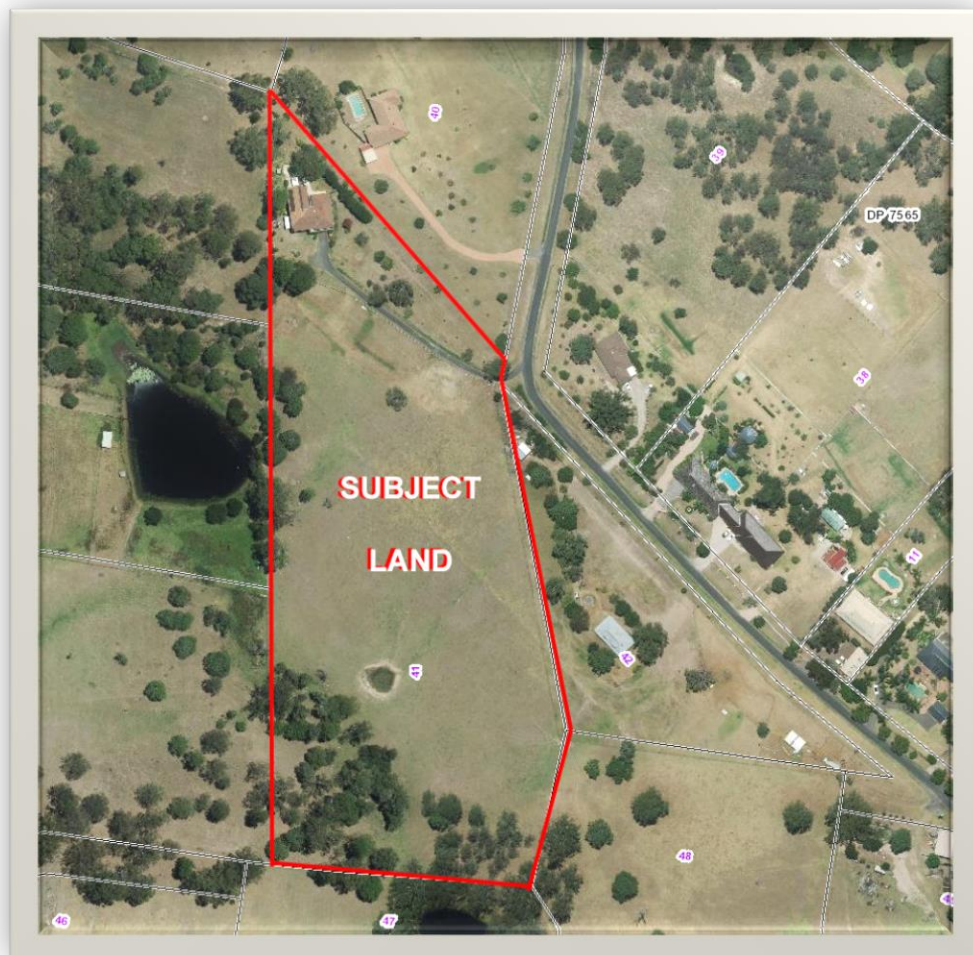


# PLANNING PROPOSAL

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Lot 41 DP 7565 (No. 72) Bells Lane  
Kurmond



NOVEMBER 2016

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This Planning Proposal was prepared by Robert Montgomery, Principal, Montgomery Planning Solutions in accordance with "A guide to preparing planning proposals" published by the NSW Planning & Environment, August 2016.



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## Introduction

This Planning Proposal is prepared by Montgomery Planning Solutions on behalf of the owner of the land. The land is 4.049 hectares in area and comprises open grasslands with scattered trees over gently sloping terrain, which falls to a riparian area in the south west corner. The land is zoned *RU1 Primary Production* under the provisions of Hawkesbury Local Environmental Plan 2012.

The land satisfies the rural village development criteria contained within the Hawkesbury Residential Land Strategy, adopted by Hawkesbury City Council on 10 May 2011. The land is within the Kurmond Village large lot residential/rural-residential investigation area as determined by Council on 7 February 2013.

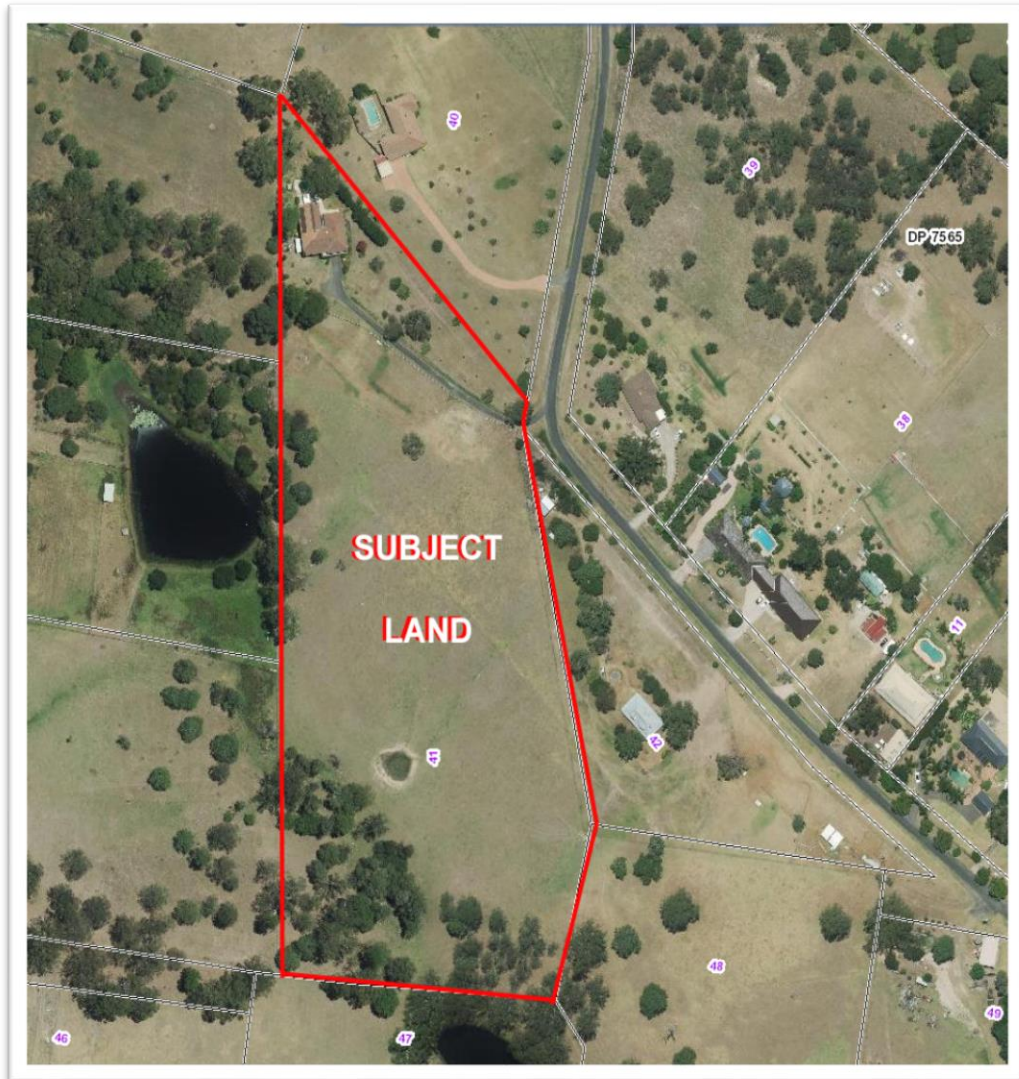
Reports have been prepared in relation to bushfire hazard and on-site wastewater disposal, which confirm that the land has the environmental capacity to sustain some 6 large residential allotments, as per the preliminary concept plan prepared for the purposes of the Planning Proposal.

The Planning Proposal satisfies all relevant State, Regional and local criteria and it is recommended that Council prepare a draft local environmental plan to amend the Hawkesbury LEP 2012 Lot Size Map to permit a minimum lot size of 4,000m<sup>2</sup> and 1.0ha, allowing a maximum yield of six (6) lots.

## Description of Site

The land is described as Lot 41 DP 7565 (No. 72) Bells Lane Kurmond. The land is 4.049 hectares in area and is of irregular shape. The land has a frontage to Bells Lane of 10.1 metres<sup>1</sup>.

**Figure 1: Satellite Image. Source: LPI SIX Viewer.**



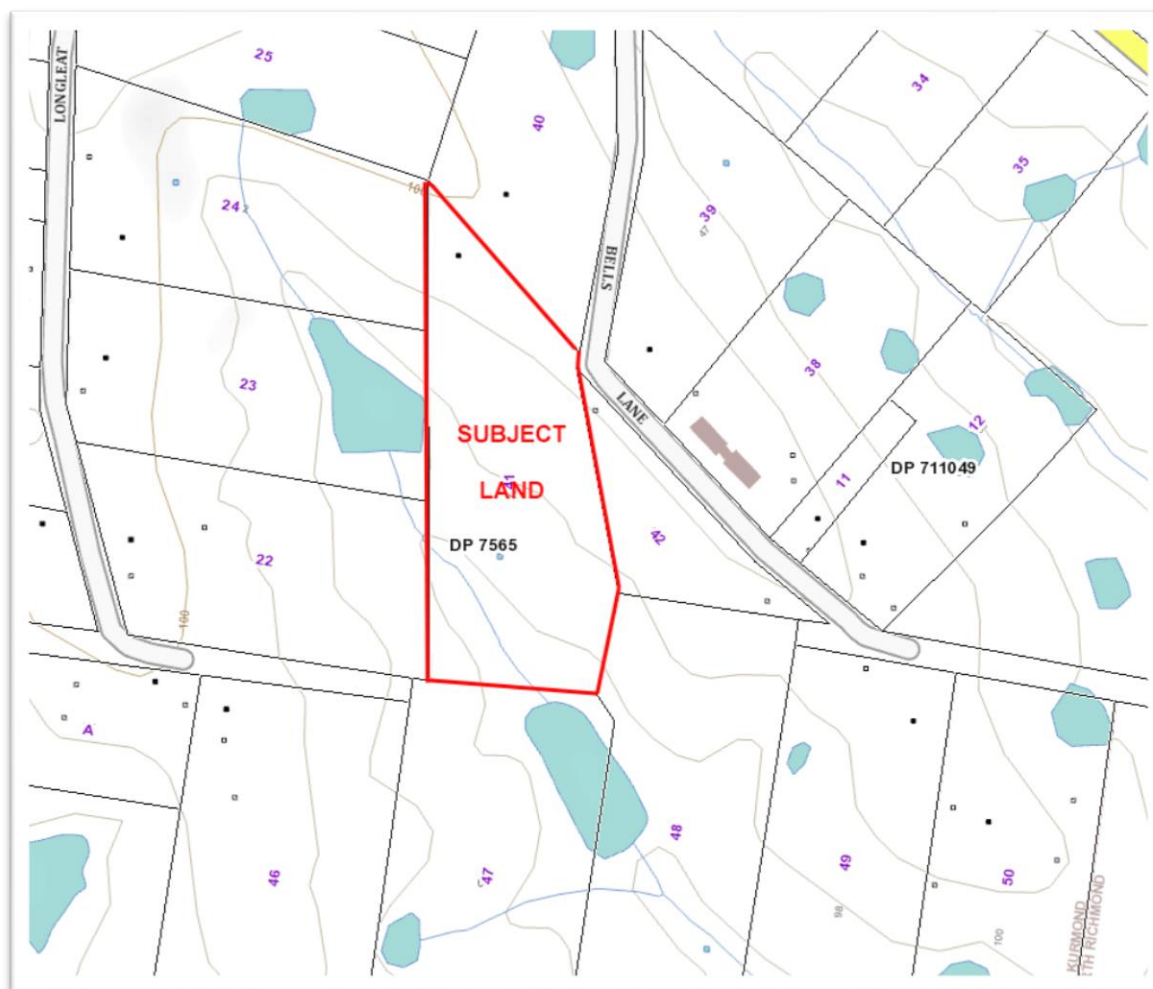
The land falls from Bells Lane, at a level of approximately 96m AHD, to a minor watercourse in the south-west corner at a level of approximately 72m AHD. It is noted that the watercourse may be described as a Class 1 stream per the “Guidelines for riparian corridors on waterfront land”.<sup>2</sup> Figure 2 below is a cadstral map showing the watercourse.

The land comprises cleared pasture with trees associated with the existing dwelling and the watercourse. The land contains a dwelling located in the north-west corner and a small dam above the riparian area.

<sup>1</sup> Measurements taken from Deposited Plan 7565

<sup>2</sup> NSW Office of Water, Guidelines for riparian corridors on waterfront land, July 2012, pg 2

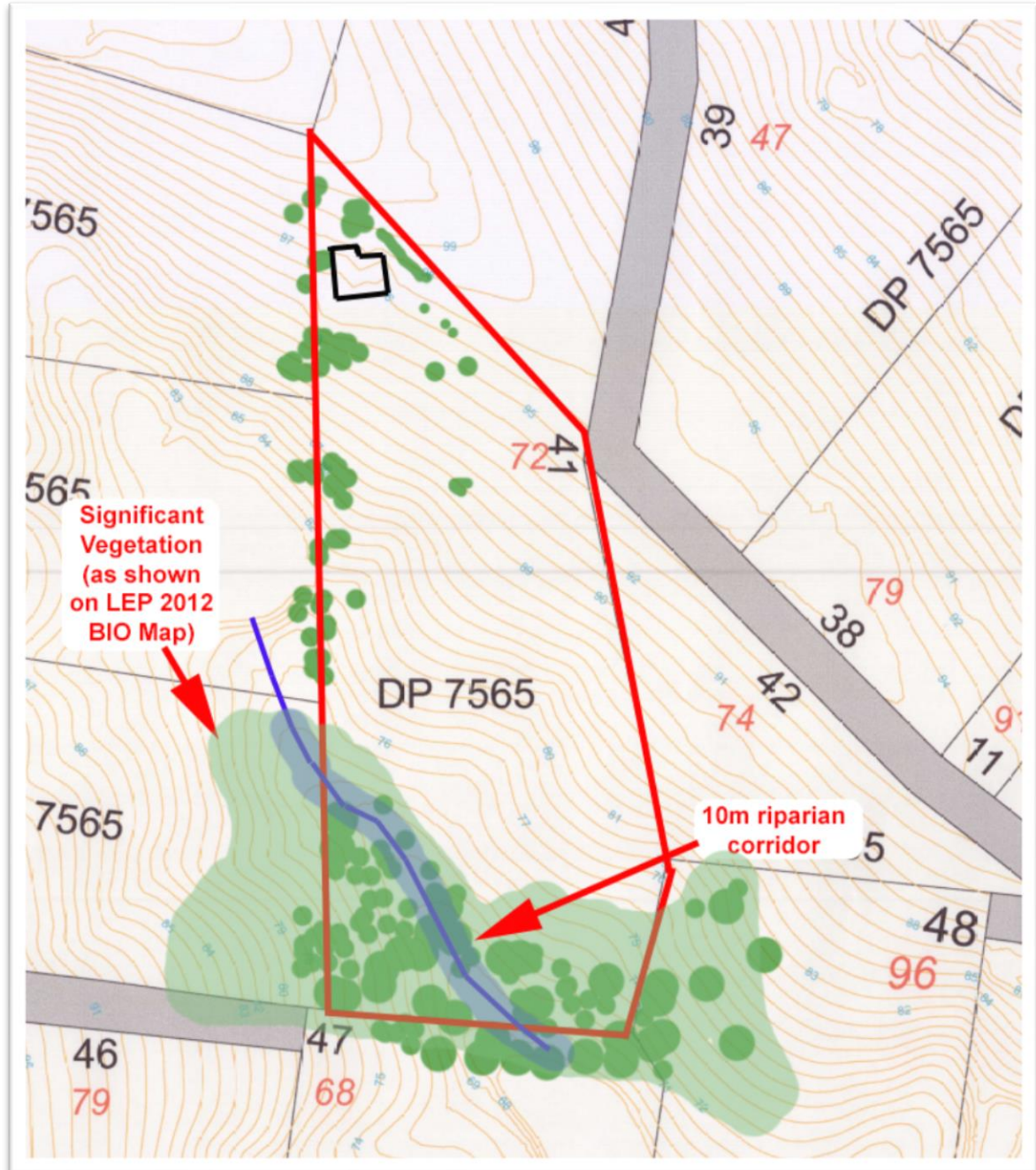


**Figure 2: Cadastre. Source: NSW LPI SIX Viewer**

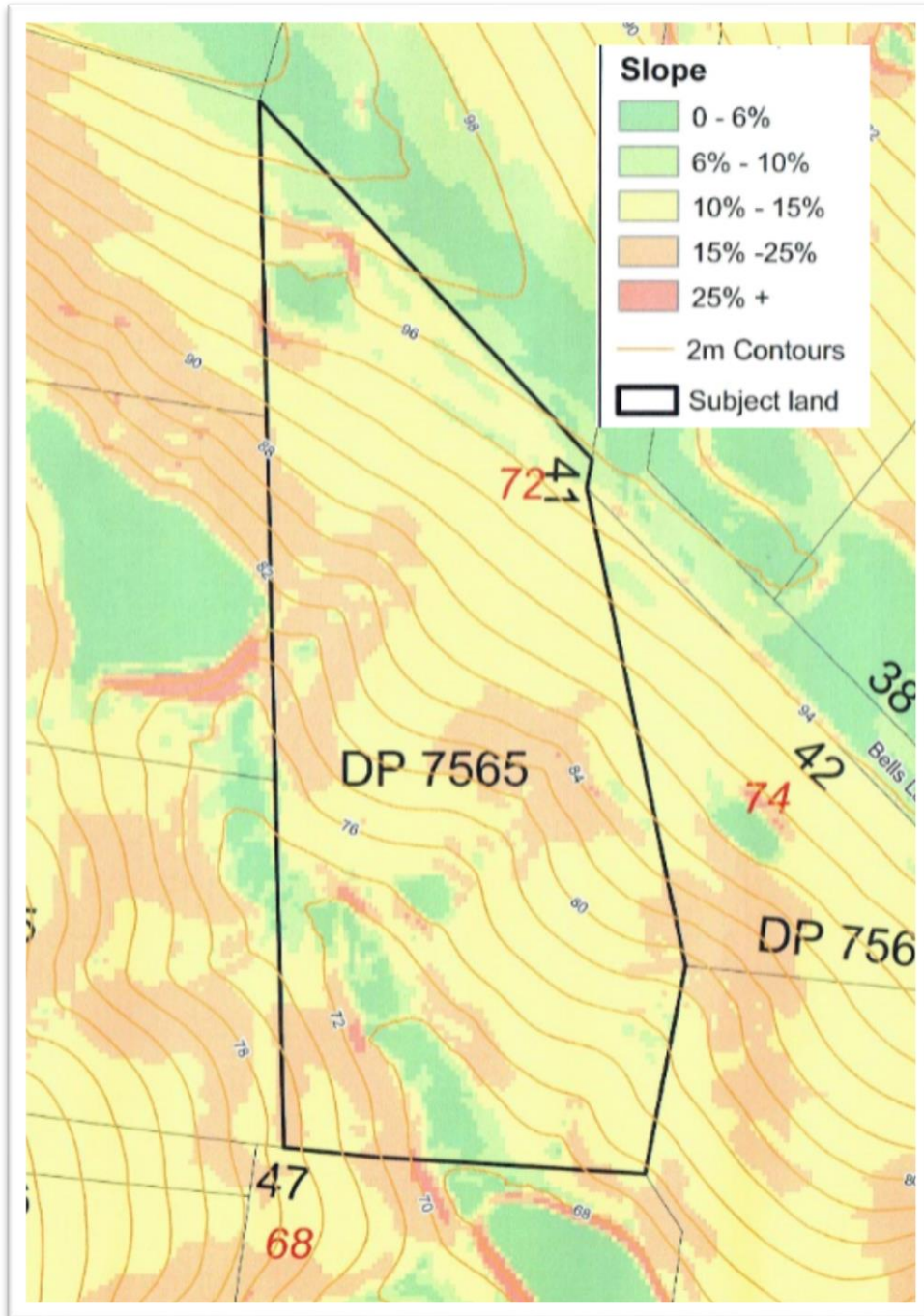
## Site Analysis

Figures 3 and 4 below form the basis of a site analysis of the land.

**Figure 3: Site Analysis (Base Map HCC GIS Contours)**

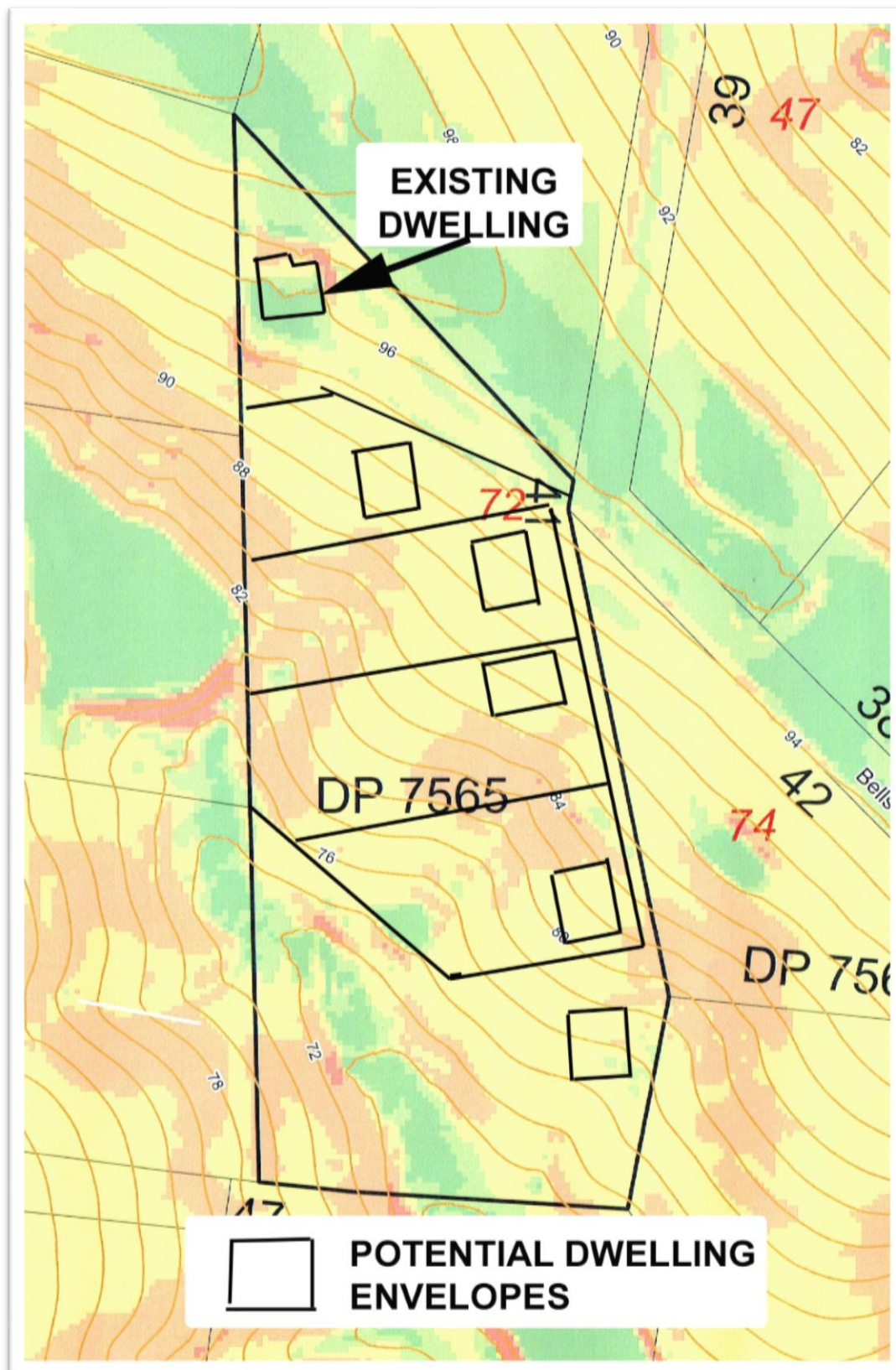




**Figure 4: Slope Map. Source: HCC GIS**

The following observations are made:

- Some of the land which is mapped as significant vegetation on the LEP Biodiversity Map is in fact cleared pasture.
- To prevent fragmentation, the vegetated riparian corridor should be maintained within one lot.
- There is sufficient land with a slope of less than 15% for dwelling construction
- Figure 5 below is a preliminary concept based on these constraints and opportunities.

**Figure 5: Preliminary Concept. Source: HCC GIS**



## Surrounding Land Use

The land is located approximately 500m south-east of Kurmond village shops and 140m from the edge of the residential village. Access to the village shops is via Bells Lane and Bells Line of Road, which are sealed two lane rural roads. Bells Line of Road also provides access to the North Richmond urban area which is located some 3.5km to the south-east.

Land adjoining to west and north and south comprises rural residential property of similar size to the subject land. Similar sized properties are located on the eastern side of Bells Lane. These properties each contain a dwelling, outbuildings and, to varying degree, scattered vegetation.

The area in general comprises rural residential allotments 4-5 hectares. Other than light grazing, there is no commercial or intensive agriculture in the immediate locality. The locality is effectively a transition between residential living within the Kurmond village and agricultural properties located further away.

Figure 6 below is a satellite image of the locality with lot boundaries which show the surrounding subdivision pattern.

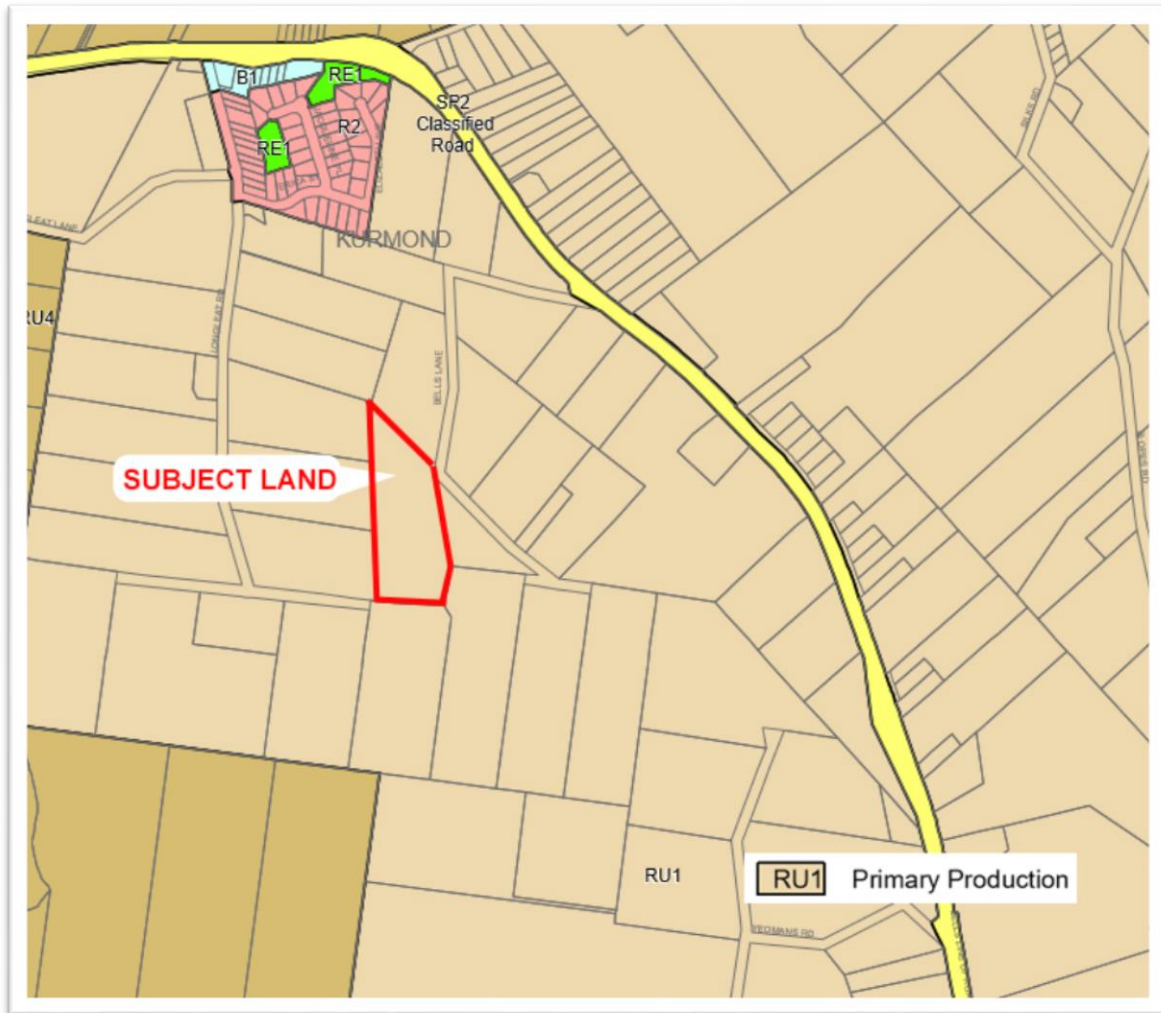
**Figure 6: Surrounding land use and subdivision patterns. Source: NSW LPI SIX Maps**



## Existing Zone

The subject land is zoned “RU1 Primary Production” under the provisions of Hawkesbury Local Environmental Plan 2012.

**Figure 7: Extract from HLEP 2012 Land Zoning Map – Sheet LZN\_008AA**



The objectives of the RU1 zone are as follows:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage agricultural activities that do not rely on highly fertile land.
- To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.



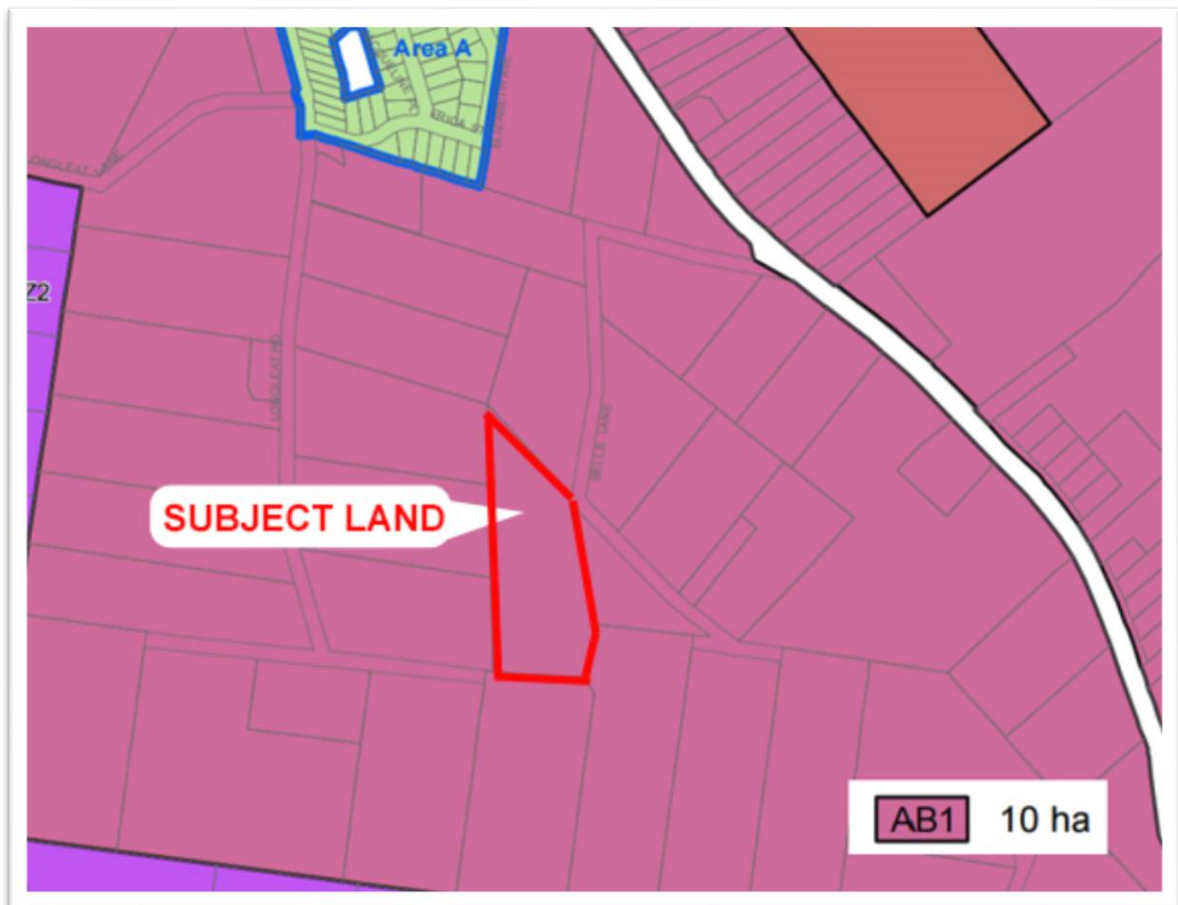
- *To promote the conservation and enhancement of local native vegetation including the habitat of threatened species, populations and ecological communities by encouraging development to occur in areas already cleared of vegetation.*
- *To ensure that development retains or enhances existing landscape values including a distinctive agricultural component.*
- *To ensure that development does not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services.*

It is submitted that much of the land zoned RU1 in Figure 7 above is unsuitable for intensive agriculture or primary industries due to the proximity to residential land within the Kurmond village. Historically, where residential land adjoins productive agricultural land there has been conflict between agricultural practices and neighbouring residents.

Typical rural land use conflict issues include pesticide spray drift, dust from cultivation, noise from farm machinery and loading of vehicles and odours from fertilisers, pesticide spray, animals and burning of crop residues. Notwithstanding, in this instance none of the lots within the RU1 zone are large enough to support viable agriculture without intensive use of the land (for example feed lots, market gardens).

In accordance with Clause 4.1 of HLEP 2012 the minimum permissible lot size is 10 hectares.

**Figure 8: Extract from HLEP 2012 Lot Size Map Sheet LSZ\_008AA**



It is pointed out that the locality is in effect a transition between residential and rural land uses. The Hawkesbury Residential Strategy<sup>3</sup> recognises this in the Rural Village Development Criteria in paragraph 6.5.

It is considered that providing additional land for housing in this location is logical and represents “the promotion and coordination of the orderly and economic use and development of land” as stated in the Objects of the *Environmental Planning & Assessment Act, 1979*.

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<sup>3</sup> Hassell, Hawkesbury Residential Land Strategy, adopted by Hawkesbury City Council 10 May 2011.

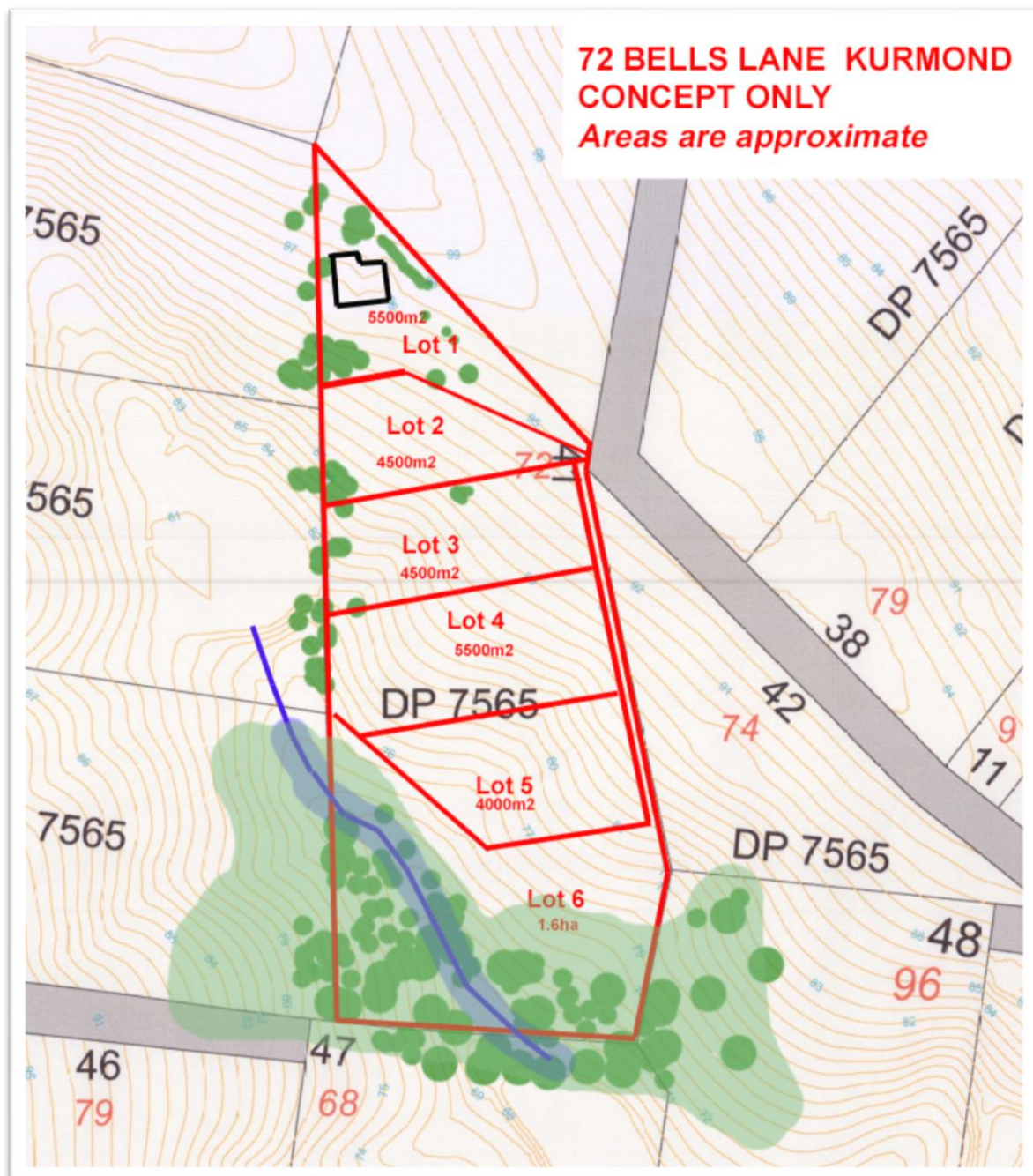
## Part 1 – Objectives or Intended Outcomes

The objective of the planning proposal is to amend the Hawkesbury Local Environmental Plan 2012 to permit the land to be subdivided into large residential lots, which are sufficient in size to support sustainable housing within a rural village setting.

The intended outcome is to facilitate a development application to subdivide the land into six lots.

Figure 9 below is a concept subdivision plan based on the site analysis and requirements for on-site effluent disposal, bushfire asset protection, including relevant buffer distances.

**Figure 9: Concept subdivision**



## Part 2 – Explanation of Provisions

The proposed outcome will be achieved by amending Hawkesbury Local Environmental Plan 2012 Lot Size Map Sheet LSZ\_008AA to fix the minimum lot size for the land at 4,000 square metres and 10,000 square metres as shown in Figure 10 below.

**Figure 10: Existing & Proposed Amended HLEP 2012 Lot Size Map Sheet LSZ\_008AA**





## Part 3 – Justification

### Section A – Need for the planning proposal

#### 1. *Is the planning proposal a result of any strategic study or report?*

Yes. The planning proposal has been prepared as a result of the Hawkesbury Residential Land Strategy. The proposal satisfies the criteria for rural village expansion as contained within the Strategy.

#### 2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The alternatives are to amend Hawkesbury LEP 2012 by including an additional permitted use of the land within Schedule 1 or to change the zone and lot size in the locality to allow the proposed subdivision of the land. However, it is considered that amending the Lot Size Map as proposed is consistent with the ethos of the Standard Instrument LEP and is the best, most efficient and time effective approach to delivering the intended outcome of the proposal.

### Section B – Relationship to strategic planning framework.

#### 3. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or subregional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

The Hawkesbury Local Government Area is identified in *A Plan for Growing Sydney 2014* as within the West Subregion. The following goals, directions and actions have relevance to the proposal.

Goals / Directions / Actions	Response
<p><b>Goal 2: A city of housing choice, with homes that met our needs and lifestyles</b></p> <p><b>Direction 2.1:</b> Accelerate housing supply across Sydney</p> <p><b>Action 2.1.1:</b> Accelerate housing supply and local housing choices</p> <p><b>Action 2.3.1:</b> Require local housing strategies to plan for a range of housing types</p>	<p>The Plan's focus is on providing more housing, with a greater choice of dwelling types in well serviced locations. The Plan requires local housing strategies to plan for a range of housing types. This proposal is prepared in accordance with the Hawkesbury Residential Lands Strategy, prepared by Council to put such housing strategies in place.</p> <p>The proposal is supported by appropriate infrastructure for the rural locality including transport, schools, health facilities, open space and recreation.</p> <p>The Hawkesbury Residential Lands Strategy has identified both the need for</p>

	<p>additional housing and suitable locations for additional housing.</p> <p>A range of opportunities are identified including urban infill, new urban areas and additional housing around rural villages.</p>
<p><b>Goal 4:</b> A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.</p> <p><b>Direction 4.2:</b> Build Sydney's resilience to natural hazards</p> <p><b>Action 4.2.3:</b> Map natural hazard risks to inform land use planning decisions</p> <p><b>Direction 4.3:</b> Manage the impacts of development on the environment</p>	<p>This planning proposal is prepared in the context of the Hawkesbury Residential Lands Strategy. The Strategy recognises that there is limited capacity within existing residential zoned land of the LGA to accommodate more dwellings, hence the majority of new dwellings will need to be provided from greenfield sites / extension of the footprint of existing centres.</p> <p>The Strategy recognises that urban growth in the Hawkesbury is severely limited by environmental constraints such as State and National parks, agricultural land values, flooding issues, and noise constraints.</p> <p>The subject site is free from these constraints and satisfies the Hawkesbury Residential Lands Strategy criteria for rural village expansion.</p> <p>The minor increase in housing in suitable locations around existing rural villages will contribute to the continued viability of those villages, while not substantially changing the rural character of the area.</p> <p>The land is classified as bushfire prone land. Any future subdivision will address the requirements of Planning for Bushfire Protection in detail. However, a review of the proposal indicates that compliance will be achievable.</p> <p>The smallest of the proposed lots is 4,000m<sup>2</sup>. An on-site wastewater disposal assessment was carried out by</p>

	<p>Envirotech, which confirms that the land is suitable for on-site effluent disposal.</p> <p>It is considered that the proposal has taken account of the natural hazards and environmental constraints and features and the impacts of the development will be managed to ensure that the proposal will have minimal impacts.</p>
<p><b>Priorities for West Subregion:</b>  <b>Accelerate housing supply, choice and affordability and build great places to live</b></p>	<p>One of the stated priorities is to:</p> <p>“Work with councils to identify suitable locations for housing intensification and urban renewal, including employment agglomerations – particularly around established and new centres and along key public transport corridors including the Western Line and the Blue Mountains Line.”</p> <p>This planning proposal will assist by creating new housing opportunities in a suitable location as identified by the Hawkesbury Residential Lands Strategy.</p>

Although not consistent with the regions identified by *A Plan for Growing Sydney*, the Northwest Draft Subregional Strategy remains relevant as an “exhibited draft strategy”. The following table lists the relevant actions from the Subregional Strategy.

Actions	Response
<p><b>NW Action C5.1.2</b> Councils to reflect best practise established by the Growth Centres Commission in land release areas outside the North West Growth Centre.</p>	<p>The Planning Proposal is a minor expansion of an existing rural village.</p>
<p><b>NW Action D2.3.3</b> State and local government to improve existing interchanges and bus stops.</p> <p><b>NW Action D3.1.1</b> The Roads and Traffic Authority (now Roads and Maritime Service (RMS)), in cooperation with the local government, to continue</p>	<p>Westbus operates along Bells Line of Road between Richmond and Kurmond. This service operates every 30 minutes during the peak periods with the closest stop being located on Bells Line of Road.</p>

<p>to upgrade walking and cycling facilities, including cycleway development in Blacktown, Castle Hill and Colo.</p> <p><b>NW Action D3.1.2</b> The NSW Government and local government to work together to align local walking and cycling networks with public transport routes to improve accessibility to public transport.</p>	<p>An off-road pedestrian/bike path which links Kurmond to North Richmond runs along Bells Line of Road. Colo High School and Kurmond Public School are also linked by this pathway.</p>
<p><b>NW Action E2.1.2</b> Sydney Metropolitan and Hawkesbury – Nepean Catchment Management Authorities to work with agencies and North West councils to ensure that the aims and objectives of Catchment Action Plans are considered in the future management and planning of local council areas.</p>	<p>The relevant public authorities will be consulted during preparation of the draft plan, following gateway determination.</p>
<p><b>NW Action E2.1.5</b> North West councils to continue to promote water sensitive urban design.</p>	<p>The Planning Proposal is a minor expansion of an existing rural village. The minimum lot size proposed is 4,000m<sup>2</sup> and 10,000m<sup>2</sup>, allowing for all stormwater to be contained within each allotment.</p>
<p><b>NW Action E4.1</b> Maintain rural activities and resource lands.</p>	<p>Due to the size of the land and the proximity to residential neighbours, the land is not suitable for viable agriculture. There is currently no commercial agriculture in the immediate locality.</p>
<p><b>NW Action E6.3.1</b> The Heritage Office to work with local councils to identify areas in the North West Subregion to promote and provide access to heritage places, contribute to local economies and assist in sustaining heritage places.</p>	<p>The land and surrounding land is not identified as having heritage significance.</p>
<p><b>NW Action F2.1.1</b> Councils to maintain or enhance the provision of local open space particularly in centres and along transport corridors where urban and residential growth is being located.</p> <p><b>NW Action F2.1.2</b> Council to consider open space improvement programs with better facilities to encourage use.</p>	<p>It is considered that the additional population generated by this Planning Proposal (less than 100 persons) is unlikely to trigger a requirement for acquisition of additional open space land.</p>



<p><b>NW Action F2.1.3</b> Councils to consider mechanisms to increase the capacity of local sports fields to a district level.</p> <p><b>NW Action F2.1.4</b> NSW Government and local councils to develop links between smaller reserves to create diversity and broader user experience.</p> <p><b>NW Action F2.1.5</b> Local councils to consider modifying underutilised open space for informal activities such as skating, basketball, netball and the establishment of cafes.</p>	<p>This is especially the case where the minimum lot size will be 4,000m<sup>2</sup> and 10,000m<sup>2</sup>, which provides for large amounts of private open space within each proposed lot.</p>
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This planning proposal represents minor growth north-west of the Hawkesbury River which is associated with the existing Kurmond village centre. Therefore, the proposal is consistent with the North West Subregional Strategy and A Plan For Growing Sydney.

#### **4. *Is the planning proposal consistent with the local Council's Community Strategic Plan or other local strategic plan?***

The relevant strategic plans are the Hawkesbury Community Strategic Plan 2013-2032 and the Hawkesbury Residential Land Strategy, 2011.

##### **4.1 Hawkesbury Community Strategic Plan 2013-2032**

This plan was adopted by Hawkesbury City Council in May 2013. The provisions of the Community Strategic Plan which are of most relevance to the planning proposal are:

##### Looking after people and place

##### **Directions**

1. Be a place where we value, protect and enhance the historical, social, cultural and environmental character of Hawkesbury's towns, villages and rural landscapes
2. Offer residents a choice of housing options that meets their needs whilst being sympathetic to the qualities of the Hawkesbury
3. Population growth is matched with the provision of infrastructure and is sympathetic to the rural, environmental, heritage values and character of the Hawkesbury
4. Have development on both sides of the river supported by appropriate physical and community infrastructure
5. Have an effective system of flood mitigation, fire and natural disaster management and community safety which protects life, property and infrastructure
6. Have friendly neighbourhoods, connected communities, and supported household and families
7. Have future residential and commercial development designed and planned to minimise impacts on local transport systems, allowing easy access to main metropolitan gateways

##### **Strategies**

1. Revitalise and enhance town centres and villages
2. Encourage affordable, diverse and quality housing solutions in serviced areas

3. Manage rural and natural lands to support a balance of agriculture, environment and housing that delivers viable rural production and rural character
4. Recognise, protect and promote the values of indigenous, natural and built heritage through conservation and active use
5. Upgrade the necessary physical infrastructure and human services to meet contemporary needs and expectations
6. Provide for a safer community through planning, mitigation and response

### **Goals**

1. Towns and villages to be vibrant places that people choose to live in and visit
2. Appropriate and affordable range of infrastructure and services available to meet contemporary needs
3. Viable tourism economy
4. Funded viable and sustainable events
5. Housing is available and affordable for the population whilst retaining agricultural and heritage values
6. Managed population growth that contributes to and sustains the local economy and services and respects agricultural and heritage values of the area
7. Maintain and foster the rural and heritage character within the Hawkesbury
8. Viable and sustainable agriculture industries retained and developed
9. Natural and built heritage valued socially and economically
10. Ongoing review and implementation of community disaster and safety plans
11. Continue to support agencies and volunteers who assist in maintaining a safe and socially valuable community

## **Caring for Our Environment**

### **Directions**

1. Be a place where we value, protect, and enhance the cultural and environmental character of Hawkesbury's towns, villages and rural landscapes
2. To look after our cultural and environmental assets for future generations so that they too can enjoy, and benefit from, a clean river and natural eco-systems, rural and cultural landscape
3. Take active steps to encourage lifestyle choices that minimise our ecological footprint
4. Work with our communities and businesses to use our resources in a sustainable way and employ best practices and technologies that are in harmony with our natural environment

### **Strategies**

1. Effective management of our rivers, waterways, riparian land, surface and groundwaters, and natural eco-systems through local action and regional partnerships
2. Reduce our environmental footprint through resource and waste management
3. Manage growth with ecologically sustainable principles
4. Engage with the community and work together to care for our environment

### **Goals**

1. Clean, healthy, usable rivers and waterways
2. Balance the needs of our ecology, recreational and commercial activities

3. Maximise sustainable use of potable and recycled water
4. Reduced greenhouse gas emissions
5. Our community is living more sustainably
6. Waste management facility operating on a commercial basis
7. Reduced waste to landfill
8. Environmental impact of growth is minimised
9. Healthy and functioning catchments and riparian corridors
10. Improved community awareness of the importance and value of healthy catchments, natural waterways, vegetated riparian corridors, surface water and groundwater resources.

### Sustainability Principles

The following are considered relevant to the Planning Proposal.

- Principle 4: Use of energy and other resources must be just and efficient, both across the globe and between generations
- Principle 5: Even if there is doubt about the environmental impact that an action will have, one should err on the side of caution to protect the environment

It is submitted that the planning proposal is consistent with the Hawkesbury Community Strategic Plan. The planning proposal will assist in the achievement of some of the above Goals, particularly in terms of providing housing choice and creating a sustainable local economy. The proposal satisfies the environmental goals by minimising the impact of growth and providing sustainable, managed housing opportunities in an area of high amenity.

The environmental impacts have been carefully considered through bushfire and on-site wastewater assessment reports. It is considered that the planning proposal satisfies the sustainability principles of the Plan.

## **4.2 Hawkesbury Residential Land Strategy 2011**

The Hawkesbury Residential Land Strategy guides the location and type of future residential development within the LGA. The strategy is based on best practice models of sustainable development which seek to guide future residential development within the LGA over the next 30 years and ensure future residential development is sustainable and meets the needs of the Hawkesbury population.

The review of population and dwelling characteristics (Chapter 3.0) identified that future population within the LGA is ageing and household sizes are decreasing. This will have significant impact on housing needs, services and facilities within the LGA.

The projections show an estimated demand for an additional 5,932 dwellings which is slightly higher than the dwelling target set in the North Western Subregional Strategy.

The Residential Strategy is designed to be suitably flexible to provide 5,000-6,000 dwellings with the final number of dwellings being shaped by market demand and more detailed environmental capacity analysis. As outlined in Section 3.3.6 [of the Strategy], the majority of additional dwellings (5,400 dwellings) will be located in existing or expanded urban and village areas where they can access such services and facilities. The remainder of future

development (600 dwellings) will be within the remaining localities, subject to compliance with the sustainability matrix for neighbourhood centres.<sup>4</sup>

The following table sets out the Rural Village Criteria from the Strategy, with comments in relation to the subject planning proposal.

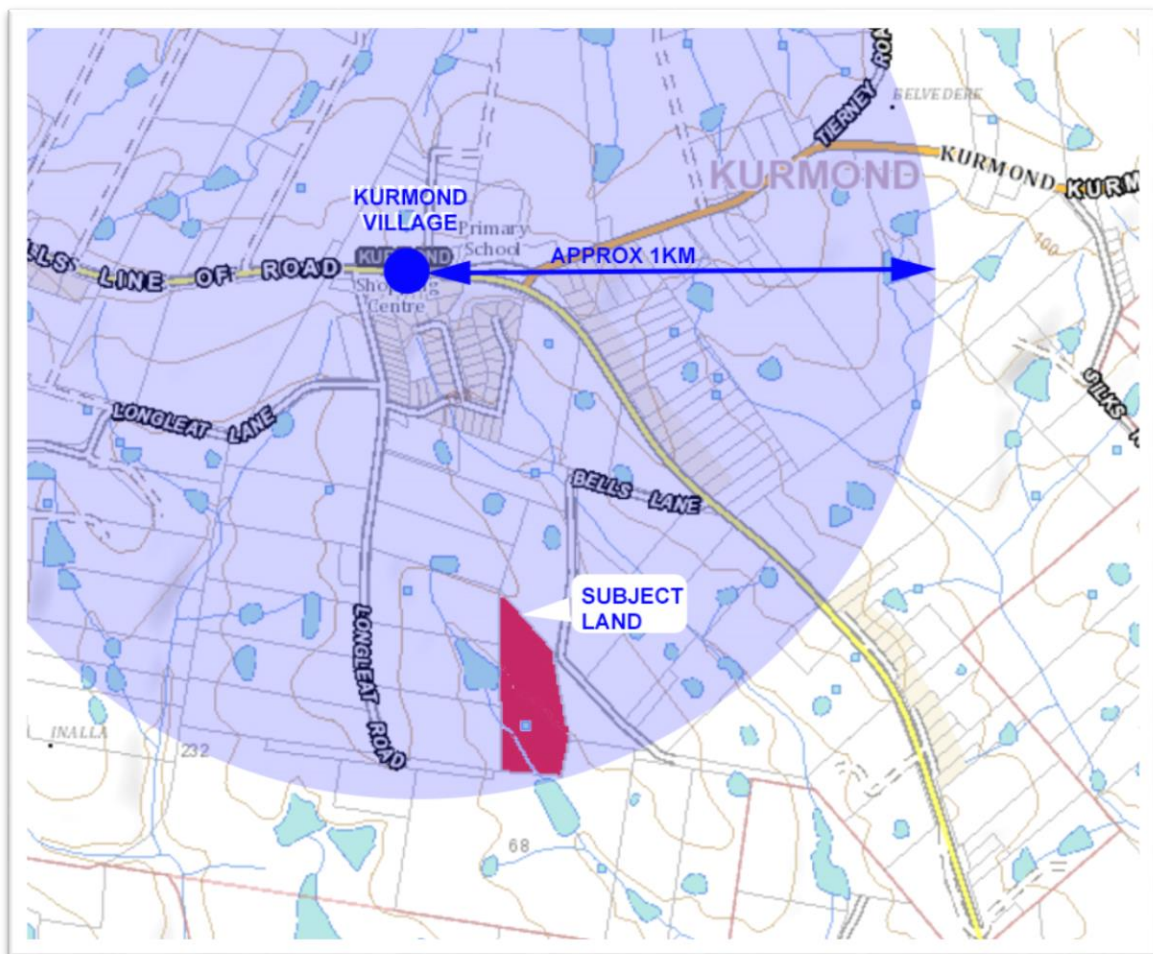
<b>6.5 Rural Village Criteria</b>	
Be able to have onsite sewerage disposal	Yes. The resulting large residential lots will be capable of on-site sewerage disposal. This is confirmed by an on-site wastewater assessment report.
Cluster around or on the periphery of villages	Yes. The land is located on the periphery of Kurmond Village.
Cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within 1km radius)	Yes. The land is located some 500m from Kurmond Village, which provides a range of services including primary school, post office, medical, retail shops, take-away and dine-in food and cafes.
Address environmental constraints and with minimal environmental impacts	Yes. The proposal will have minimal environmental impacts.
Within the capacity of the rural village	Yes. The proposal represents a minor expansion of the Kurmond Village only.

The land is located some 500 metres from services in Kurmond Village. It is submitted that the land satisfies the intent of the HRLS rural village criteria to “*cluster around villages with services that meet existing neighbourhood criteria services as a minimum*”. Figure 18 shows the relationship between the land and the available nearby services.

<sup>4</sup> Hawkesbury Residential Land Strategy, 2011, pg 7/1



Figure 11: Proximity to Local Services



#### 4.3 Structure Planning Report for the Kurmond and Kurrajong Investigation Area

On 28 July 2015, Council resolved that current planning proposals within the Kurmond and Kurrajong Investigation Area only proceed to Gateway if the 'fundamental' development constraints have been addressed. The relevant fundamental constraints and associated recommendations are shown below in Tables 1 and 2. These tables also provide comments regarding the proposal's compliance with the recommendations.

Table 1: Physical Environment

Factor	Degree of Constraint to Development	Recommendation
<i>Terrestrial Biodiversity</i>  Impact of development on threatened or endangered flora and fauna	Fundamental - Major	Legislation applies to threatened and endangered species. OEH concurrence may be required Removal of significant vegetation is to be avoided Fragmentation of significant vegetation is to be minimised

**Comment:** As shown in Figure 13, the significant vegetation is contained mostly within the riparian corridor associated with the minor watercourse. The proposed 1ha minimum lot size in this area will minimise removal and fragmentation of this vegetation. If required, this vegetation can be further protected during the subdivision DA process by a requirement for a positive covenant to be registered on the title(s).

<i>Watercourses and Riparian Areas</i>	Fundamental - Major	<p>Legislation applies to threatened and endangered species. OEH concurrence may be required</p> <p>Building envelopes, APZs, driveways and roads (not including roads for the purposes of crossing watercourses) are to be located outside of riparian corridors</p> <p>Road crossings of watercourses are to be minimised</p> <p>Fragmentation of riparian areas is to be minimised</p>
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**Comment:** Suitable buffers will be provided to the watercourse and riparian area. The riparian area will remain in one allotment. No road crossings are proposed.

<i>Dams</i>	Fundamental - Minor	<p>Legislation applies to threatened and endangered species. OEH concurrence may be required</p> <p>Removal of dams containing significant aquatic habitat is to be avoided. Minimum required buffer distances for effluent disposal systems is to be adhered to</p>
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**Comment:** A small ephemeral dam is located within an area of the land which is proposed to have a 1ha minimum lot size. This dam may be appropriate for on-site stormwater retention/quality, subject to details in respect of a future development application.

Factor	Degree of Constraint to Development	Recommendation
<p><i>Bush Fire threat</i></p> <p>Impact of the location and management of APZs and perimeter roads</p>	Fundamental - Major	<p>RFS concurrence may be required</p> <p>Building construction and water supply is to comply with NSW Rural Fire Service's <i>Planning for Bushfire Protection 2006</i>, e.g. APZs and roads</p>
<p><b>Comment:</b> The preliminary bushfire hazard assessment submitted with the proposal demonstrates that this can be satisfactorily dealt with at development application stage by way of referral to the RFS and conditions of consent.</p>		
<p><i>Aboriginal Heritage</i></p> <p>Impact of development on Aboriginal heritage items</p>	Fundamental - Moderate	<p><i>National Parks and Wildlife Act 1974</i> applies</p> <p>Council and developers are also to consider relevant provisions of <i>Heritage Act 1977</i> when preparing and considering development applications</p>
<p><b>Comment:</b> No known aboriginal relics are located on the site. Further consideration can be given to this at development application stage if required.</p>		
<p><i>Land Contamination</i></p> <p>Suitability of land to be developed given potential for land to be contaminated</p>	Fundamental - Minor	<p>Remediation action plans and validation may be required</p> <p>Council and developers are to consider relevant provisions of <i>State Environmental Planning Policy No 55—Remediation of Land</i> when preparing and considering development applications</p>
<p><b>Comment:</b> The land owner advises the land has been used for light animal grazing on and off for many years. There is no evidence to suggest that any activities have occurred on the land which would give rise to contamination. Further considered can be given to this at development application stage</p>		
<p><i>Acid Sulfate Soils</i></p> <p>Impact of disturbance of acid sulfate soils on the environment and development</p>	Fundamental to Minor	<p>Development proposals and land class are to be assessed with respect to Clause 6.1 Acid Sulfate Soils of LEP 2012. Acid sulfate soils management plans required</p>
<p><b>Comment:</b> The subject site is within the Acid Sulfate Soils Class 5 categorisation which is the least restrictive of the 5 classifications. There are no impacts. Figure 12 is an extract from LEP 2012 Acid Sulfate Soils Map.</p>		

**Table 2: Infrastructure and Services**

<b>Factor</b>	<b>Degree of Constraint to Development</b>	<b>Recommendation</b>
<i>Road network</i>  Capacity and safety of existing road network	Fundamental - Major	RMS concurrence may be required Development contributions are to be levied for road improvements Council and developers are to consider relevant provisions of <i>State Environmental Planning Policy (Infrastructure) 2007</i> when preparing and considering development applications
<b>Comment:</b> RMS has not requested a development contribution for road works. Council staff have had detailed discussions with RMS regarding the regional road network.		
<i>Wastewater</i>  Capacity of land to cater for on-site effluent disposal	Fundamental	Sydney Water concurrence may be required Developers are to demonstrate that waste water can be disposed of on site in an environmentally sensitive manner. Alternatively, developers may provide reticulated sewer service to new lots in accordance with relevant licences and/or authority requirements Clause 6.7 - Essential Services under LEP 2012 applies
<b>Comment:</b> The proposal is accompanied by a wastewater management report which demonstrates that the land has adequate capacity for on-site effluent disposal.		
<i>Public Transport Services</i>  Provision of bus service to cater for the needs of incoming population	Fundamental - Moderate	Transport NSW and RMS concurrence may be required Possible levying of development contributions for bus services Clause 6.7 - Essential Services under LEP 2012 applies
<b>Comment:</b> Council staff have had detailed discussions with RMS and Transport for NSW regarding public transport services. It is intended that the developer will enter into a voluntary planning agreement for contributions to local services and facilities.		
<i>Stormwater drainage</i>  Quantity and quality of stormwater run-off entering watercourses	Fundamental - Moderate	Developers are to demonstrate that stormwater can be captured, treated and released in an environmentally sensitive manner Possible levying of development contributions for stormwater purposes Clause 6.7 - Essential Services under LEP 2012 applies
<b>Comment:</b> It is considered this can be satisfactorily dealt with at development application stage by way of the assessment of drainage designs and conditions of consent. Notwithstanding, the entire site drains to the minor watercourse which is located within the south west corner of the land. Minimal engineering work would be required to achieve a satisfactory stormwater outcome.		

<b>Water Supply</b>  Provision of reticulated water supply to new lots	Fundamental - Moderate	Sydney Water concurrence may be required. A reticulated water service is to be provided to new lots by developers in accordance with relevant authority requirements Clause 6.7 - Essential Services under LEP 2012 applies
<b>Comment:</b> Sydney Water provides reticulated water to some properties in Bells Lane. It is possible that a future subdivision could connect to that supply. If not, potable water will be collected from roof rainfall. It is considered this can be satisfactorily dealt with at development application stage by way of condition of consent.		
Factor	Degree of Constraint to Development	Recommendation
<b>Electricity</b>  Provision of electricity service to new lots	Fundamental	Electricity provider concurrence may be required Electricity services are to be provided to new lots by developers in accordance with relevant authority requirements Clause 6.7 - Essential Services under LEP 2012 applies
<b>Comment:</b> It is considered this can be satisfactorily dealt with at development application stage by way of condition of consent.		

#### 4.4 Our City Our Future Rural Rezoning Policy

This Policy was adopted by Hawkesbury City Council on 7 November 1995 and revised on 16 May 1998. Since that time, the Policy has essentially been superseded by the following studies and documents:

- NSW Department of Planning draft North West Subregional Strategy
- Hawkesbury Residential Land Strategy
- Hawkesbury Community Strategic Plan

Notwithstanding the above strategies and plans, the Our City Our Future Rural Rezoning Policy remains a formal policy of the Council. The following comments are provided in response to the relevant policy statements.

a. *Fragmentation of land is to be minimised;*

It is considered that the proposal minimises fragmentation of rural lands by creating lots of 4,000m<sup>2</sup> and 1ha, 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;*

It is submitted that the proposal is within a location which has access to services and facilities and is contiguous with Kurmond Village.

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

*Cluster around or on the periphery of villages*



*Cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within 1km radius)*

- c. *No subdivision along main roads and any subdivision to be effectively screened from minor roads;*

Bells Lane is not a main road.

The land falls away from Bells Lane, which means that future dwellings will be located lower than the road. They will also be screened by the existing property adjoining to the east.

- d. *No subdivision along ridgelines or escarpments;*

The land is not along a ridgeline or escarpment. 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 1 (one) hectare unless the effectiveness of a smaller area can be demonstrated by geotechnical investigation;*

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 smallest of the proposed lots is 4,000m<sup>2</sup>. An on-site wastewater disposal assessment was carried out by Envirotech, 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.

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

The Planning Proposal will have no impact on tree coverage. The subdivision concept has been designed to retain existing trees 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.*

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. The developer proposes to enter into a voluntary planning agreement which proposes cash contributions towards the provision of public amenities.

- 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.*

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.

#### **4.5 HCC Policy: Rezoning of Land for Residential Purposes - Infrastructure Issues**

This Policy was adopted by Council on 30 August 2011 and states:

*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.*

It is submitted that the proposal is consistent with the directions and strategies contained in Council's adopted Community Strategic Plan, as demonstrated in Section 4.1.

The proposal satisfies the relevant sustainability criteria contained within the Hawkesbury Residential Land Strategy, as detailed in Section 4.2. In relation to infrastructure matters, the applicant has proposed a Voluntary Planning Agreement pursuant to s93F of the *Environmental Planning and Assessment Act 1979*.

Therefore, the proposal is consistent with this policy.

#### **5. Is the planning proposal consistent with applicable state environmental planning policies?**

A review of state environmental planning policies reveals that the following may be applicable and relevant:

##### **SEPP No 44 Koala Habitat Protection**

The proposal will have no impact on existing vegetation. Due to bushfire and on site effluent disposal constraints, future building envelopes will be located with significant buffers from the vegetation corridor located to the south of the land.

##### **SEPP 55 – Remediation of Land.**

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.

## **SREP No. 20 – Hawkesbury - Nepean River**

The aim of SREP 20 is to protect the environment of the Hawkesbury – Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. Part 2 of SREP 20 provides general planning considerations, specific planning policies and recommended strategies. The following specific policies are relevant to the Planning Proposal:

### **(1) Total catchment management**

**Policy: Total catchment management is to be integrated with environmental planning for the catchment.**

#### **Strategies:**

- (a) *Refer the application or other proposal for comment to the councils of each adjacent or downstream local government area which is likely to suffer a significant adverse environmental effect from the proposal.*
- (b) *Consider the impact of the development concerned on the catchment.*
- (c) *Consider the cumulative environmental impact of development proposals on the catchment.*

The land drains to a minor watercourse. The watercourse transverses many rural residential properties and has numerous on-line dams, prior to eventually reaching the Hawkesbury River. An assessment has been carried out in relation to suitability for on-site effluent disposal. Based on the assessment, it is considered that the land is suitable for on-site disposal of effluent.

Development of this type is encouraged by the Hawkesbury Residential Land Strategy. It has been demonstrated that there is no adverse cumulative impact in terms of this planning proposal.

### **(6) Flora and fauna**

**Policy: Manage flora and fauna communities so that the diversity of species and genetics within the catchment is conserved and enhanced.**

The land is mostly cleared pasture with scattered trees. A vegetated corridor located along the southern boundary will be maintained, along with some vegetation on the western boundary. The concept subdivision plan has been designed to ensure that this vegetation does not require any clearing or thinning for future buildings or bushfire asset protection zones.

**(9) Rural residential development**

**Policy:** *Rural residential development should not reduce agricultural sustainability, contribute to urban sprawl, or have adverse environmental impacts (particularly on the water cycle or on flora or fauna).*

**Note.** Refer also to items (1)–(7) and (12) for relevant strategies.

**Strategies:**

- (a) Give priority to agricultural production in rural zones.
- (b) 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.
- (c) Maintain or introduce appropriate separation between rural residential use and agricultural use on the land that is proposed for development.
- (d) Do not locate development in areas identified for future urban purposes in the Metropolitan Strategy.
- (e) Consider the suitability of the land for keeping livestock, whether or not for commercial purposes, and appropriate mitigating measures to prevent land degradation.
- (f) Consider the ability of the land to accommodate on-site effluent disposal in the long term.
- (g) Consider any adverse environmental impacts of infrastructure associated with the development concerned

It is considered that this planning proposal will not be in conflict with the relevant policies and strategies of Sydney REP 20 and can proceed.

**SREP 9 – Extractive Industry (No. 2 1995)**

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 proposed development restrict the obtaining of deposits of extractive material from such land.

## **6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?**

The Minister for Planning and Infrastructure, under section 117(2) of the EP&A Act, issues directions that local councils must follow when preparing planning proposals for new local environmental plans. The directions cover the following broad categories:

- a. employment and resources
- b. environment and heritage
- c. housing, infrastructure and urban development
- d. hazard and risk
- e. regional planning
- f. local plan making.

The following section provides an assessment of the planning proposal against applicable Section 117 directions.

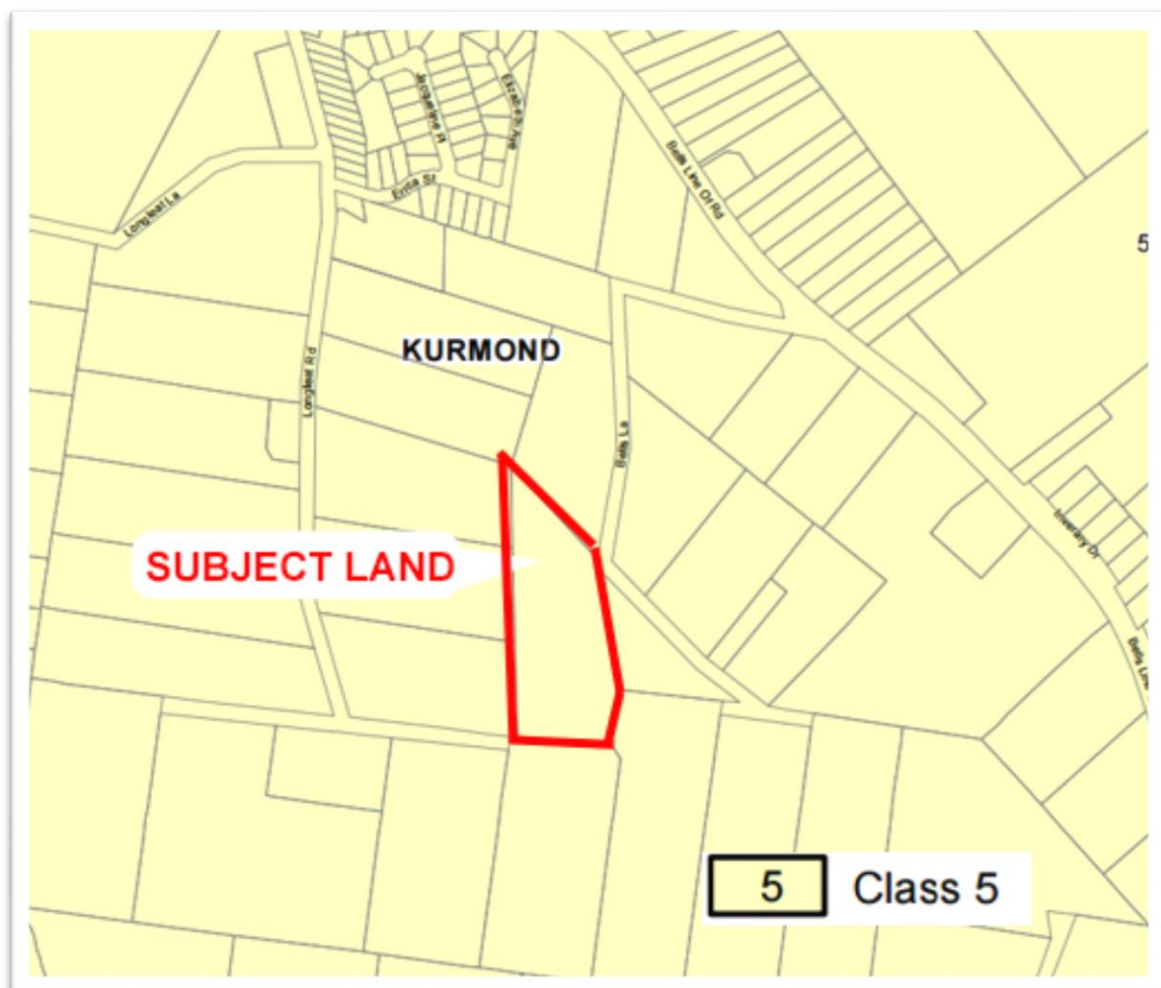
Direction	Consistency	Reason
1.2 Rural Zones	Yes	<p>The draft LEP will be consistent with paragraphs 4(a) and 4(b).</p> <p>4(a): The rural zoning of the land is not proposed to be changed.</p> <p>4(b): The proposal will increase the permissible density of land within a rural zone, however the land is effectively within an existing village.</p> <p>Notwithstanding the above it is considered that the proposal is justified by a strategy (Hawkesbury Residential Land Strategy) as it meets the criteria for rural village development.</p>



1.3 Mining, Petroleum Production and Extractive Industries	Yes	<p>There are no existing extraction sites within or near this locality. It is understood that no specific resources have been identified in this locality. Notwithstanding, the current RU1 zone permits <i>extractive industries</i> and <i>open cut mining</i> with the consent of Council.</p> <p>This planning proposal does not change the land use table, therefore these activities remain permissible uses.</p> <p>In reality, however, extractive industries or open cut mines are simply not suitable for this locality due to the existing rural residential nature of the area.</p> <p>The NSW Department of Industry – Geological Survey of NSW will be consulted during the preparation of the draft plan.</p>
3.4 Integrated Land Use and Transport	Yes	<p>The draft LEP will provide housing opportunities in a locality which is adequately serviced by public transport (in rural village terms).</p> <p>The draft LEP is consistent with the relevant guidelines and policy.</p>
4.1 Acid Sulfate Soils	No	<p>Figure 12 below (Acid Sulfate Soils Map) shows that the property is identified as Class 5.</p> <p>It is considered that the inconsistency with this Direction is justified as the proposal is of minor significance.</p>
4.4 Planning for Bushfire Protection	Yes	<p>An assessment prepared by Envirotech concludes that the proposal is able to comply with <i>Planning for Bushfire Protection</i>.</p> <p>The Rural Fire Service will be consulted during preparation of the draft LEP.</p>

6.3 Site Specific Provisions		The proposal will amend the lot size map as it applies to the land.
(4)(a)	Yes	
(4)(b)	Yes	The inconsistency is of minor significance and considered to be justified given the characteristics and constraints of the site.
(4)(c)	No	
7.1 Implementation of the Metropolitan Strategy	Yes	The planning proposal is consistent with the Metropolitan Strategy. This is discussed in question 4 under Section B of this report.

Figure 12: Extract from HLEP 2012 Acid Sulfate Soils Map - Sheet ASS\_008AA

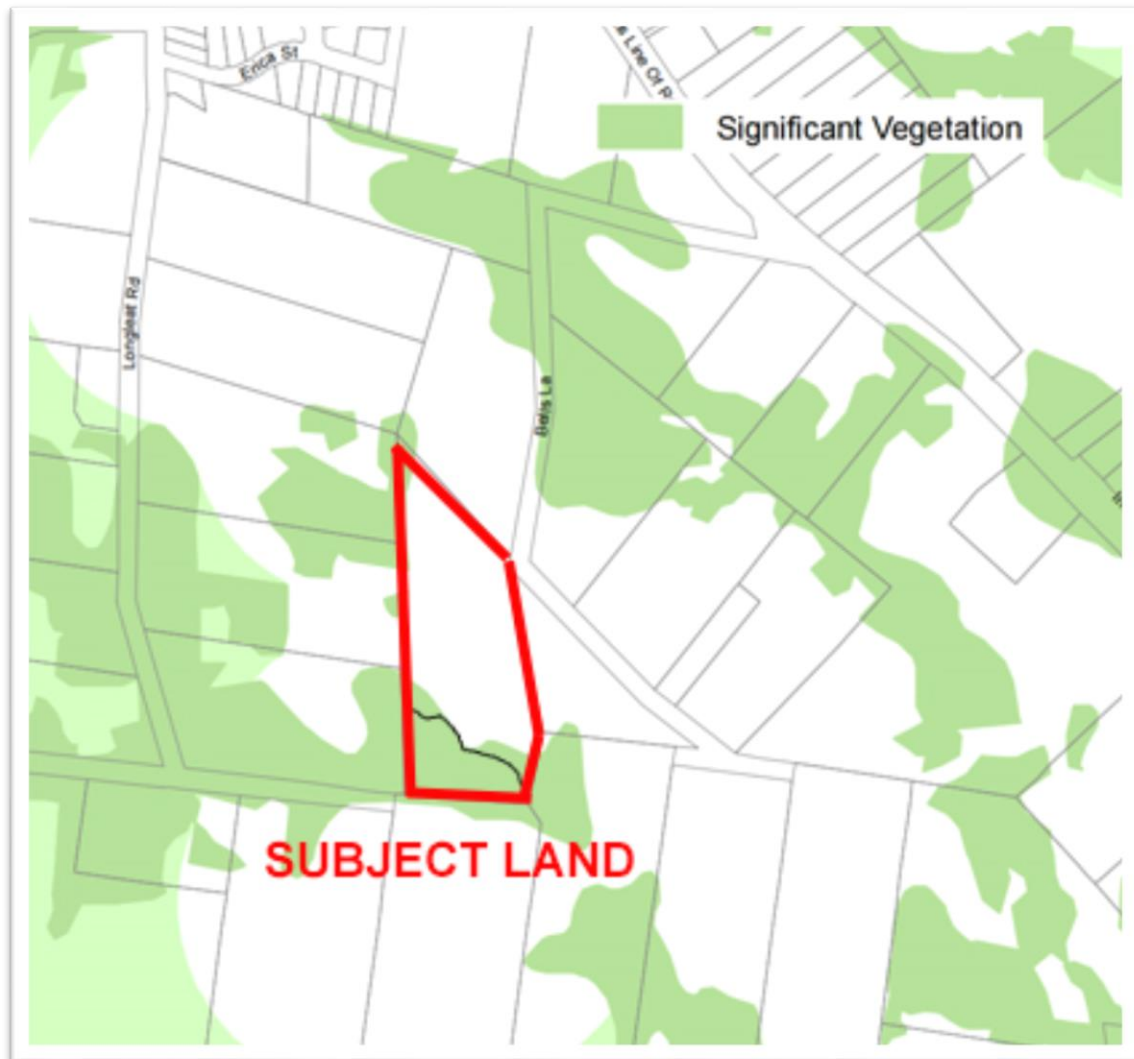


## Section C – Environmental, social and economic impact.

**7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?***

The Council's biodiversity mapping identifies some significant vegetation on the land. It is noted that Council has not ground-truthed this mapping set. Figure 13 below is an extract from the relevant map.

**Figure 13: Extract from HLEP 2012 Terrestrial Biodiversity Map Sheet BIO\_008AA**



Ground inspection shows that some of the area identified as significant vegetation is cleared pasture, located outside of the riparian corridor. There is no native ground cover or shrub layer and no trees within the pasture area. The black line shown on Figure 13 is a more accurate boundary of actual vegetation.

Figure 14 demonstrates that the concept layout for six allotments has been prepared taking the vegetation into consideration.

**Figure 14: Concept Plan Overlay**



It is submitted that each proposed lot has sufficient area to provide a building envelope without any impact on significant vegetation.

**8. Are there any other likely environmental effects as a result of the planning proposal and how are these to be managed?**

The land is classified as bushfire prone land. Any subdivision application which may follow this planning proposal will address the requirements of *Planning for Bushfire Protection* in detail.

A preliminary bushfire hazard assessment report prepared by Envirotech concludes that the proposal will comply with *Planning for Bushfire Protection* (2006).



**9. Has the planning proposal adequately addressed any social and economic effects?**

Yes.

There are positive social and economic effects arising from utilising land for minor expansion of the rural village of Kurmond. The land is within proximity to existing schools, services and shops, all of which will benefit from the additional households which will be established on the land. The proposal will provide additional housing opportunities in a suitable area as identified by the Hawkesbury Residential Land Strategy.

It is noted that the land has not been identified as containing any items of European or aboriginal cultural heritage.

## Section D – State and Commonwealth Interests

**10. Is there adequate public infrastructure for the planning proposal?**

The land is serviced by electricity, telephone and communications and reticulated water. The likely demand for services created by the subdivision would be met by the usual contribution process with the relevant authorities.

Waste water from future dwellings on the proposed lots will be treated and disposed on-site. Therefore, there will be no additional demand for reticulated sewerage.

**11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

The following public authorities should be consulted in relation to the issues listed in the following table.

Public Authority	Issue
NSW Office of Environment & Heritage	Potential impact on flora and fauna
NSW Rural Fire Services	The land is identified as bushfire prone
NSW Department of Trade & Investment – Mineral Resources Branch	Requirement of S 117 Direction 1.3
Hawkesbury Nepean Catchment Management Authority	SREP 20 – Hawkesbury Nepean River

## Part 4 – Mapping

Sufficient mapping has been included in this Planning Proposal to identify the mapping changes which are required. The Council will provide appropriate mapping in accordance with the *Standard technical requirements for LEP Maps*. The Council's mapping will be produced for gazettal.

## Part 5 – Community Consultation

Based on similar proposal, it is considered that an exhibition period of 14 days is sufficient community consultation for this planning proposal.

## Part 6 – Project Timeline

It is suggested that it would be reasonable for the LEP to be completed within 9 months from the week after the Gateway Determination is issued. The suggested project timeline is as follows:

Project Phase	Indicative Timeline
1. Anticipated commencement date	4 weeks from date of referral to P&E of revised planning proposal
2. Completion of technical information prior to government agency consultation	Nil
3. Government agency consultation	4 weeks
4. Preparation of written advice to the adjoining / affected property owners, public notice in a local newspaper, and exhibition material	2 weeks
5. Public consultation period	2 weeks
6. Consideration of submissions, assessment report and decision to proceed to final LEP	6 weeks
7. Request to PC to prepare a draft LEP under Section 59(1) of the Act	2 weeks
8. Finalisation of the content of the draft LEP by PC in consultation with Council and issuing of legal opinion on the draft plan	6 weeks
9. Request for online notification of the LEP	2 weeks

## Conclusion

It is considered that this planning proposal satisfies all requirements for a Gateway Determination by the LEP Review Panel. The fundamental development constraints identified in the “Structure Planning for the Kurmond and Kurrajong Investigation Area” have been addressed by this planning proposal.

In summary, the proposal is justified for the following reasons:

1. The land has the appropriate physical characteristics to support large lot residential development as proposed.
2. There will be no adverse environmental or visual impact as a consequence of development of the land. The proposal effectively represents infill development.
3. The proposed rezoning will make use of existing infrastructure, therefore no additional infrastructure is required.
4. The proposal represents a suitable expansion of the existing Kurmond Village.
5. The proposal will add to the variety and availability of housing stock within the Hawkesbury LGA.
6. The proposal is consistent with all relevant State, Regional and Local Strategies, including the Hawkesbury Residential Land Strategy.

It is therefore recommended that Council support the planning proposal and resolve to prepare an amendment to Hawkesbury Local Environmental Plan 2012 as proposed.