

ORDINARY MEETING

Notices of Motion

SECTION 5 - Notices of Motion

RM

LEP006/14 - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 631 Bells Line of Road, Kurrajong - (79351, 105109, 111629)

Submitted by: Councillor Mackay

RESCISSION MOTION:

That Council's resolution of 12 May 2015 which determined not to support a Planning Proposal in respect of 631 Bells Line of Road, Kurrajong (Item No. 69) be and is, hereby rescinded.

SUBSTANTIVE MOTION

In the event of the abovementioned Rescission Motion being successful, it is proposed to move the following motion, which adopts the Officer's recommendation to the meeting of 12 May 2015 in respect of this Planning Proposal:

That:

1. Council support the preparation of a planning proposal for Lot 1 DP 120436, 631 Bells Line of Road, Kurrajong to amend the Lot Size Map of Hawkesbury Local Environmental Plan 2012 to permit minimum lot sizes of not less than 4,000m² and 1ha on the land as shown in Attachment 1 to the report.
2. Council does not endorse any proposed subdivision layout/plan submitted with the planning proposal as this will need to be subject to a development application should the planning proposal result in making the plan.
3. The planning proposal be forwarded to the Department of Planning and Environment for a 'Gateway' determination.
4. The Department of Planning and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.
5. The Department of Planning and Environment 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.

BACKGROUND:

When this Planning Proposal was considered by Council on 12 May 2015, the Officer's recommendation was to support the proposal as outlined in the substantive motion detailed above. Subsequently, the Council resolved not to support the Planning Proposal.

Since this time, the applicant Glenn Falson Urban and Rural Planning Consultant, has lodged a submission requesting Council to reconsider this matter. A copy of this submission, by letter dated 2 July 2015, is attached.

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As Council has determined the Planning Proposal, it would be necessary for Council's decision of 12 May 2015 to initially be rescinded if the matter is to be reconsidered by Council. Therefore, in view of the applicant's submission, I propose to move the above Rescission Motion and in the event of it being successful, to then move the Substantive Motion as also detailed above, which was the Officer's recommendation to the Council in respect of the proposal.

ATTACHMENTS:

- AT - 1** Letter of 2 July 2015 from Glenn Falson Urban and Rural Planning Consultant regarding Planning Proposal – 631 Bells Line of Road, Kurrajong

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**AT - 1 Letter of 2 July 2015 from Glenn Falson Urban and Rural Planning Consultant
regarding Planning Proposal – 631 Bells Line of Road, Kurrajong**

GLENN FALSON

Urban and Rural Planning Consultant ABN 95292937939

Statutory Planning	Development Applications
Land & Environment Court	Development Feasibilities
Land Rezoning	Valuation
Flora/fauna Assessment	Bushfire assessment
Subdivision Advice	Mediation
Liquor Licensing	Architectural/building Advice
Environmental Impact Assessment	Traffic Surveys

Ref: 131146

2 July 2015

Mr P Jackson
General Manager
Hawkesbury City Council
PO Box 146
WINDSOR NSW 2756

Via email: council@nsw.gov.au

Dear Mr Jackson,

Your Ref: LEP006/14

Planning Proposal – 631 Bells Line of Road, Kurrajong

At its meeting of 12th May 2015 Council considered a Planning Proposal request to subdivide the subject land at Kurrajong. Council resolved to “not support the planning proposal”. This was despite the proposal being consistent with Council’s own Residential Land Strategy and despite the proposal being recommended for support by Council’s staff.

On behalf of my client, the landowner, I formally request that Council reconsider the proposal. The following information provides, in my view, sufficient reasons why firstly Council should reconsider the proposal and secondly why it is entirely appropriate for Council to support the proposal to at least enable it to go to the Department of Planning & Environment’s Gateway assessment.

- Council’s adopted Hawkesbury Residential Land Strategy (HRLS) indicated certain land as suitable for investigation both by description and by mapping. The subject land was identified within the HRLS for investigation.
- The land was further identified by Council in their map prepared that outlined land around the villages of Kurrajong and Kurmond. This was a further indication to both myself and my client that the subject land was worthy of a proposal to Council and of proper consideration through both the Council assessment process and that of the Department of Planning & Environment.

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Urban & Rural Planning Consultant

- The proposal was discussed with Council staff over a considerable period of time leading up to the proposal and also after the proposal was lodged. Due to staff involvement the lot layout was altered and further alterations were agreed upon if the proposal were to proceed.
- My client has spent many thousands of dollars obtaining reports from bushfire consultants, effluent disposal consultants, flora/fauna consultants as well as the town planning services of myself.
- My client paid the requisite application fee to Council at that time being \$16,385.00.
- This proposal has no discernible difference to other proposals supported by Council. The fact is that this proposal is consistent with all the strategic direction that Council has issued to its community over recent years. There at least should have been a reason provided as to why Council "does not support the planning proposal".
- I understand that Council has placed a "moratorium" on receipt of further planning proposals until staff has prepared structure/S94 plans for the Kurrajong/Kurmond area. During debate on my client's matter at the Council meeting this moratorium was discussed and it was inferred that my client's proposal met the relevant criteria but should now wait until the relevant structure/S94 plans were in place. I am at a loss to understand this. This is because in this case (as well as with other planning proposals that I have submitted) I have indicated all along that final approvals should wait until a S94 plan or alternatively a Voluntary Planning Agreement was in place to account for reasonable infrastructure funding that would be generated by the particular planning proposal. You will recall that I have often addressed Council to this effect. Council staff has, on the planning proposals that have been supported thus far put a condition on to this effect. The result of this meaning that proposals can't proceed to final subdivision stage until S94 matters are sorted out. This is an acceptable position which, in my view, is better than having a moratorium. It has the same end result but allows the community to have some confidence in Council's planning process and in particular the adopted HRLS that set up the ability in the first place for proper assessment of land for the further housing. Such housing is required by the State Government to be delivered by Council through the HRLS.
- The work carried out by individual landowners is a valuable data source for Council's own work in preparing structure/S94 plans but the moratorium has curtailed Council's ability to tap into this resource when no further applications are to be received. At the very least this subject planning proposal (submitted well prior to the moratorium) should be put onto the same footing as those already supported as there is no discernible environmental or procedural difference in them.
- It is understood that Hawkesbury Council, like lots of other Councils, developed their Residential Housing Strategy to meet the State Government requirement for local councils to take responsibility for implementing local planning policies to meet planning objective needs and increase the quality, diversity and quantity of

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residential development in their area. Where Councils (including Hawkesbury) did not adopt an acceptable Residential Strategy within the timeframe required, they were to be included within a Residential Development State Environmental Planning Policy (SEPP) for the Greater Metropolitan Region. The preparation and adoption of Council's strategy and subsequent adoption by the State Government meant that Council were accepted to control its own area and were not lumped in with the broad policy for the Greater Metropolitan Area where Council would have had no say as to where development was directed. It appears to me that Council's moratorium on further applications which abandons its own Strategy, if even in the short term, is tantamount to it currently not having a strategy, therefore not complying with the State Government's direction and therefore leaving it open to having the State's Greater Metropolitan Region strategy imposed.

- I understand that this proposal is the only one submitted prior to the moratorium and recommended by Council staff that has not been supported by resolution of Council.
- There is no legal impediment to Council reconsidering this planning proposal and Council could do so on the basis of its officers report to the previous business paper and, if it needed a reason for reconsideration, could impose a condition that the lot layout be altered slightly to account for the recommended changes in that report.

There are sufficient reasons for Council to reconsider this proposal and I request that Council do so. I await your advice.

Yours faithfully,

Glenn Falson
BA; LG(Ord4); DTCP; M.EnvL; MPIA

oooO END OF NOTICE OF MOTION Oooo

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