

Planning Services

Gateway Determination Report

LGA	Hawkesbury
PPA	Hawkesbury City Council
NAME	79,95 and 100 Bells Lane and 457 Bells Line of Road, Kurmond (18 homes, 0 jobs)
NUMBER	PP_2018_HAWKE_001_00
LEP TO BE AMENDED	Hawkesbury Local Environmental Plan 2012
ADDRESS	79,95 and 100 Bells Lane and 457 Bells Line of Road, Kurmond
DESCRIPTION	Lot 31, 38 and 50 DP 7565 and Lot 12 DP 711049
RECEIVED	7 May 2018
FILE NO.	IRF18/2405
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

The planning proposal (**Attachment A**) seeks to amend the Hawkesbury Local Environmental Plan 2012, by altering the restricted lot yield map to allow four sites to be subdivided into 18 large residential lots of between 4,000sqm and 1.2h. The proposed yield is shown in the following table.

No.	Address	Lot/DP	Proposed Maximum Yield
1	79 Bells Lane, Kurmond	Lot 38 DP 7565	5 lots
2	95 Bells Lane, Kurmond	Lot 12 DP 711049	4 lots
3	100 Bells Lane, Kurmond	Lot 50 DP 7565	5 lots
4	457 Bells Line of Road, Kurmond	Lot 31 DP 7565	4 lots

Table 1: Subject description and proposed maximum lot yield

These sites are shown in the aerial photo – overleaf (Figure 1).



Figure 1: Subject sites in wider context

Site description

Site descriptions are provided, as follows:

79 Bells Lane, Kurmond

- The site is legally known as Lot 38 DP 7565 and is highlighted overleaf (Figure 2).
- The lot is rectangular in shape, approximately three hectares in size and fronts Bells Lane for approximately 120m. The proposal indicates the land slopes in a north-east direction to a minor watercourse, partially located along the rear boundary.
- The proposal provides that the average overall site slope is 9%.
- The subject site includes two dwelling houses in the form of an attached dual occupancy; pool; outbuildings; trees associated with the dwellings; clear pasture; a small dam and scattered vegetation in the north-east portion of the site.



Figure 2: Aerial view of 79 Bells Lane, Kurmond

95 Bells Lane, Kurmond

- The site is legally known as Lot 12 DP 711049 and is highlighted overleaf (Figure 3).
- The lot is generally rectangular in shape, 2.5 hectares in size and fronts Bells Lane for approximately 80m. The proposal indicates that the land slopes in a north-east direction to a minor watercourse, located on the site, along the rear boundary.
- The proposal provides the average site slope is 12%.
- The site comprises a dwelling house; garage; outbuildings; pool; two small dams; and cleared pasture. Scattered trees are located around the house and to the rear of the site.



Figure 3: Aerial view of 95 Bells Lane, Kurmond

100 Bells Lane, Kurmond

- The site is legally known as Lot 50 DP 7565 and is highlighted overleaf (Figure 4).
- The site is largely rectangular in shape; is approximately five hectares in size; and, fronts Bells Lane for approximately 127m. The planning proposal indicates the land slopes down from Bells Lane in a south-west direction for the top third of the land. The remainder slopes south towards the rear boundary. A minor watercourse is located towards the southern boundary.
- The proposal provides the overall site slope is 6%.
- A dwelling house; outbuildings; pool; 3 small dams; cleared pasture and scattered trees are located on the site.



Figure 4: Aerial view of 100 Bells Lane, Kurmond

457 Bells Line of Road, Kurmond

- The site is legally known as Lot 31 DP 7565 and is highlighted overleaf (Figure 5).
- The subject site is irregularly shaped, just over two hectares in size and has frontages to both Bells Line of Road (170m) and Bells Lane (110m). Existing access to the site is from Bells Line of Road.
- The planning proposal states the land slopes down towards the south and the overall site slope is 11%.
- A dwelling house, associated outbuildings, cleared pasture, a small dam and scattered trees are located on the site.



Figure 5: Aerial view of 457 Bells Line of Road, Kurmond

Existing planning controls

Under the Hawkesbury LEP 2012 the site is zoned RU1 Primary Production (refer Figure 6), has a minimum lot size of 10 hectares and comprises areas of significant vegetation (as identified on the Terrestrial Biodiversity Map shown in Figure 8).

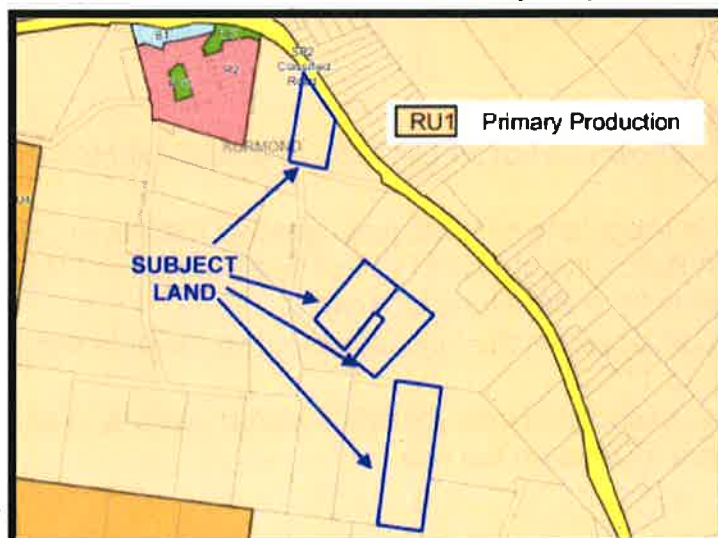


Figure 6: Extract from HELP 2012 Land Zoning Map – Sheet LZN_008AA

The following figures illustrate existing lot size and biodiversity.

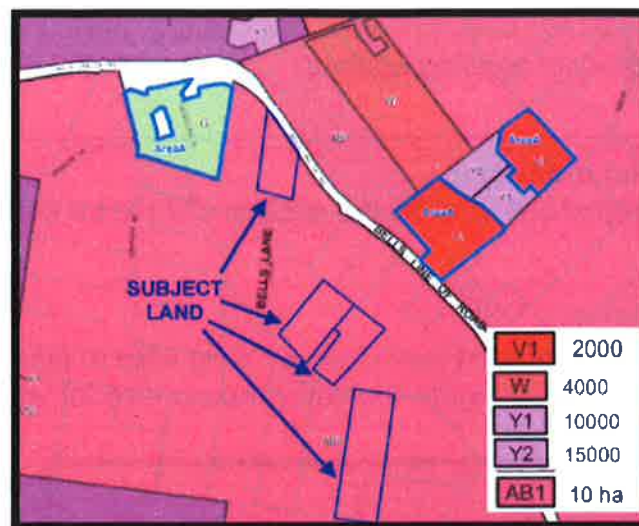


Figure 7: Extract from HELP 2012 Lot Size Map – Sheet LSZ_008AA



Figure 8: Extract from HELP 2012 Terrestrial Biodiversity Map – Sheet BIO_008AA

Surrounding area

The subject land is located on the outskirts of Kurmond Village and is approximately 7km from the township of Richmond. The area is predominately rural residential and is undergoing change: several allotments in the vicinity have been subject to recent lot size amendments and subsequent subdivision.

The land is generally unsuitable for intensive agriculture due to its proximity to residential development and the small size of the lots (refer to Figure 1).

The subject sites are not flood affected or flood evacuation constrained.

Summary of recommendation

Proceed with conditions – the proposal is supported as it is generally consistent with regional strategic plans which seek to deliver low density, large lot, rural residential development in the vicinity of existing villages.

PROPOSAL

Objectives or intended outcomes

The objective of the proposal is to allow the subject sites to be subdivided into 18 large residential lots.

Explanation of provisions

The proposal seeks to amend the Restricted Lot Yield Map to place maximum lot yields on the four sites, refer to Figure 9 below for proposed lot yields.

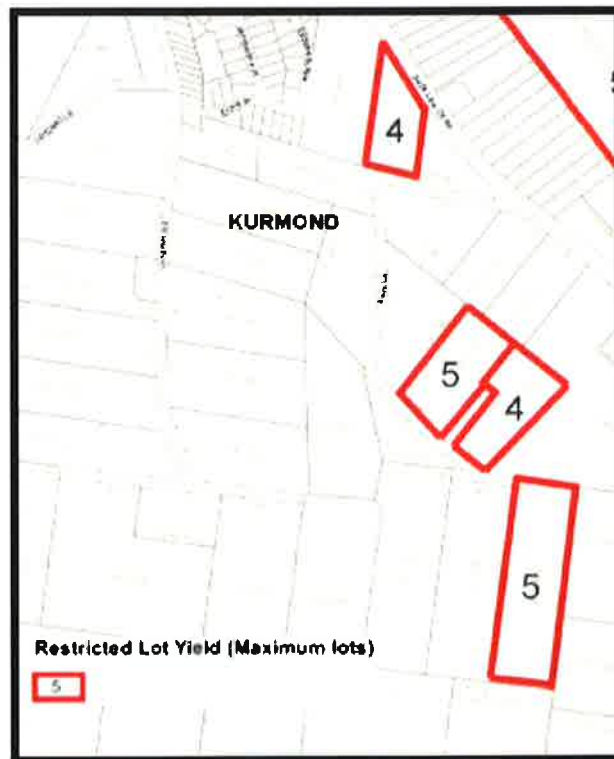


Figure 9: Proposed Restricted Lot Yields

Minimum Lot Size

The planning proposal does not seek to amend the minimum lot size. The current minimum lot size for subdivision is 10 hectares and based on this provision each site cannot be subdivided. To enable subdivision of these sites, the lot size map will need to be amended.

The minimum lot size for subdivision needs to ensure that the future lots can accommodate residential development having regard to the physical constraints of the site and the provision of Asset Protection Zones, building envelopes, driveways and onsite waste water disposal.

The proposal was subject to a Rezoning Review and the Sydney Western City Planning Panel recommended that the inclusion of a minimum lot size was warranted for consideration during the Gateway process.

In view of the need to prepare a minimum lot size map to enable subdivision, the sites constraints and the Sydney Western City Planning Panel's comments, it is recommended that the delegate agrees that minimum lot sizes be determined for each site based on the sites constraints and a minimum lot size map be prepared and included in the planning proposal, prior to public exhibition.

The Gateway determination has been conditioned accordingly.

Mapping

The proposal seeks to amend the Restricted Lot Yield Map (Sheet RLY_008AA).

The proposal includes the current and proposed Restricted Lot Yield Map.

As discussed in the previous section, for subdivision to occur, prescribed minimum lot sizes are necessary. It is recommended these be determined prior to exhibition by council and included in the planning proposal. A condition of the Gateway determination is recommended.

NEED FOR THE PLANNING PROPOSAL

The proposal states the planning proposal has been prepared in response to the Hawkesbury Residential Lands Strategy 2011, which indicated that rural residential development is to focus around existing rural villages and be low density, large lot residential dwellings.

Hawkesbury Council subsequently prepared a 'Structure Planning – Kurmond and Kurrajong Investigation Area' which was endorsed as an interim policy in July 2015. The Structure Plan seeks to identify land suitable for large lot residential/rural development in the villages of Kurmond and Kurrajong. Figure 10 below, identifies the investigation area. The four subject sites are located within this area.

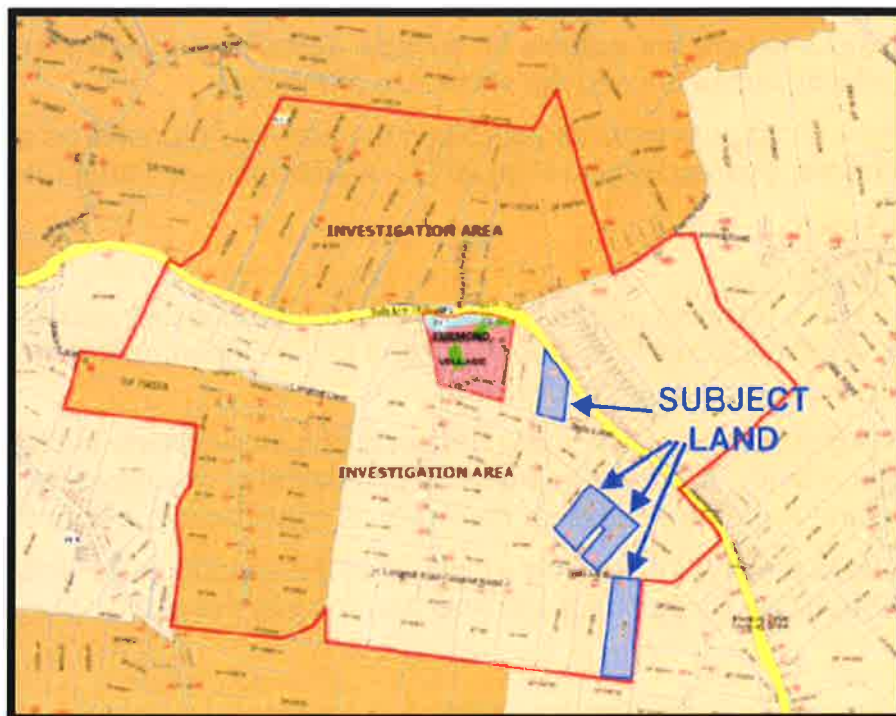


Figure 10: Subject sites within the Kurmond Investigation Area

A planning proposal is the best means achieving a large lot residential subdivision.

STRATEGIC ASSESSMENT

State

Greater Sydney Region Plan 2018 - A Metropolis of Three Cities

Greater Sydney Region Plan 2018 - A Metropolis of Three Cities was released in March 2018, and establishes a plan to manage growth and change in Greater Sydney in the context of social, economic and environmental matters.

The proposal was prepared in September 2017 and addresses A Plan for Growing Sydney, which was the relevant metropolitan plan at the time. Consequently, the proposal does not address the 'Greater Sydney Region Plan 2018 - A Metropolis of Three Cities'.

The proposed subject land is identified as being within the Region Plan's Metropolitan Rural Area (MRA). Rural-residential development in the MRA is not generally supported, however, limited growth could be considered where there are no adverse impacts on the amenity of the local area and where development provides incentives to maintain and enhance the environmental, social and economic values of the MRA (refer to p.126 of the District Plan).

In these circumstances, the proposal's inconsistency with the Greater Sydney Region Plan is considered minor and justifiable as:

- the proposal is generally consistent with the Plan, specifically the 'Liveability' directions, which seeks to provide a range of housing types in the most suitable locations, recognising local characteristics and qualities people value;
- the proposal, first submitted in 2015, was in response to and is consistent with Council's Residential Lands Strategy, which identified rural, residential development be located within proximity to existing rural villages, services and facilities and be low density; and
- the subject sites are not suitable for suitable agricultural due to proximity to residential development and the small size of the lots.

It is recommended that prior to public exhibition the planning proposal be amended to address the Greater Sydney Region Plan 2018 - A Metropolis of Three Cities.

Regional / District

Western City District Plan

An addendum to the planning proposal, addressing the proposals consistency with the Draft Western City District Plan was submitted to the Department in November 2017 as part of the rezoning review process.

The proposal is generally consistent with the directions in the Western City District Plan. Any inconsistency, such as the provision of residential development within the Metropolitan Rural Area, as discussed previously, is considered minor and justifiable.

It is recommended that the information contained in the addendum be updated to reflect the Western City District Plan and incorporated into the planning proposal.

Local

Hawkesbury Residential Land Strategy 2011

The planning proposal was prepared in response to the Hawkesbury Residential Lands Strategy 2011, which identified that rural residential living is a popular lifestyle choice within the Hawkesbury LGA. The Strategy recommended rural residential development be located within proximity to existing rural villages, services and facilities and be low density, large lot residential dwellings.

The proposal seeks to provide large, lot residential development within proximity to the existing village of Kurmond and is generally consistent with the Hawkesbury Residential Land Strategy 2011.

Structure Planning – Kurmond and Kurrajong Investigation Area

Hawkesbury Council subsequently prepared 'Structure Planning – Kurmond and Kurrajong Investigation Area' (endorsed as an interim policy in July 2015), which identifies an area (refer to Figure 10) suitable for large lot residential/rural development, if certain fundamental development constraints can be addressed. The four subject sites are located within this area.

The four sites are subject to a number of constraints including slope; terrestrial biodiversity - comprising significant vegetation; watercourses and dams; and, bushfire hazard. Some of these constraints are considered fundamental constraints to development within the structure plan. As mentioned previously, a minimum lot size will need to be determined for the subject sites and it is proposed that Council be required to consider constraints in determining this standard(s).

Section 9.1 Ministerial Directions

Inconsistent

It is considered that the proposal is inconsistent with the following directions:

1.2 Rural Zones

This direction applies as the proposal affects land within an existing rural zone. The proposal seeks to increase the permissible density on the subject land within an RU1 Primary Production rural zone.

It is noted that the subject land is located on the edge on an existing village and these sites are not likely to support intensive or viable small agriculture due to proximity to residential development, fragmentation and their relative small size. Consequently, any inconsistency with this direction is considered to be of minor significance.

It is recommended that the delegate agrees, any inconsistency with this direction is of minor significance.

4.1 Acid Sulfate Soils

This direction seeks to avoid significant adverse environmental impact from the use of land that contains acid sulfate soils. The direction applies as the subject land is identified as comprising Acid Sulfate soil, Class 5.

The class 5 category is considered the least constrained class and the Hawkesbury LEP 2012 contains clause 6.1 Acid Sulfate Soils, which provides controls to ensure any future development does not disturb, expose or drain acid sulfate soils and cause environmental damage. Any inconsistency with this direction is considered of minor significance.

It is recommended that the delegate agrees, any inconsistency with this direction is of minor significance.

4.4 Planning for Bushfire

This direction seeks to protect life and property from bush fire hazards. The subject sites are identified as bushfire prone land. A Bushfire Hazard Assessment was submitted with the proposal.

Consultation with the Rural Fire Service is recommended prior to public exhibition, in accordance with this direction.

Note that Section 9.1 Direction 1.3 Mining, Petroleum Production and Extractive Industries will be further considered by Council at the consultation stage.

State environmental planning policies

The planning proposal is consistent with the relevant SEPPs except for the following:

SEPP NO. 44 – Koala Habitat Protection

While much of the subject land has been cleared of native trees, areas of significant vegetation are identified under the HELP 2012 Terrestrial and Biodiversity Map (Sheet BIO008AA). The Bushfire Hazard Assessment submitted with the proposal identifies the site may potentially comprise shale/sandstone transition forest, which is considered an endangered ecological community (EEC) under the *Biodiversity Conservation Act 2016*.

A flora and fauna report was not submitted as part of this proposal and it is unknown whether the subject sites contain areas of core or potential koala habitat.

It is recommended that a flora and fauna report be prepared to determine whether the subject sites comprise core or potential koala habitat.

SEPP NO. 55 – Remediation of Land

As the subject site has been used for agriculture purposes for many years, a preliminary investigation, as referred to in the contaminated land planning guidelines is recommended. This will ensure that any changes to the land use will not increase the risk to health. The Gateway determination has been conditioned accordingly.

State Regional Environmental Plan No 20. – Hawkesbury – Nepean River

The aim of SREP 20 is to protect the Hawkesbury-Nepean River system and Part 2 of the plan provides general planning considerations, specific planning policies and recommended strategies to achieve this outcome.

The subject sites comprise watercourses and areas of significant vegetation. In order to demonstrate consistency with this deemed SEPP the proposal should be forwarded to the NSW Office of Water for comment and the flora and fauna report should take into consideration the general planning considerations, specific planning policies and recommended strategies of this SEPP. The Gateway determination has been conditioned accordingly.

SITE-SPECIFIC ASSESSMENT

Social

The proposal seeks to provide a small number of large lot residential dwellings on the edge of the Kurmond village which is consistent with Councils Hawkesbury Residential Lands Strategy 2011, and Greater Sydney Region Plan 2018 - A

Metropolis of Three Cities, vision to provide large lot, rural, residential dwellings in the vicinity of existing villages.

Environmental

The Sydney Western City Planning Panel recommended that the following matters be examined in regard to the suitability of rural holdings:

- the impact that the subsequent development would have on the health and viability of the creek system and associated riparian corridors (which in turn feeds the broader river catchment system);
- the impact the subsequent development would have on the existing on site native vegetation system including the weight to be given to any losses and the potential for additional development to be conducted on the basis of additional planting to improve the extent and quality of that environment being required;
- the capacity to develop the land while maintaining adequate fire protection precautions and management measures; and
- assessment of the resulting development against the RU1 objectives of the RU1 Primary Production zone under Hawkesbury LEP 2012 (or potentially altering zoning), while recognising that agriculture is effectively no longer carried out in this locality.

A Bushfire Hazard Assessment was submitted with the proposal indicating Asset Protection Zones and vegetation buffers are achievable. The assessment also indicated the potential presence of shale/sandstone transition forest an Endangered Ecological Community (EEC) under the *Biodiversity Conservation Act 2016*.

Given the site is identified as comprising significant vegetation under the HELP 2012 Terrestrial Biodiversity map and may contain EEC, it is recommended that a flora and fauna report be prepared, prior to public exhibition.

Economic

The provision of additional dwellings in proximity to Kurmond Village may provide positive economic benefits for local businesses.

Infrastructure

Contributions

The Sydney Western City Planning Panel raised concerns about the ordered provision of and improvement of infrastructure that may be needed to support the intensification of development within the Investigation Area, as currently there is not Section 94 Plan or a proposed voluntary planning agreement.

Council may care to investigate means to capture infrastructure contributions and this is addressed in the covering letter to Council.

Road Infrastructure

Three of the four lots are located on Bells Lane, which connects to Bells Line of Road and one lot has direct access to Bells Line of Road.

Bells Line of Road is the main east – west vehicle thoroughfare through the area and is managed by NSW Department of Transport - Roads and Maritime Services. It is recommended that the proposal be forwarded to the NSW Department of Transport - Roads and Maritime Services for consideration and comment, and the Gateway determination has been conditioned accordingly.

Wastewater Disposal

The investigation area is not currently serviced by a reticulated sewer service. Without this service Council's current policy is that all new allotments if not serviced by developer funded reticulated sewer systems would need to provide onsite treatment and disposal of waste water.

Under clause 4.1D of the Hawkesbury LEP 2012 allotments with onsite treatment systems must not be less than 4,000sqm.

It would be a matter for Council to review the proposed lot sizes, if reticulated sewer services are not made available for the site.

CONSULTATION

Community

The proposal is to be publicly exhibited for 28 days.

Agencies

The following public agency is required to be consulted with prior to public exhibition.

- NSW Rural Fire Services – the land is identified as bushfire prone.

The following public agencies are to be consulted with before or during public exhibition:

- NSW Office of Heritage and Environment – potential impact on flora, fauna and waterways;
- NSW Transport – Roads and Maritime Services; and
- NSW Office of Water – as the land is located within the Hawkesbury-Nepean Catchment.

TIME FRAME

The recommended timeframe for making the LEP is 9 months.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority, given the minor nature of the planning proposal, it is considered appropriate for the authorisation to be issued in this instance.

CONCLUSION

The planning proposal is supported to proceed with conditions as it seeks to provide low density, large lot rural residential development in an appropriate location, near an existing village.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. **agree** that any inconsistencies with section 1.2 Rural Zones and 4.2 Acid Sulfate Soils are minor or justified;
2. **note** that the inconsistency with section 9.1 Directions 4.4 Planning for Bushfire Protection remains unresolved until further justification has been provided.

It is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities before or during public exhibition:
 - NSW Office of Environment and Heritage;
 - NSW Office of Water; and
 - NSW Roads and Maritime Services.
 - NSW Rural Fire Services, prior to public exhibition.

Note: In accordance with section 9.1 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the NSW Rural Fire Service prior to public exhibition and, if necessary, amend the planning proposal accordingly

3. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.
5. Prior to undertaking public exhibition, Council is to:
 - undertake the following studies demonstrating support for the proposal:
 - flora and fauna; and
 - preliminary contamination reports;
 - determine an appropriate minimum lot size for each site;
 - prepare a lot size map;
 - make minor editorial amendments including:
 - amending the cover sheet of the proposal to indicate that Council is the planning proposal authority;
 - at the discretion of Council, consideration is to be given to re-ordering the format of the proposal so that the introductory sections form an appendix to the proposal and/or making any other amendments to this section(s) as Council considers necessary for the purposes of clarity;
 - for clarity, remove the red outline showing the site that is not subject to the proposal from the restricted lot yield diagram under Part 2 – Explanation of Provisions;
 - amend the following sections:
 - the 'Addendum to Planning Proposal to Bells Lane, Kurmond' to address the Sydney Western City District Plan and incorporate with the planning

proposal so that the document provided for exhibition is one integrated document, with Council's logo appended.

- Section B – relationship to strategic planning framework - to address the proposals consistency with Greater Sydney Region Plan 2018 - A Metropolis of Three Cities;
- clarify the planning proposal does not require consideration under State Environmental Planning Policy No. 44 Koala habitat protection;
- Prepare a Preliminary Contamination Report and update the proposal to clarify the proposal does not require consideration under State Environmental Planning Policy No. 55 – Remediation of land.



29 May 2018



23/06/2018

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