

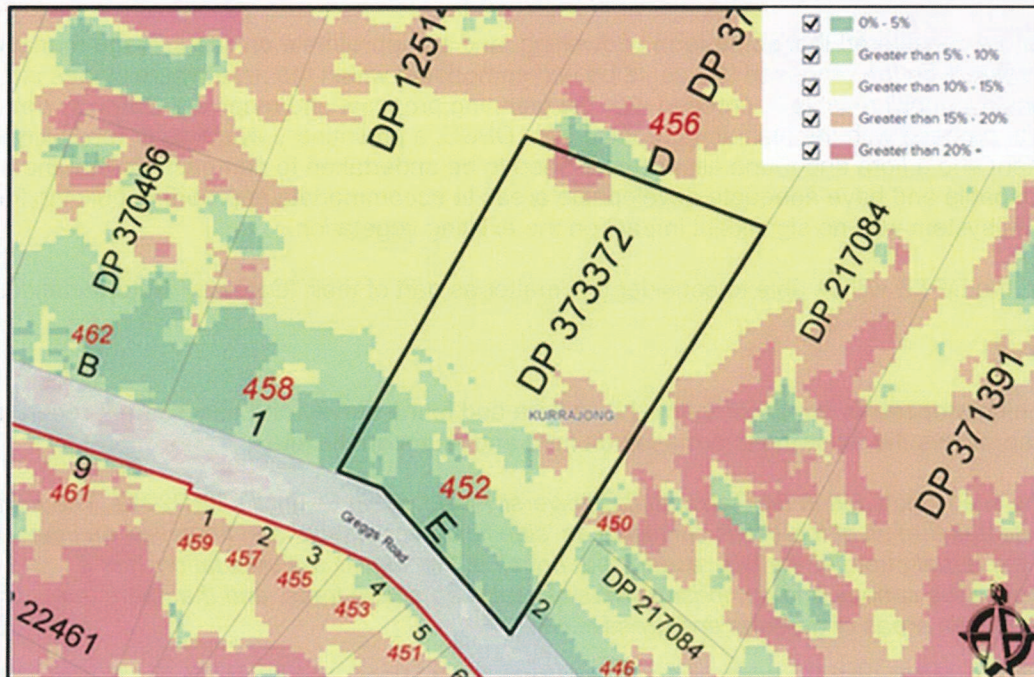


Figure 5 - Existing Slopes of the Subject Site

The HRLS recognises slopes greater than 15% act as a constraint to development, and future subdivision of the site for large rural residential lots would need to be limited to that area of land having a slope less than 15%. Given this criteria, there is no significant slope constraint impounding upon the subdivision of the subject site into two lots.

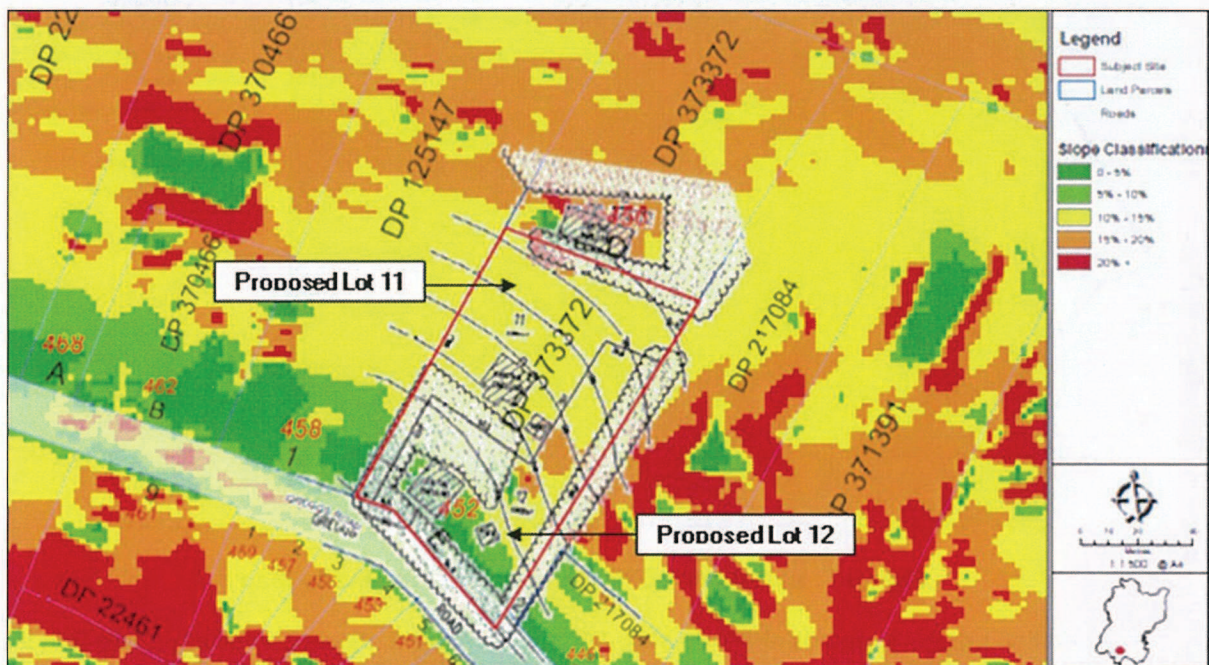


Figure 6 - Slope Analysis (Lot Layout Not Adopted)

As shown in Figure 6 above, Proposed Lot 11 has a fairly large developable area less than 15% in slope towards the rear of the subject site, whilst Proposed Lot 12 also has sufficient land area towards Greggs Road. As shown in Figure 6, the existing dwellings are entirely within the slopes less than 15%.



It is therefore considered that some form of dwelling, and an appropriate on-site sewage management (OSSM) system on the proposed lots could be accommodated within the area where slopes are less than 15%. Should Council resolve to proceed with the planning proposal and receive a Gateway determination advising to proceed with the planning proposal from DP&E, a preliminary wastewater feasibility assessment and a flora and fauna assessment need to be undertaken to demonstrate that the proposed lots are capable and have adequate developable areas to accommodate appropriate building footprints and OSSM system with no significant impact on the existing vegetation.

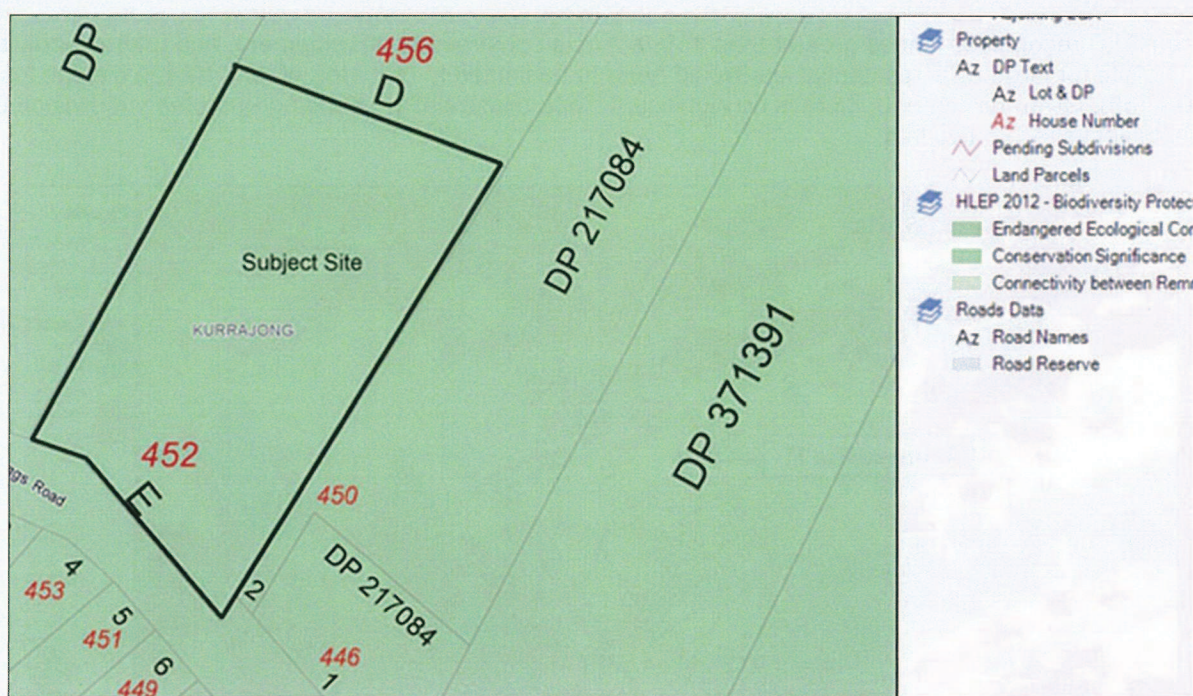
However, the DP&E will be able to consider this matter as part of their "Gateway" determination.

### Ecology

The planning proposal is not accompanied by a flora and fauna survey and assessment report, and the applicant provides the following information on flora and fauna on the site.

*The site is included in the Terrestrial Biodiversity Map within Council's LEP2012. The map indicates that all of the site is classified as 'significant vegetation' and however, an inspection of the aerial photo of the site reveals that not all of the 'significant vegetation' has a continuous canopy and comprises areas of scattered shade trees, and that there 'are significant areas of gardens and grass areas.*

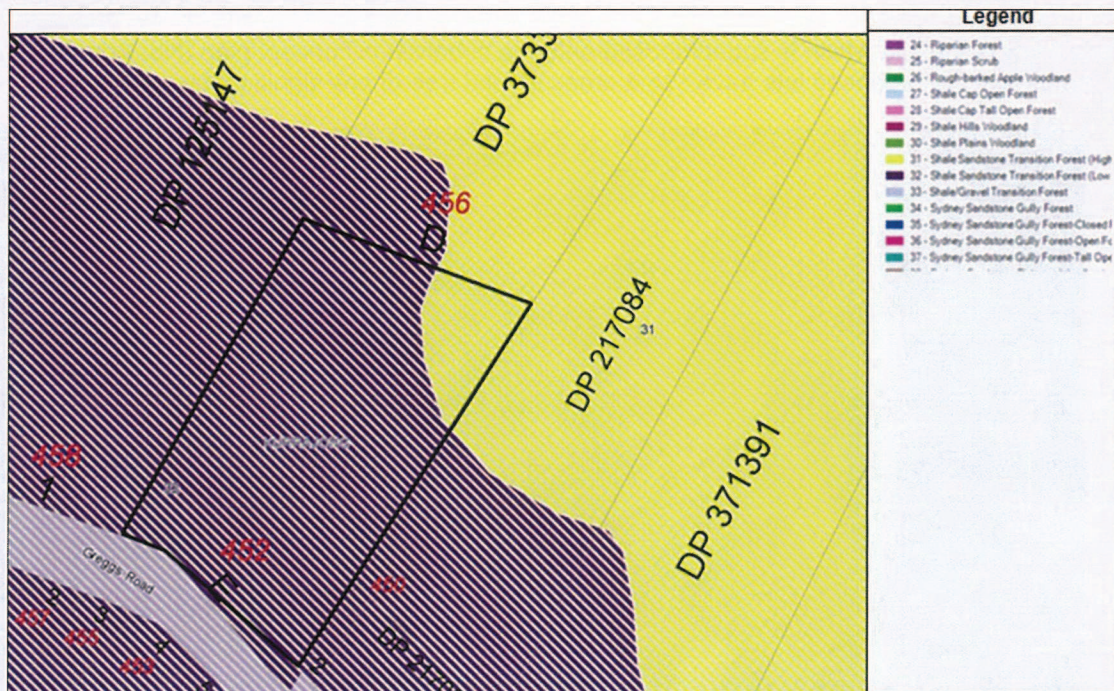
The Terrestrial Biodiversity Map of the LEP identifies the whole site area as 'connectivity between remnant vegetation and endangered ecological community' as shown in Figure 7 below.



**Figure 7: Extract of LEP's Terrestrial Biodiversity Map**

Council vegetation mapping records approximately 85% of the subject site as containing Shale Sandstone Transition Forest (Low Sandstone Influence) which is a sub-set of Cumberland Plain Woodland which is a critically Endangered Ecological Community (EEC) under the NSW *Threatened Species Conservation Act 1995* as shown in Figure 8 below.





**Figure 8: Extract of LEP's Vegetation Mapping**

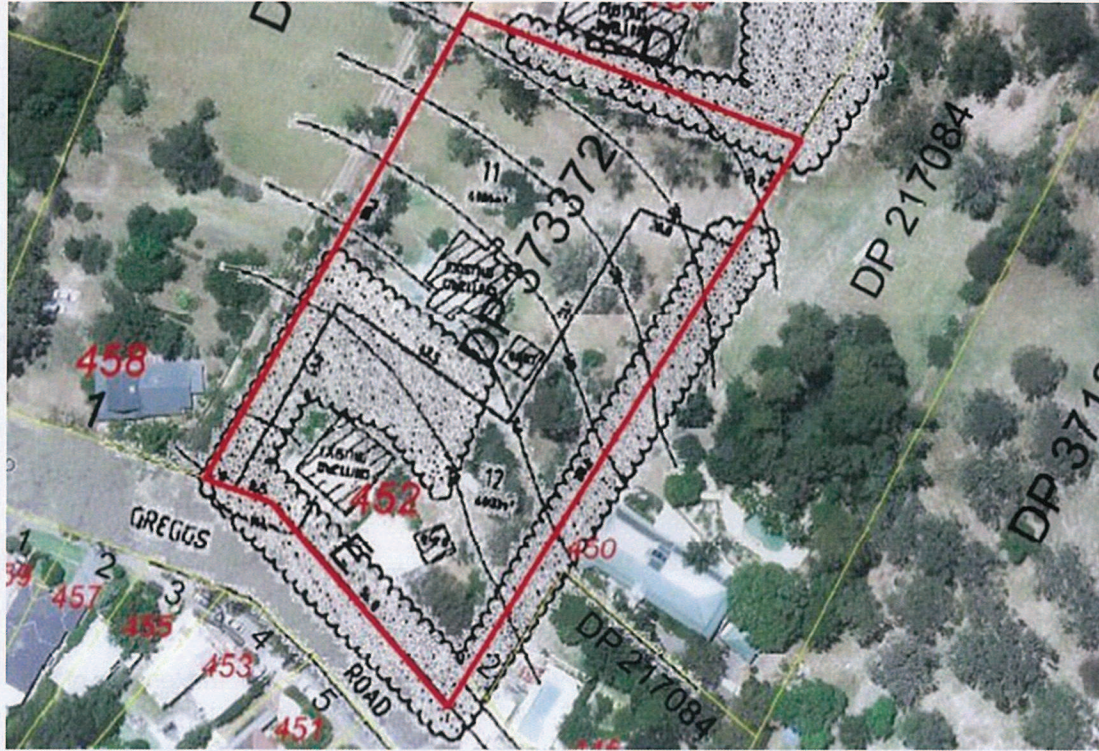
However, as shown in Figure 9 below the existing vegetation occupies most of the lengths of the boundaries and between the two existing dwellings. Approximately 3,400m<sup>2</sup> land area of the subject site behind the old dwelling and an area of land approximately 1,500m<sup>2</sup> between the two existing dwellings extending up to Greggs Road are open grass land with a few clusters of trees and some scattered trees.



**Figure 9: Aerial View Showing Existing Vegetation**



An aerial view of the site which is superimposed onto the subdivision concept plan (Not Adopted) in Figure 10 indicates that the proposed lots have some areas of land free of any significant vegetation.



**Figure 10: Subdivision Concept Plan Overlaying on Existing Vegetation  
(Not for Determination)**

Given the planning proposal does not seek to amend Clause 6.4 Terrestrial Biodiversity of the LEP or the associated map layer, a detailed consideration of any future development of the land can occur at development application stage should a plan be made relating to this planning proposal.

Given the presence of significant vegetation on the site, a flora and fauna assessment report needs to be prepared and submitted by a suitably qualified and experienced consultant. This can be undertaken at the post "Gateway" determination stage prior to the commencement of the government agency consultation. However, the DP&E will be able to consider this matter as part of their "Gateway" determination.

### **Access and Transport**

The subject site is accessed via Greggs Road which is connected to Grose Vale Road to the north-west. Public transport is limited to the Westbus Route 680 service between Richmond and Bowen Mountain and the Route 682 service along Bells Line of Road between Richmond and Kurrajong. The Route 682 service operates every 30 minutes during peak periods. Given the limited frequency of services, future occupants of the proposed subdivision will most likely rely upon private vehicles for travel and transportation purposes.

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 taken into consideration by the planning proposal. It is considered that this is a matter for Council and Roads and Maritime Services (RMS) to address with the outcome being incorporated into relevant planning proposals.



In recent reports to Council dealing with other planning proposals within the vicinity of Kurmond and Kurrajong 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 required infrastructure upgrades.

To address this it has been recommended (and subsequently adopted by Council) that Council commence the preparation of a Section 94 Contributions Plan for the land within the vicinity of Kurmond and Kurrajong to ensure that all proposed developments in the locality contribute the required infrastructure, specially road upgrade and provision, in the locality. Alternatively, applicants and Council can commence Voluntary Planning Agreement negotiations to address this issue. It is considered that it 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 could be unacceptable if no required improvements are made.

### **Bushfire Hazard**

The subject 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 not accompanied by a bushfire assessment report. Given the site is identified as bushfire prone, the planning proposal will be referred to the NSW Rural Fire Service (RFS) for comments should Council resolve to proceed with the planning proposal and receive a "Gateway" determination advising to proceed with the planning proposal from DP&E.

### **Agricultural Land Classification**

The subject site is shown as being Agriculture Land Classification 3 on maps prepared by the former NSW Department of Agriculture. These lands are described by the classification system as:

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 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 subject site to surrounding rural residential properties, and its size and proximity to the Kurrajong Neighbourhood Centre, it is considered that it is unlikely the site could be used for a substantial or sustainable agricultural enterprise.

### **Character**

The applicant states that:

*There would be some change to the landscape of the site and surroundings if the subdivision were to proceed. However, given that the site is close to the residential area of Kurrajong and given small lot development is also near to the site, the proposed subdivision would not be distinguishable in this overall context.*

The immediate locality is characterised by a mix of lot sizes with varying frontages, shapes and areas.

Smaller lots are located immediately opposite and adjacent in Grose Vale Road and to the north in Robertson Street. Larger lots are generally located to the east and further south as indicated in Figure 11.

The predominant land use character in the immediate vicinity is rural residential as highlighted in Figure 12 below.



## ORDINARY MEETING

Meeting Date: 31 May 2016

Given the predominant rural residential character of the immediate vicinity, a mix of lot sizes ranging from approximately 750m<sup>2</sup> to 10ha in the immediate vicinity and the proximity to the Kurrajong Neighbourhood Centre, the intended outcome of the planning proposal to subdivide the land into large residential lots with minimum lot sizes of 4,000m<sup>2</sup> is not inconsistent with the existing character of the locality. Given two dwellings are currently occupying the site there will be no real change to the existing character.



Figure 11: Current Lot Configuration in the Locality



Figure 12: Existing Character of the Locality



## ORDINARY MEETING

Meeting Date: 31 May 2016

### Services

The applicant has stated that the site has access to electricity, telecommunication, garbage and recycling services, and additionally that:

*The land has reticulated water but no sewer. Houses in this area usually rely on roof water catchment and sometimes supplemented by town water and also bore water or dams for non-potable supply. Effluent disposal would be by on-site treatment and each lot is of sufficient size to dispose of on-site effluent. It is not known at this early stage whether there will be additional water supply through Sydney Water reticulation however such is not required and a subdivision as proposed could exist satisfactorily without further reticulated water.*

The planning proposal is not accompanied by a wastewater feasibility assessment report or any other relevant statement or study demonstrating that the proposed lots will be able to accommodate an on-site sewage system without affecting the existing vegetation and required asset protection zone. The development of the subject site will need to rely upon on-site sewage systems. Therefore, a detailed soil assessment will need to be undertaken at the subdivision application stage to confirm the exact sizing and location of the effluent disposal areas. However, the DP&E will consider this as part of their "Gateway" determination.

### Heritage

The site is not identified as a heritage item/property in Schedule 5 Environmental Heritage of LEP 2012 or located within a conservation area and also not subject to any heritage order or identified as a heritage item.

The applicant states that the old dwelling has been built around late 1920's by Donald McAlister Greg who was one of the original orchardists in Kurrajong. The McAlister house still stands as an evidence of the type of dwelling of the period, being one of the first slab dwellings in the locality. According to a former Council's Heritage Advisor, the old dwelling appears to have a reasonable case for listing the item, the physical evidence exhibited by the building is not clear and it would be prudent to undertake a detailed heritage assessment of the site and the building. However, this issue could be considered separately at a later stage.

### Section 94 Contributions or a Voluntary Planning Agreement

The planning proposal should be covered by a Section 94 Developer Contributions Plan (S94 Plan) or a Voluntary Planning Agreement (VPA) prior to completion. The current Hawkesbury Section 94 Plan does not apply to residential development in Kurrajong. If the planning proposal is to proceed further, a draft VPA or an addition to the current S94 Plan to support the required infrastructure upgrade in the locality to support the development would need to be prepared by the applicant in consultation with Council.

### Conformance to the Hawkesbury Community Strategic Plan

The proposal is considered to be consistent with the Looking after People and Place Directions statement, and specifically:

- Offer residents a choice of housing options that meet their needs whilst being sympathetic to the qualities of the Hawkesbury.
- Population growth is matched with the provisions 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.



## ORDINARY MEETING

Meeting Date: 31 May 2016

### Conclusion

It is considered that some form of residential development on the subject site is appropriate and feasible. It is therefore recommended that Council support and submit the planning proposal to the DP&E for a 'Gateway' determination.

### Financial Implications

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

If the planning proposal is to proceed further, a draft VPA or S94 Plan to support the required infrastructure upgrade in the locality to support the development would need to be prepared by the applicant in consultation with Council.

### 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 planning proposal for Lot E DP 373372, 452 Greggs Road, Kurrajong to allow development of the land for a large lot rural residential development with a minimum lot size of not less than 4,000m<sup>2</sup>.
2. The planning proposal be forwarded to the Department of Planning and Environment for a "Gateway" determination.
3. The Department of Planning and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.
4. 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 provided if Council is satisfied that satisfactory progress has been made towards resolving infrastructure provision for this planning proposal by way of either completion of the Section 94 Developer Contributions Plan or a Voluntary Planning Agreement,.

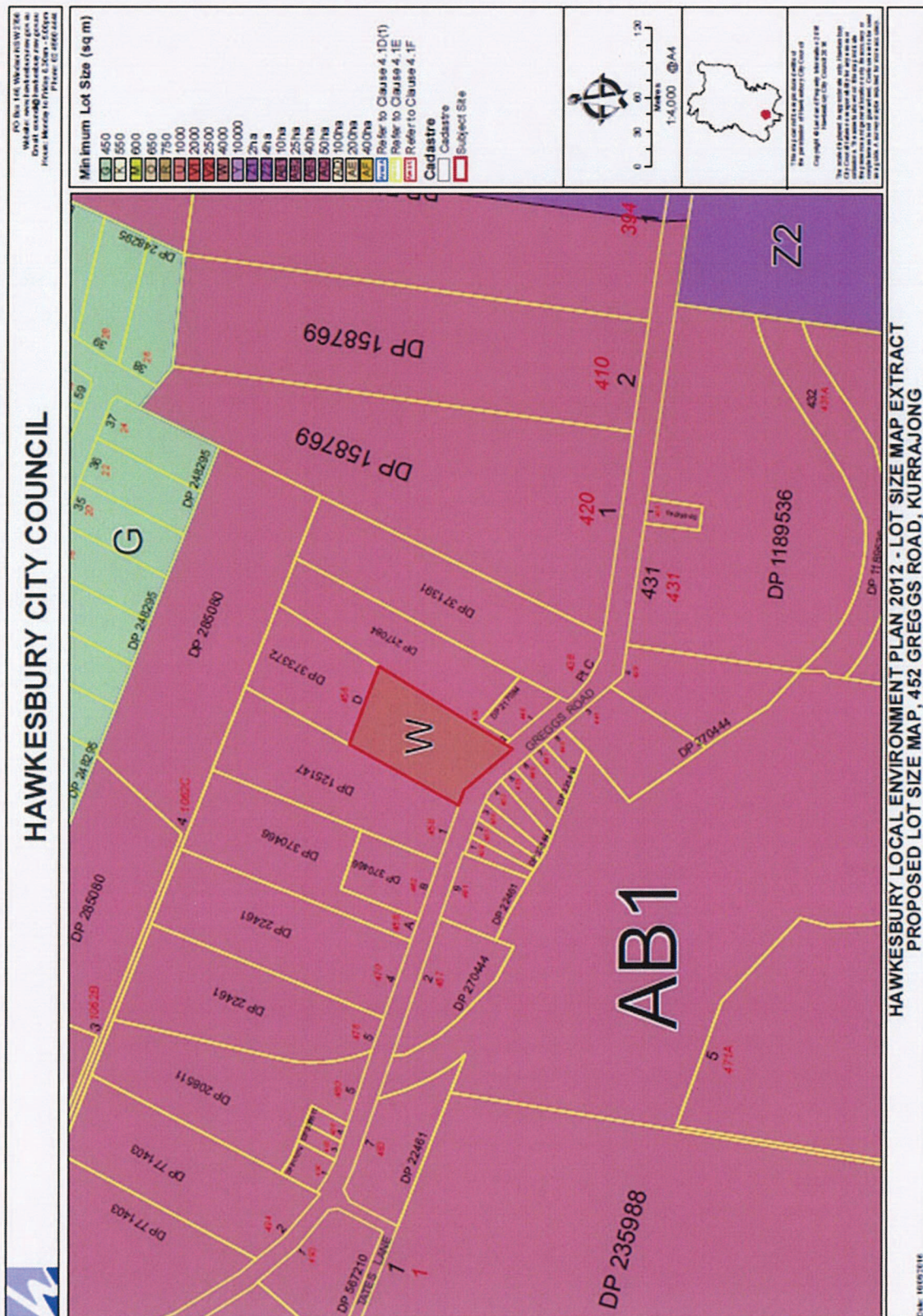
### ATTACHMENTS:

AT - 1 Proposed Minimum Lot Size Map



**Meeting Date:** 31 May 2016

## AT - 1 Proposed Minimum Lot Size Map



oooO END OF REPORT Oooo



# ACTION ITEM

## ADOPTED

At the ORDINARY Meeting held on 31 May 2016

### User Instructions

To view the original Agenda Item, refer to the Meeting tab using the above date.

### Resolved Items Action Statement

Action is required for the following item as per the Council Decision or Resolution Under Delegated Authority.

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|                 |                                                                                                                                |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------|
| <b>Item: 96</b> | <b>CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 452 Greggs Road, Kurrajong - (95498, 124414)</b> |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------|

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Mr Glen Falson addressed Council, speaking for the recommendation.

### MOTION:

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

### *Refer to RESOLUTION*

### 151 RESOLUTION:

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

That:

1. Council support the planning proposal for Lot E DP 373372, 452 Greggs Road, Kurrajong to allow development of the land for a large lot rural residential development with a minimum lot size of not less than 4,000m<sup>2</sup>.
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4. 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 provided if Council is satisfied that satisfactory progress has been made towards resolving infrastructure provision for this planning proposal by way of either completion of the Section 94 Developer Contributions Plan or a Voluntary Planning Agreement,.



In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

| <b>For the Motion</b> | <b>Against the Motion</b> |
|-----------------------|---------------------------|
| Councillor Calvert    | Councillor Rasmussen      |
| Councillor Conolly    | Councillor Williams       |
| Councillor Creed      |                           |
| Councillor Ford       |                           |
| Councillor Mackay     |                           |
| Councillor Paine      |                           |
| Councillor Porter     |                           |
| Councillor Reardon    |                           |
| Councillor Tree       |                           |

Councillor Lyons-Buckett was absent from the meeting.



## **ATTACHMENT 4 – EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS**

### **Checklist for the review of a request for delegation of plan making functions to councils**

**Local Government Area:**Hawkesbury City Council

**Name of draft LEP:**LEP004/16 - 452 Greggs Road KURRAJONG NSW 2758

**Address of Land (if applicable):** Lot E DP 373372, 452 Greggs Road  
KURRAJONG NSW 2758

**Intent of draft LEP:** Allow development of the site for large lot residential purposes

**Additional Supporting Points/Information:** Planning proposal prepared by Glenn Falson Urban and Rural Planning Consultant



| <b>Evaluation criteria for the issuing of an Authorisation</b><br><br>(Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed) | Council response |              | Department assessment |           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--------------|-----------------------|-----------|
|                                                                                                                                                                                                                                               | Y/N              | Not relevant | Agree                 | Not agree |
| Is the planning proposal consistent with the Standard Instrument Order, 2006?                                                                                                                                                                 | Yes              |              |                       |           |
| Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?                                                                                                         | Yes              |              |                       |           |
| Are appropriate maps included to identify the location of the site and the intent of the amendment?                                                                                                                                           | Yes              |              |                       |           |
| Does the planning proposal contain details related to proposed consultation?                                                                                                                                                                  | Yes              |              |                       |           |
| Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?                                                                                         | Yes              |              |                       |           |
| Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?                                                                                                                                     | Yes              |              |                       |           |
| Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?                                                                                                                                          | Yes              |              |                       |           |
| <b>Minor Mapping Error Amendments</b>                                                                                                                                                                                                         | Y/N              |              |                       |           |
| Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?                                                        |                  | Not relevant |                       |           |
| <b>Heritage LEPs</b>                                                                                                                                                                                                                          | Y/N              |              |                       |           |
| Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?                                                                                               |                  | Not relevant |                       |           |
| Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?                                                                                                  |                  | Not relevant |                       |           |
| Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?                                                                                       |                  | Not relevant |                       |           |



| Reclassifications                                                                                                                                                                                                                                                                | Y/N |              |  |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|--------------|--|--|
| Is there an associated spot rezoning with the reclassification?                                                                                                                                                                                                                  |     | Not relevant |  |  |
| If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?                                                                                                                                                                           |     | Not relevant |  |  |
| Is the planning proposal proposed to rectify an anomaly in a classification?                                                                                                                                                                                                     |     | Not relevant |  |  |
| Will the planning proposal be consistent with an adopted POM or other strategy related to the site?                                                                                                                                                                              |     | Not relevant |  |  |
| Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?                                                                                                                                                                    |     |              |  |  |
| If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?                                                                  |     | Not relevant |  |  |
| Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land? |     | Not relevant |  |  |
| Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?                                                                                                                                    |     | Not relevant |  |  |
| Spot Rezonings                                                                                                                                                                                                                                                                   | Y/N |              |  |  |
| Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?                                                                                                                      | No  |              |  |  |
| Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?                                                                                                                       | No  |              |  |  |
| Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?                                                                        | No  |              |  |  |
| If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?                                                                                                                                                                  |     | Not relevant |  |  |



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |    |              |  |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|--------------|--|--|
| Does the planning proposal create an exception to a mapped development standard?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | No |              |  |  |
| <b>Section 73A matters</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |    |              |  |  |
| <p>Does the proposed instrument</p> <p>a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?;</p> <p>b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or</p> <p>c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?</p> <p>(NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).</p> |    | Not relevant |  |  |

#### NOTES

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.