposal to the DP&I for a gateway determination.

It is also recommended that if the DP&I determines that the planning proposal is to proceed, Council commence the preparation of a Section 94 Contributions Plan for the vicinity of Kurmond to ensure that all proposed developments in the locality contribute to the required infrastructure, especially road upgrade and provision, in the locality. Alternatively the applicant and Council can commence Voluntary Planning Agreement negotiations to address this issue.

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. Council support the preparation of a Planning Proposal for the land comprising of Lot 2 DP 607906, 396 Bells Line of Road, Kurmond to allow development of the land primarily for large lot residential development.
2. The concept plan titled "Concept Layout over Lot 2 in DP 607906 at Bells Line of Road, Kurmond L.G.A Hawkesbury", prepared by North Western Surveys and dated 10/10/2012 attached to this report be adopted for the purposes of preparing the planning proposal only and the proposed allotment layout not be adopted until finalised as part of the development application process.
3. The planning proposal be forwarded to the Department of Planning and Infrastructure for a "gateway" determination.

4. The Department of Planning and Infrastructure be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.
5. If the Department of Planning and Infrastructure determines that the planning proposal is to proceed, Council commence the preparation of a Section 94 Contributions Plan for the vicinity of Kurmond to ensure that all proposed developments in the locality contribute to the required infrastructure, especially road upgrade and provision, in the locality. Alternatively the applicant and Council can commence Voluntary Planning Agreement negotiations to address this issue.
6. The Department of Planning and Infrastructure and the applicant be advised that in addition to all other relevant planning considerations being addressed, final Council support for the proposal will only be given if Council is satisfied that satisfactory progress, either completion of the Section 94 Developer Contributions Plan or a Voluntary Planning Agreement, has been made towards resolving infrastructure provision for this planning proposal.

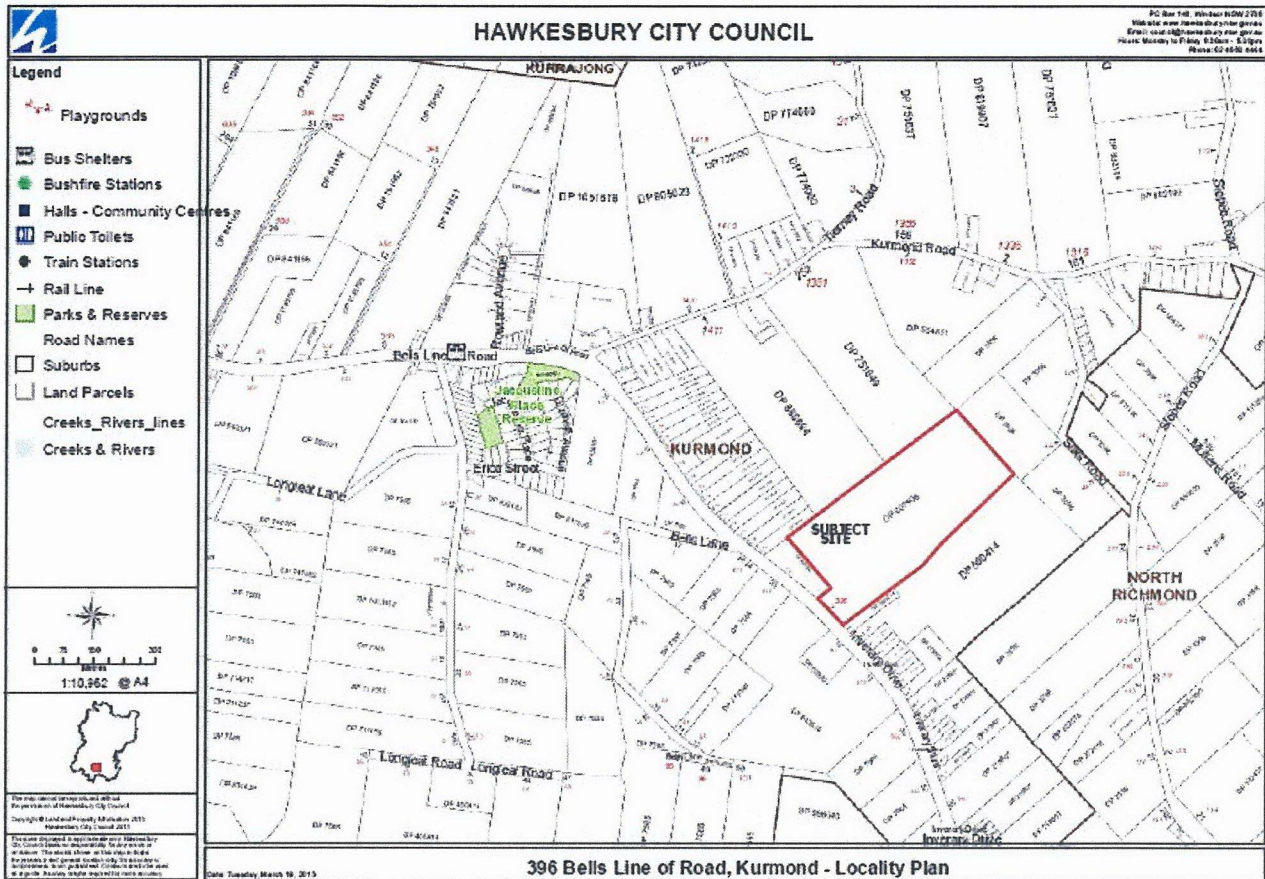
ATTACHMENTS:

AT - 1 Locality Plan

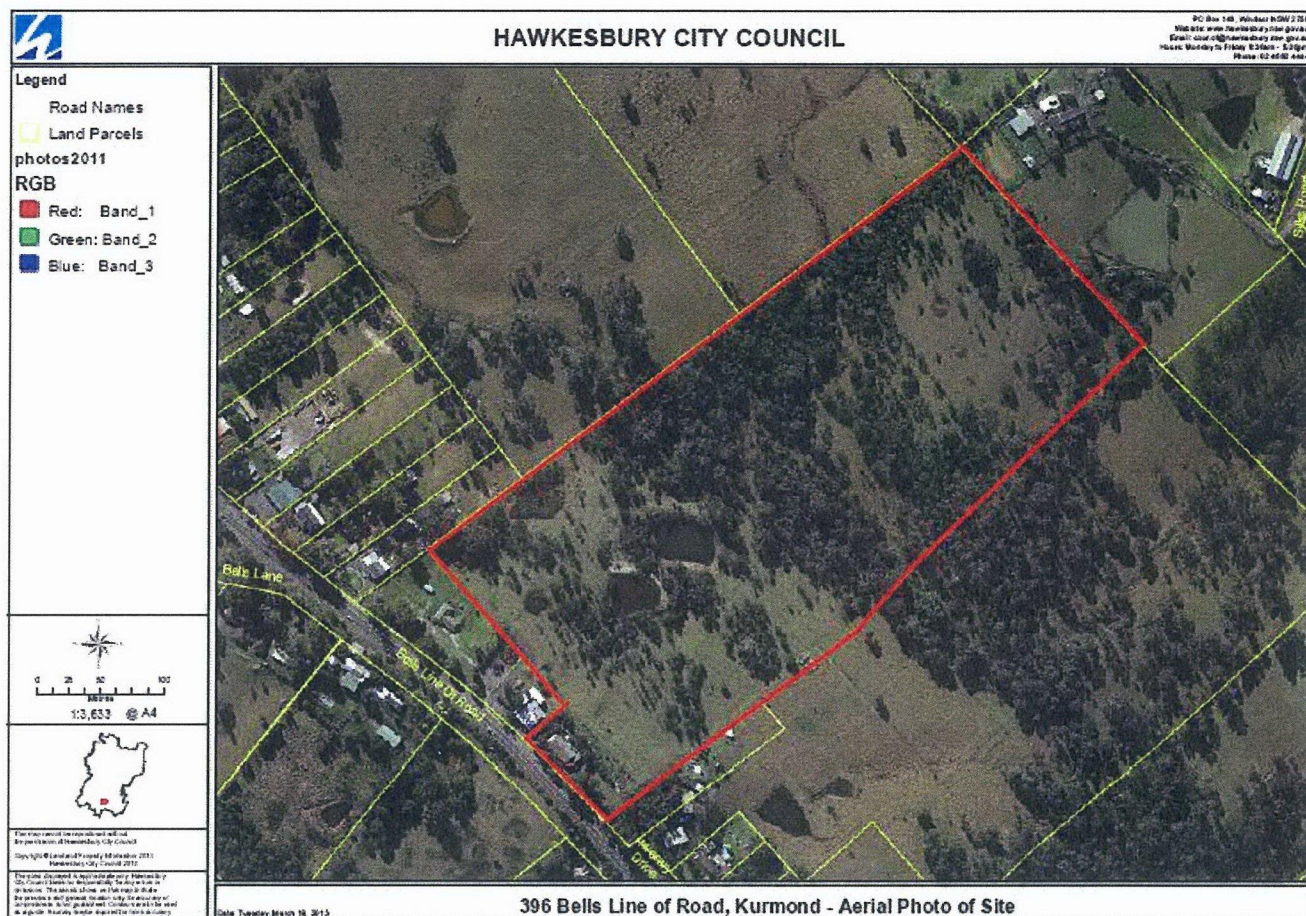
AT - 2 Aerial Photo of Site

AT - 3 Concept Plan of Proposed Subdivision

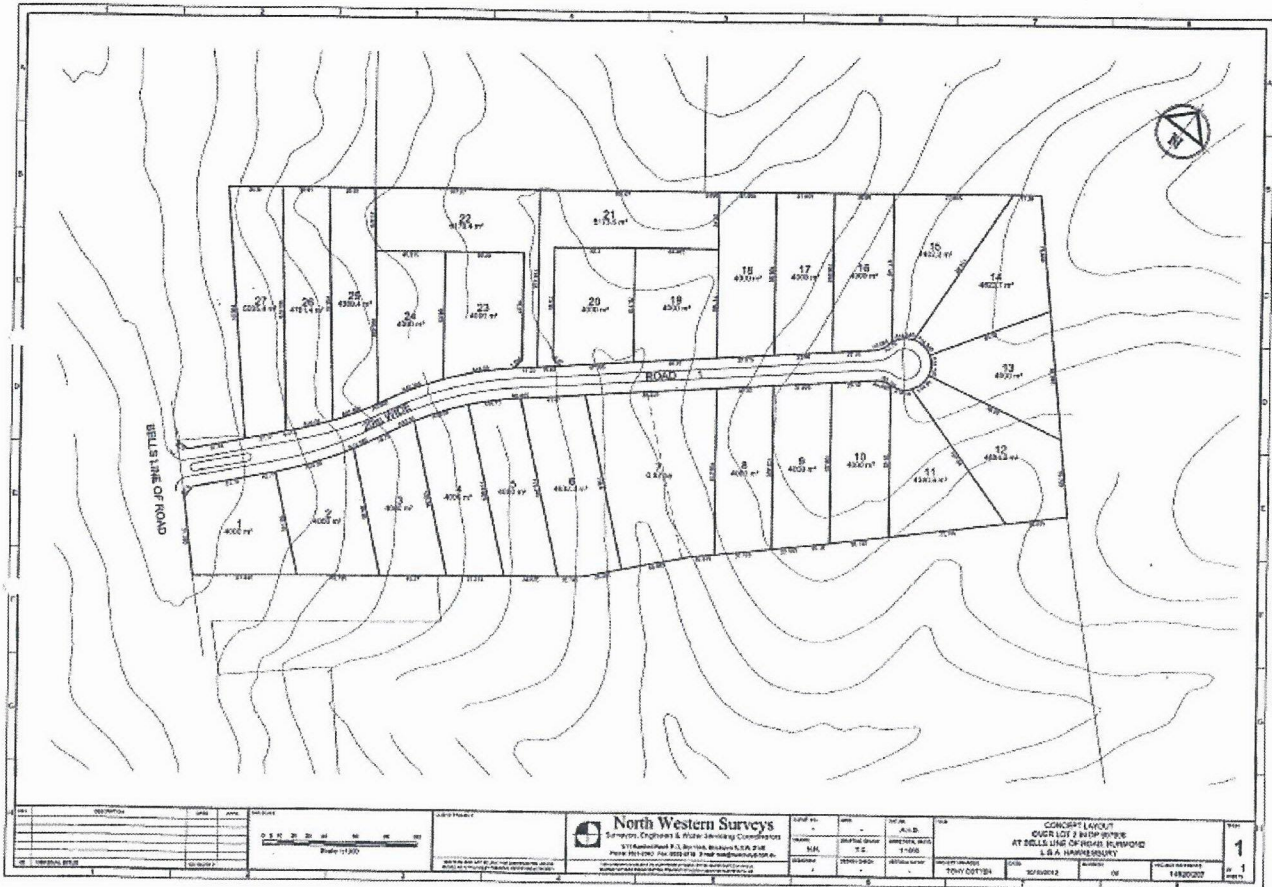
AT - 1 Locality Plan



AT - 2 Aerial Photo of Site



AT - 3 Concept Plan of Proposed Subdivision



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