

ORDINARY MEETING

Meeting Date: 29 April 2014

Item: 76 **CP - Planning Proposal - Amendment to Hawkesbury Local Environmental Plan 2012 - 1059A Grose Vale Road, Kurrajong - (95498)**

Previous Item: 21, Ordinary (25 February 2014)

REPORT:

This report discusses a planning proposal which seeks to amend *Hawkesbury Local Environmental Plan 2012* (LEP 2012) in order to permit the subdivision of 1059A Grose Vale Road, Kurrajong into six to seven 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 for rural 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

A report for this matter was presented to the Council meeting of 25 February 2014 where Council resolved the following:

"That the matter be deferred pending a site inspection".

A site inspection was undertaken on Monday 7 April 2014 and was attended by Councillors Porter, Rasmussen, Reardon and Williams. Apologies were received from the Mayor, Councillor Ford and Deputy Mayor, Councillor Tree and Councillors Calvert, Connolly, Creed, Mackay and Paine. Councillor Lyons-Buckett declared a pecuniary interest in this matter and did not attend the inspection. The inspection was also attended by Council's Development Services Manager, the applicant and a number of surrounding residents were also present.

Planning Proposal

The planning proposal submitted by Montgomery Planning Solutions (MPS) seeks an amendment to *Hawkesbury Local Environmental Plan 2012* (LEP 2012) in order to permit the subdivision of Lot 2 DP 270237, 1059A Grose Vale Road, Kurrajong into lots with a minimum lot size of not less than 4,000m².

Concept plans of two proposed subdivisions, one with six lots the other with seven lots, are attached to this report, for discussion purposes only in relation to the potential yield of the site and do not form part of the planning proposal. The proponent has requested that Council proceed with the planning proposal on the basis of a minimum lot size of 4,000m² and a maximum lot yield of seven lots for the land.

The effect of the planning proposal would be to either:

- a) amend the Lot Size Map of LEP 2012 and insert an appropriate provision limiting the development to a maximum of seven lots, or
- b) insert an appropriate provision into Schedule 1 Additional Permitted Uses into LEP 2012.

The Department of Planning and Infrastructure (DP&I) will ultimately decide on the type of amendment to LEP 2012. It is understood that at present the DP&I's preference is to limit the use of Schedule 1 and rely on amendments to the minimum lot size map.

Subject Site and Surrounds

The site is located on the edge of Kurrajong village. The subject site has an area of 4ha and is a lot within a seven lot community title subdivision (DP270237). No dwellings are located on the site and it appears the current use of the site is predominantly for low scale grazing of livestock.

The site has frontage to Grose Vale Road and a private road that serves the community title subdivision. A restriction as to user exists over the site prohibiting vehicular access to or from Grose Vale Road. Hawkesbury City Council is the beneficiary of this restriction as to user.

The site contains a small dam towards Grose Vale Road and small water course with associated riparian vegetation towards the north-western boundary. The water course is part of larger water course extending generally in a northerly direction from near Grose Vale Road to Little Wheeny Creek near Kurrajong Road, Kurrajong. The riparian vegetation includes Turpentine Iron Margin Forest which is a component of the endangered ecological community Sydney Turpentine Ironbark Forest. This is a critically endangered ecological community (CEEC). The proposal indicates there will be no significant impact on the community by this development. However, a number of small lots contain a significant proportion of the CEEC. Approximately half of this vegetation is subject to a restriction as to user that, amongst other matters, prohibits the grazing of livestock, erection of buildings or structures, and fencing. Hawkesbury City Council is the beneficiary of this restriction as to user. However, changes to the lot yield and layout, road location, etc., may be required to accommodate the retention of this CEEC, particularly in relation to effluent disposal. Much of this can be undertaken at the development application stage.

The land has an elevation of approximately 177m AHD towards Grose Vale Road and then falls westerly for a distance of approximately 270m towards the watercourse to an elevation of approximately 144m. This represents an average slope of 12%; however, in general terms the first third of the site, measured from Grose Vale Road, is in excess of 15%.

The site is zoned RU4 Primary Production Small Lots under LEP 2012. The current minimum lot size for subdivision of this land is 4ha. Properties immediately to the north in Buckett Place and to the east in Grose Vale Road are zoned R2 Low Density Residential.

The site falls within the Colo Catchment Area of *Sydney Regional Environmental Plan No.20 Hawkesbury - Nepean River (No.2 - 1997)*.

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

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

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

Land surrounding the site consists of a varied mix of lots sizes with smaller lots located immediately adjacent in Grose Vale Road and to the north in Buckett Place. Larger lots are generally located to the west and south.

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 Kurrajong. Notwithstanding this the applicant has provided an assessment of the planning proposal against these two documents and concludes that the proposal is consistent with these strategies. Taking into consideration the location of the proposed development, i.e. on the western side of Hawkesbury River and on the fringe of Kurrajong Village, and the unsuitability of the site to provide for an increased density of housing development beyond what is proposed it is considered that the proposal demonstrates satisfactory compliance with these strategies.

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

The proposal can be described as a rural residential development on the fringe of the Kurrajong 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, as stated in Section 6.5 of the HRLS, are that it be large lot residential dwellings and:

- *Be able to have onsite sewerage disposal;*
- *Cluster around or on the periphery of villages;*
- *Cluster around villages with services that meet existing neighbourhood criteria services as a Minimum (within a 1km radius);*
- *Address environmental constraints and have minimal impact on the environment;*
- *Occur only within the capacity of the rural village*

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

The site is on the fringe of the Kurrajong village centre and is within the one kilometre radius specified in the HRLS.

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

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

On 30 August 2011, Council adopted the following Policy:

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

Note 1:

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

Note 2:

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

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

Council Policy - Our City Our Future Rural Rezonings 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 the applicant.

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

Applicant response

It is considered that the proposal minimises fragmentation of rural lands 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

Applicant 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 Kurrajong village
This policy statement has been adopted by the Hawkesbury Residential Lands Strategy in Section 6.5 – Rural Village Criteria

ORDINARY MEETING

Meeting Date: 29 April 2014

Cluster around 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

Applicant response

Grose Vale Road is not a main road. The land falls away from Grose Vale Road, which means that the proposed subdivision will not be readily visible from this road.

- d) No subdivision along ridgelines or escarpments

Applicant response

Grose Vale Road follows a minor ridgeline or saddle. The land which is proposed to be subdivided falls away from Grose Vale Road to the west. The proposal will not be visible against the eastern escarpment and foothills backdrop due to the nature of the topography. 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 one hectare unless the effectiveness of a smaller area can be demonstrated by geotechnical investigation.

Applicant response

This policy statement has been adopted by the Hawkesbury Residential Lands 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 Toby Fiander and Associates, 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

This Policy statement has been completely superseded by Clause 4.1D of the Hawkesbury Local Environmental Plan 2012 (LEP) where the minimum allotment size for areas not serviced by reticulated sewer is set at 4,000m².

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

Applicant response

The Planning Proposal will have no impact on tree coverage. The subdivision concept has been designed to retain riparian vegetation and to place building envelopes within existing cleared grazing paddocks. Additional plantings as part of subdivision works will enhance the overall tree coverage of the land.

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

Applicant response

It is submitted that an environmental study is not required, as sufficient information is provided with the Planning Proposal in accordance with Department of Planning Local Plan Making Guidelines. Whether or not a Section 94 contributions plan is required for the proposal is a matter for Council consideration.

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 applicant if this planning proposal is to proceed.

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

Applicant response

The form of title of subdivision is more appropriate for discussion in the lead up to a development application, once the Planning Proposal has progressed to the final stage. However, the preliminary subdivision concept provides that all lots will have access to a public road. Private roads are problematic in terms of the current Planning for Bushfire Protection requirements.

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 3.4 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 6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessary restrictive site specific planning controls. The planning proposal proposes a number of options, including site specific provisions, to amend HLEP 2012 in order to enable the proposed subdivision. These options are 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.

The applicant advises 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.

Notwithstanding, it is noted that the Department of Planning Local Plan Making Guidelines states as follows:

In some cases it will be necessary to undertake technical studies or investigations to justify different aspects of a planning proposal. Generally, these studies or investigations should not be carried out in the first instance. Instead, the issues giving rise to the need for these studies or investigations should be identified in the planning proposal. The initial gateway determination will then confirm the studies or investigations required and the process for continuing the assessment of the proposal, including whether it will need to be resubmitted following completion of the studies or investigations.

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;

ORDINARY MEETING

Meeting Date: 29 April 2014

- 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.

ORDINARY MEETING

Meeting Date: 29 April 2014

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 within the immediate vicinity of the subject site to the east in Grose Vale Road and the north in Buckett Place. The proposed lots are of similar size to these existing properties.

Topography

The land has an elevation of approximately 177m AHD towards Grose Vale Road and then falls westerly for a distance of approximately 270m towards the watercourse to an elevation of approximately 144m. This represents an average slope of 12% however in general terms the first third of the site, measured from Grose Vale Road, is in excess of 15%.

The HRLS recognises slopes greater than 15% act as a constraint to development. Proposed Lot 1 on the six lot plan and proposed Lots 1 and 2 on the proposed seven lot plan contain significant portions of land with a slope greater than 15%. The Strategy slope constraint combined with the impacts these slopes have on effluent disposal, potential impacts on the Critically Endangered Ecological Community and increased impacts on building and site access, it is considered that the proposed development should be limited to six proposed allotments and not seven.

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.

Public Transport and Traffic Generation

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 within the Kurrajong village. 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 not supported by a traffic impact statement and the cumulative impact of similar proposals that may occur in the future has not been considered by 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.

In recent reports to Council dealing with other planning proposals within the vicinity of Kurmond it has been noted that 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 has been 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 applicants and Council can commence Voluntary Planning Agreement negotiations to address this issue. It is considered this is 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.

With respect to the current prohibition of direct vehicular access to and from Grose Vale Road, the proponent makes the following comments:

"Examination of the site constraints revealed that the best location for the road to intersect with Grose Vale Road is along the northern boundary. This location provides a more level platform at the intersection without significant earthworks to change the landform. I would also point out that the intersection is within a posted 50kph speed zone, while the sign for the 40kph village zone is visible from the southern side of the intersection. Therefore traffic on Grose Vale Road in this location will be travelling at a speed of between 40 and 50 kph."

ORDINARY MEETING

Meeting Date: 29 April 2014

In relation to the 88B instrument on the title restricting access to Grose Vale Road, it is noted that Council is the beneficiary of this restriction and therefore can remove the restriction. The requirement for a public road is found [in Planning for Bushfire Protection 2006] acceptable solution: "access to a development comprising more than three dwellings have formalised access by dedication of a road and not by right of way". Council is formally requested to agree to removal of the existing restriction in the event that the planning proposal proceeds."

Services

The applicant advises that the land is serviced by reticulated water, power and telecommunication services.

A preliminary on site waste water disposal feasibility study has been submitted with the planning proposal. This study provides a preliminary assessment of the site's suitability of on-site effluent disposal. The study considered the soil profile, required separation distance, existing vegetation, slope and it was assumed that an area of 1000m² per lot would be required for irrigation disposal.

Based in the findings of the feasibility study it is considered that on site waste water disposal is achievable on the lots proposed in the six lot and seven lot concept plans.

Whilst the feasibility study states that on site waste water disposal is "achievable", as mentioned previously in this report, due to the reasons of slope and the potential adverse impacts on the CEEC on the site, a limitation of 6 potential allotments is recommended.

Ecology

The site contains a small water course with associated riparian vegetation towards the north-western boundary. This vegetation includes Turpentine Iron Margin Forest which is a component of the endangered ecological community Sydney Turpentine Ironbark Forest. Approximately half of this vegetation is subject to a restriction as to user that, amongst other matters, prohibits the grazing of livestock, erection of buildings or structures, and fencing. Hawkesbury City Council is the beneficiary of this restriction as to user.

The proponent advises:

"Ground inspection confirms that the area identified as significant vegetation is concentrated within the riparian corridor. This area will not be affected by the subdivision or subsequent dwellings or asset protection zones.

The area identified as connectivity between significant vegetation is slashed pasture with no trees. There is also no native ground cover or shrub layer, as shown in Figure 22 below.

It is considered that the proposal will have no adverse impact on threatened species populations or ecological communities."

It is considered that the concept subdivision plans show sufficient land outside of the riparian vegetation that could be available for the erection of buildings, waste water disposal and asset protection zones. Furthermore the planning proposal does not seek to amend *Clause 6.4 Terrestrial biodiversity* of the LEP or the associated map layer hence detailed consideration of any future development of the land can occur at development application stage.

Bushfire Hazard

The site is shown as being bushfire prone (bushfire vegetation category 1) on the NSW Rural Fire Service's Bushfire Prone Land Map. The planning proposal is supported by a preliminary bush fire hazard assessment prepared by Control Line Consulting.

The report finds that the establishment of asset protection zones would not require the removal of any standing or woody vegetation within the site, the creation of asset protection zones and ongoing maintenance would be easily achieved by regular mowing of the grasslands.

The report concludes that whilst there would be bushfire related consent conditions applied to the land at both subdivision and construction stages, none of these conditions should be overly restrictive or prohibit development approval by bushfire regulatory provisions.

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 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:

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

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

The planning proposal has been prepared based on the DP&I guidelines published in 2009. These guidelines have been superseded by new guidelines issued in October 2012. As a result the planning proposal will require 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 the applicant and Council staff.

Conformance to Community Strategic Plan

The proposal is consistent with the Looking After People and Plan Directions statement:

- 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

Conclusion

It is considered that some form of rural 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 rural residential development.

Whilst the land has potential for the development of rural residential allotments for the reasons of slope constraints, which contribute to increased potential adverse impacts on Critically Endangered Ecological Community from on-site waste water disposal, etc., it is recommended that the proposal be limited to six potential allotments.

ORDINARY MEETING

Meeting Date: 29 April 2014

It is also recommended that if the DP&I determines that the planning proposal is to proceed, this development, via a Section 94 plan or Voluntary Planning Agreement, contribute to the required infrastructure, especially road upgrade and provision, in the locality.

Financial Implications

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

Planning Decision

As this matter is covered by the definition of a "planning decision" under Section 375A of the *Local Government Act 1993*, details of those Councillors supporting or opposing a decision on the matter must be recorded in a register. For this purpose a division must be called when a motion in relation to the matter is put to the meeting. This will enable the names of those Councillors voting for or against the motion to be recorded in the minutes of the meeting and subsequently included in the required register.

RECOMMENDATION:

That:

1. Council support the preparation of a planning proposal for Lot 2 DP 270237, 1059A Grose Vale Road, Kurrajong to allow development of the land for rural residential development with an overall lot yield limited to six allotments.
2. Council does not endorse any proposed subdivision layout submitted with the planning proposal as this will need to be subject to a development application should the planning proposal result in gazettal. Should such a development application be made, Council will not support any direct vehicular access from the site to Grose Vale Road.
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. 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.

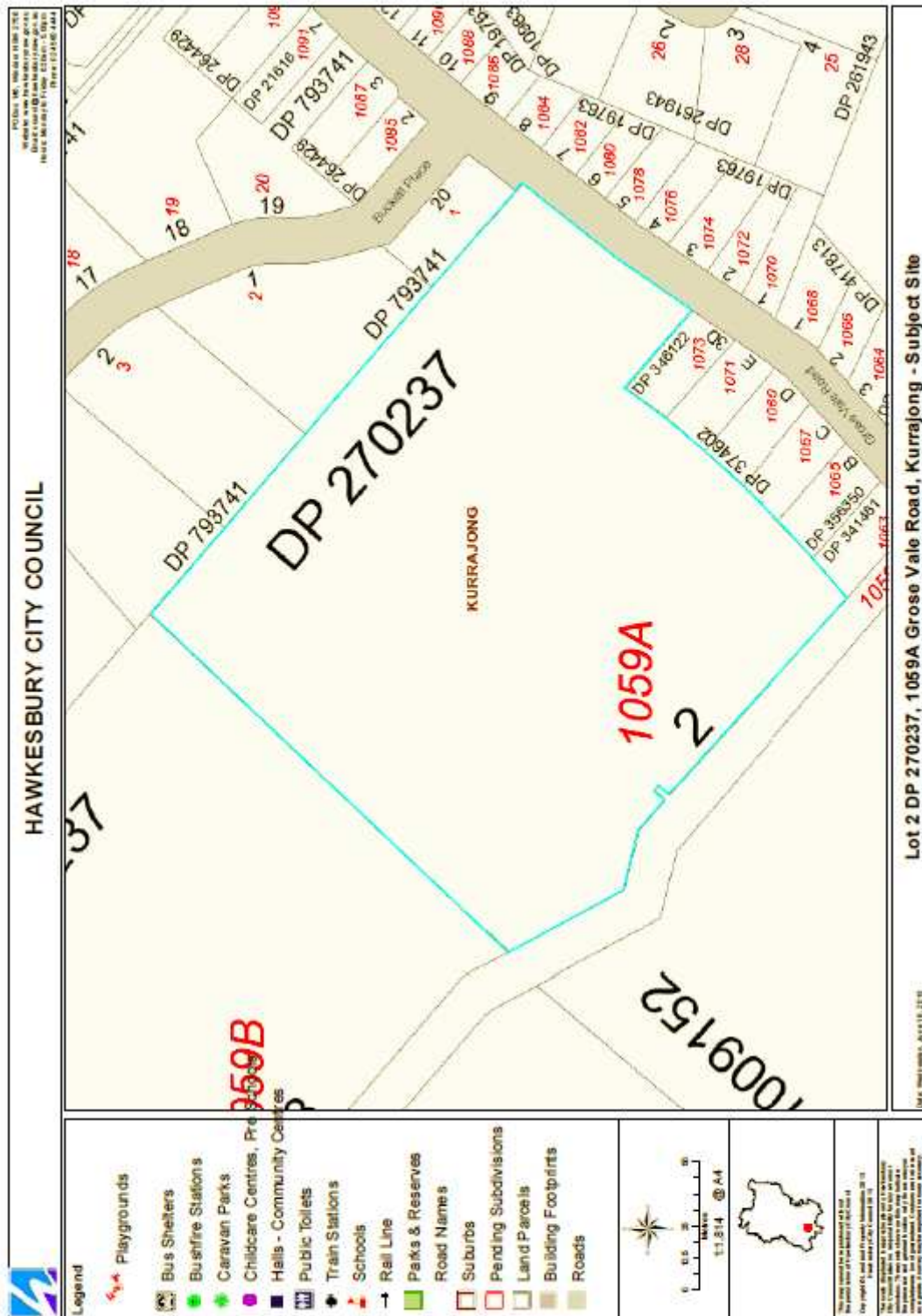
ATTACHMENTS:

- AT - 1 Locality Plan
- AT - 2 Subject Site
- AT - 3 Aerial Photo of Site
- AT - 4 Slope Map

ORDINARY MEETING

Meeting Date: 29 April 2014

AT - 2 Subject Site



Meeting Date: 29 April 2014

[illegible]

Meeting Date: 29 April 2014

Legend

Road Names

- Suburbs
- Pending Subdivisions
- Land Parcels
- Building Footprints
- Roads

South Slope

<VALUE>

- 0 - 6%
- 6% - 10%
- 10% - 15%
- 15% - 25%
- 25% +

Scale: 0 30 60 Meters

North Arrow

Inset Map: Shows the location of the site within New South Wales.

Site Information: Lot 2 DP 270237, 1059A Grose Vale Road, Kurrajong - Slope

000O END OF REPORT 0000