

Rezoning of Lot 1 DP 880604, 1411 Kurmond Road, Kurmond for rural-residential purposes

Proposal Title : Rezoning of Lot 1 DP 880604, 1411 Kurmond Road, Kurmond for rural-residential purposes

Proposal Summary : The objective of the Planning Proposal is to allow the land to be subdivided into four large residential lots and one larger rural lifestyle lot in keeping with the adjacent subdivision pattern to the west. A concept plan for a indicative subdivision layout is in Documents.

PP Number : PP_2012_HAWKE_005_00 Dop File No : 12/16656

Proposal Details

Date Planning Proposal Received :	24-Oct-2012	LGA covered :	Hawkesbury
Region :	Sydney Region West	RPA :	Hawkesbury City Council
State Electorate :	HAWKESBURY	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	1411 Kurmond Road		
Suburb :	Kurmond	City :	Hawkesbury
		Postcode :	2757
Land Parcel :	Lot 1 DP 880684		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : Derryn John
 Contact Number : 0298601505
 Contact Email : derryn.john@planning.nsw.gov.au

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) :	N/A
No. of Lots : 5	No. of Dwellings (where relevant) :	5
Gross Floor Area : 0	No of Jobs Created :	0

The NSW Government Yes
Lobbyists Code of
Conduct has been
complied with :

If No, comment :

Have there been No
meetings or
communications with
registered lobbyists? :

If Yes, comment : In relation to the Lobbyist Code of Conduct there are no records on the Department's
Lobbyist Contact Register regarding this matter.

Supporting notes

Internal Supporting
Notes :

ADDITIONAL INFORMATION:

Additional information was requested from Council on 23 October 2012, which was
received on 29 October 2012.

Background to this Planning Proposal

The site has an area of 11.5ha and is generally rectangular in shape, except for a 4,422m²
irregular shaped lot towards Kurmond Road, which was excised from the land in 1988
(location map in Documents). The majority of the site is cleared and undeveloped except
for a dwelling and outbuilding near Kurmond Road

The site and surrounding land to the west, south and east is currently zoned RU1 Primary
Production under the Hawkesbury Local Environmental Plan 2012 with a minimum
subdivision lot size provision of 10ha. Land to the north is currently zoned RU4 Primary
Production Small Lots with a minimum lot size provision of 4ha.(Refer to zoning map and
lot size map in documents)

Land to the south-east and north east is used for low density grazing. Land on the northern
side of Kurmond Road comprises a mix of rural residential and grazing uses.

All of the site is "bushfire prone land" (primary vegetation category 1) according to NSW
Rural Fire Services Bushfire Prone Land Map and the site is "Class 5" land as shown on
Council's Acid Sulfate Soils Planning Map.

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

The site does not contain any items of European or Aboriginal cultural heritage.

External Supporting
Notes :

POLITICAL DONATIONS DISCLOSURE STATEMENT

Political donations disclosure laws commenced on 1 October 2008. The legislation requires
the public disclosure of donations or gifts for certain circumstances relating to the
Planning system.

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"The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

The term relevant planning application means:

- A formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument..."

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Director General is required to disclose all reportable political donations (if any).

The Department has not received any disclosure statements for this Planning Proposal.

Adequacy Assessment

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

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

Comment : The Planning Proposal clearly identifies the objective of the proposal is to allow land to be subdivided into four large residential lots and one large rural lifestyle lot.

It is considered that the intended outcomes of the Planning Proposal are consistent with the criteria outlined in the 'Guide to preparing planning proposal'.

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

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

Comment : Council has provided an explanation for the proposed amendment i.e. to rezone the subject land from RU1 to RU5, the Planning Proposal would either:

- Amend zoning and lot size maps as follows:
 - o amend the Hawkesbury Local Environmental Plan 2012 Land Zoning Map Sheet 12 to identify part of the land as RU5 – Village (zoning map in documents);
 - o amend the Hawkesbury Local Environmental Plan 2012 Lot Size Map Sheet 12, to fix the minimum lot size for part of the land at 4,000 square metres (lot size map in documents).

or

- Amend Schedule 1 of the Hawkesbury Local Environmental Plan 2012 to include subdivision of the subject land into five allotments with minimum lot size of 4,000m².

It is considered that the explanation for the proposed amendments is adequate.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA : **1.2 Rural Zones**

* May need the Director General's agreement

4.1 Acid Sulfate Soils

4.4 Planning for Bushfire Protection

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?

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

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

S117 Directions

1.2 Rural Zones:

The planning proposal is inconsistent with the terms of this direction as it proposes to rezone land from an existing RU1 Primary Production to RU5 Village and also proposes to reduce the minimum lot size from 10 ha to 4,000m².

The direction states that a planning proposal can be inconsistent if the relevant planning authority can satisfy the Director General of the Department of Planning (or an officer of the Department nominated by the Director General) that the provisions of the planning proposal that are inconsistent are of minor significance.

The Planning Proposal affects only 11.5ha. Furthermore, the proposed R5 zone still allows for some capacity for rural type uses.

In view of the above, it is considered that the provisions of the planning proposal that are inconsistent with the direction are of minor nature.

The approval of the Director-General is recommended in this report, to satisfy the Direction.

4.1 Acid Sulfate Soils

This direction applies when a council prepares a Planning Proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Planning Maps held by the Department of Planning.

This direction applies in this instance as the subject land is identified as Class 5.

It is considered that the inconsistency is justified in this instance, given:

- Minor nature of the proposal
- Intensification of the class 5 areas has only implications for works below 4 metres and the proposed development is not expected to involve such extensive excavation.

In light of above, it is recommended that the Director-General forms an opinion that the inconsistency is of minor nature.

4.4 Planning for Bushfire Protection

This direction applies when a council prepares a Planning Proposal that affects, or is in proximity to land mapped as bushfire prone land.

This direction is relevant to this Planning Proposal as the site is "bushfire prone land" (primarily vegetation category 1) according to NSW Rural Fire Service's Bushfire Prone Land Map.

Technically, the Planning Proposal is inconsistent with this Direction as the proposal does not provide for inclusion of measures such as Asset Protection Zones, performance standards for development, access roads or water for fire fighting purposes as this Direction requires.

The applicant has advised that the Commissioner of NSW Rural Fire Service will be consulted following Gateway Determination to ensure that they do not object to any aspect of this Planning Proposal.

It is considered that once Council consults with the Commissioner of the NSW Rural Fire Service and addresses their concerns, if any, Council should be required to demonstrate the consistency of the Proposal with this Direction prior to undertaking community

consultation.

7.1 Implementation of the Metropolitan Strategy

This Direction requires that the Planning Proposal must be consistent with the Government's Metropolitan Plan for Sydney 2036.

The Planning Proposal is considered to be generally not inconsistent with the Metropolitan Strategy and the draft South West Subregional Strategy (for detail please see Section B of the Planning Proposal – page 11).

Regional Environmental Plan

Sydney Regional Environmental Plan No 20 – Hawkesbury - Nepean River (No 2 – 1997) (now a deemed SREP)

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 will have no significant impact on the Hawkesbury River Catchment.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Council has provided a location map, an aerial photograph, a concept plan, a zoning map, and a lot size map and other supporting maps (copies in documents) of the site.

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

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : The Planning Proposal is proposed to be placed on public exhibition for a period of 14 days. This is supported by the regional team.

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 :

Comments in relation to Principal LEP : Hawkesbury Principal LEP was made in September 2012. The Planning Proposal seeks to make minor amendments to the Principal LEP.

Assessment Criteria

Need for planning proposal :

The Planning Proposal is a rezoning request from the proponent to either:

- amend zoning and lot size maps to accommodate the rezoning; or
- amend Schedule 1 of Hawkesbury Local Environmental Plan 2012 to include subdivision on the subject land.

It is considered that the above mentioned second option could not be supported for the reasons given below:

DRAFT LEP PRACTICE NOTE – SCHEDULE 1 ADDITIONAL PERMITTED USES:

As per the provisions of the above draft Practice Note, use of Schedule 1 should be used in exceptional circumstances. The proposal to amend Schedule 1 - Additional permitted uses of the Hawkesbury Local Environmental Plan 2012 to include the subject subdivision cannot be supported in this instance as it is considered that rather than permitting an additional use on the site, it would be appropriate to rezone the site to an existing zone under the Hawkesbury Local Environmental Plan 2012 i.e. RU5 - Village.

It is therefore recommended that the Planning Proposal be amended prior to exhibition to reflect only the first option to amend zoning and lot size maps to accommodate the rezoning.

It is also recommended that the previously excised lot be included in this Planning Proposal as this lot:

- fits into the objectives of the RU5 zone and the minimum lot size standard
- would rationalise the boundary of the rezoning
- would promote and coordinate the orderly and economic use and development of the land.

Consistency with strategic planning framework :

The planning proposal is considered to be not inconsistent with both the draft North West Sub-regional Strategy and the Sydney Metro Strategy (refer to Section B of the Planning Proposal – page 11 for further detail).

Consultation with Roads and Maritime Services:

It is also noted that Council has resolved to support this Planning Proposal “in principle” subject to Roads and Maritime Services (R&MS) being jointly responsible with Council for some upgrade to the intersection of Kurmond Road to improve right turn movements into Kurmond Road for traffic travelling west along Bells Line of Road.

It is therefore recommended that the Roads and Maritime Services be consulted prior to exhibition and Council take appropriate action upon receiving advice from R&MS.

Environmental social economic impacts :

Council’s biodiversity mapping identifies some significant vegetation on the land.

The proponent has advised that the ground inspection confirms that the area identified as significant vegetation closure to Kurmond Road comprises scattered trees with cleared

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grazing pasture. These scattered trees provide no vegetation connectivity as there is no continuous canopy, nor is there any understorey or ground cover.

It is also likely that given the significant cleared area on the site that subdivision and residential development may be carried out with little impact on vegetation. It is recommended that Office of Environment and Heritage - NSW National Parks and Wildlife Service be consulted on the draft plan.

In this light, it is considered that there is no likelihood of any adverse environmental, social or economic impacts arising from the Planning Proposal.

Assessment Process

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

Timeframe to make LEP : **9 Month** Delegation : **DG**

Public Authority Consultation - 56(2)(d) : **NSW Department of Primary Industries - Agriculture
Office of Environment and Heritage - NSW National Parks and Wildlife Service
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. :

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
Letter from Council.pdf	Proposal Covering Letter	Yes
Location Map.pdf	Map	Yes
Aerial Photograph.pdf	Photograph	Yes
Concept Plan.pdf	Map	Yes
Planning Proposal .pdf	Proposal	Yes
Council's report.pdf	Determination Document	Yes
Lot size map extract.pdf	Map	Yes
Zone extract.pdf	Map	Yes
Additional Information received from Council .pdf	Determination Document	Yes

Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones**
 4.1 Acid Sulfate Soils
 4.4 Planning for Bushfire Protection
 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **Recommendation:**

It is recommended that the Planning Proposal proceed subject to the following conditions:

1. Community consultation is required under section 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 for a period of 14 days;
2. The Planning Proposal be amended prior to exhibition to:
 - o delete the option of amending the Hawkesbury LEP 2012 to include the subject property as an additional item in Schedule No 1; and
 - o include only, the option of amending zoning and lot size maps to accommodate the proposed rezoning.
3. The Planning Proposal be amended to include the previously excised lot (Lot 2 DP 880684) in this Planning Proposal to promote the orderly and economic use of the land.
4. Director General pursuant to the item (5) (d) of section 117(2) Direction - 1.2 Rural Zones agrees that the inconsistency in this instance is of minor nature;
5. The Director General pursuant to the item (8) (b) of section 117(2) Direction – 4.1 Acid Sulfate Soils agrees that the inconsistency in this instance is of minor nature;
6. Council should consult with Roads and Maritime Services to seek its support for upgrade to the intersection of Kurmond Road and Bells Line of Road to improve right turn movements into Kurmond Road for traffic travelling west along Bells Line of Road;
7. Council should consult with Department of Primary Industry – Agriculture for the reason that the subject site is shown on Council's Acid Sulfate Soils Planning Map and because the site consists of Class 3 and Class 4 land;
8. Under section 117 Direction 4.4 Planning for Bushfire Protection, Council is required to consult with the Commissioner of the NSW Rural Fire Service following the receipt of the Gateway Determination and prior to undertaking community consultation. Following such consultation, Council should demonstrate the consistency of the Proposal with the Direction;
9. Council should consult with the Office of Environment and Heritage – NSW National Parks and Wildlife Service for an assessment of any likely impact on critical habitat, threatened species, populations or ecological communities at the site; and
10. The Planning Proposal is to be completed within 9 months from the week following the Gateway determination.

Supporting Reasons : The proposal will assist in achieving the target contained in the North West Subregional Strategy for new dwellings in the Hawkesbury.

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Signature:

Derryn John

Printed Name:

DERRYN JOHN

Date:

2/11/12

