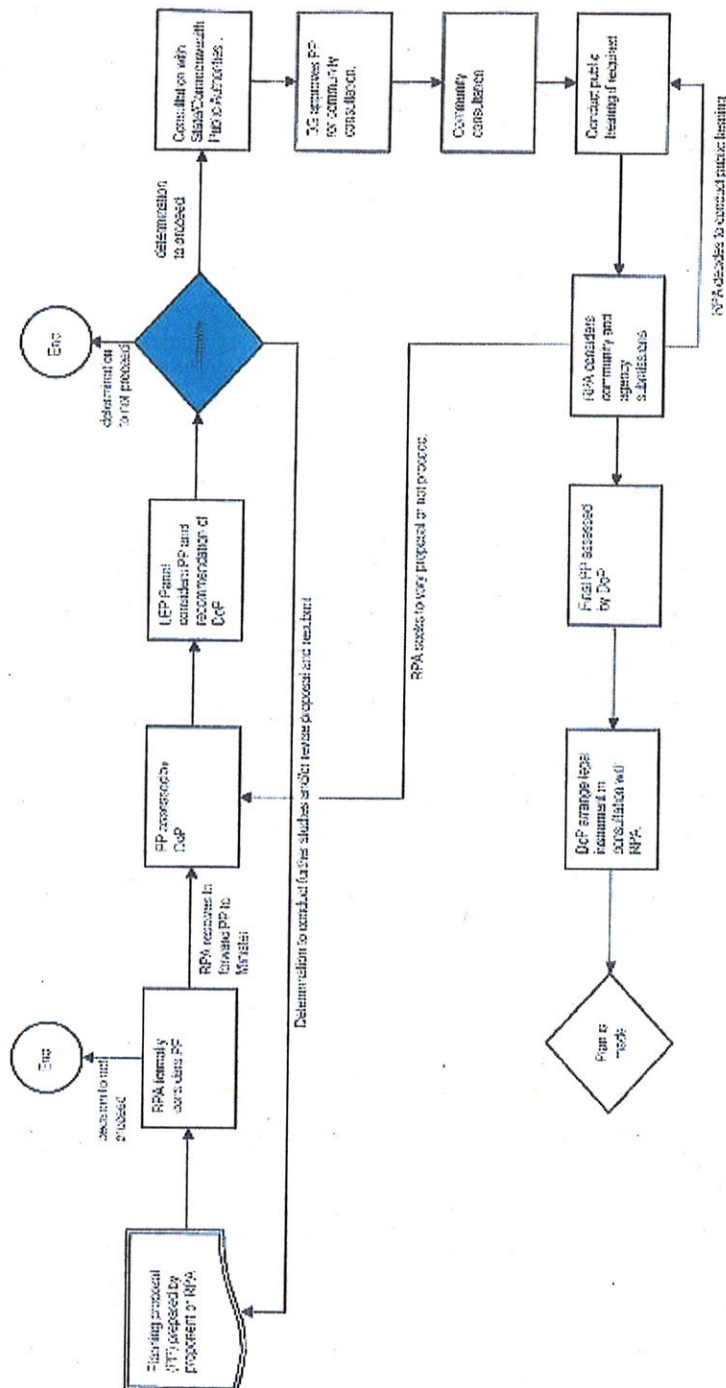




Figure 6-1 LEP Creation Process



Source: NSW Department of Planning (July 2009) "A guide for preparing planning proposals".



6.3 Planning Proposals

A planning proposal is a document that explains the intended effect of a proposed LEP and sets out the justification for making that plan. In this instance, it would include the justification to reclassify public land, from Community to Operational Land, in addition to the amendment of the relevant land use zones.

6.3.1 Matters to be addressed in a Planning Proposal

In preparation of a LEP the relevant planning authority must also explain and justify the proposal. This document must include the following four (4) parts:

Part 1 - A statement of objectives and intended outcomes of the proposal

Part 2 - An explanation of the provisions of the proposal

Part 3 - A justification of the objectives and outcomes, including how this is to be implemented (incorporating maps containing the appropriate detail are to be submitted, including land use zones, heritage areas and flood prone areas, etc)

Part 4 - Details of the community consultation that will be undertaken

The above parts are further explained in the following sections, and are based largely on the Department's *Guide to Preparing Planning Proposals* (July 2009).

6.3.2 Part 1 – Objective or Intended Outcomes

Part 1 of the planning proposal should be a concise statement setting out the objectives or intended outcomes of the planning proposal. It is a statement of what is planned to be achieved, not how it is to be achieved. It should be written in such a way that it can be understood by the layperson.

The objectives or intended outcomes (allied with Part 2 - the Explanation of Provisions, below) constitute the actual "proposal". They will be the eventual basis for the drafting of the legal instrument (the LEP) and if at any stage they are varied during the course of the planning proposal, the entire amended planning proposal will need to be resubmitted to the Minister to enable a decision to be made as to whether to issue a revised gateway determination for any reasons, including to require additional community consultation, or any further assessment requirements.

6.3.3 Part 2 – Explanation of Provisions

The explanation of provisions is an explicit statement of how the objectives or intended outcomes are to be achieved by means of new controls on development imposed via a LEP.



6.3.4 Part 3 – Proposal Justification

The justification sets out the case for changing the zones and/or development controls on the land affected by the proposed LEP. Within the justification there are a number of specific questions that must be discussed with reasons explained. An overarching principle that should guide the response to these questions is that "the level of justification should be proportionate to the impact the planning proposal will have". It is not necessary to address a question if it is not considered relevant to the planning proposal, so long as the reason why the question is not relevant is briefly explained.

The justification section of the planning proposal must therefore address the following:

- ▶ A. Need for the planning proposal;
- ▶ B. Relationship to strategic planning framework;
- ▶ C. Environmental, social and economic impact; and
- ▶ D. State and Commonwealth interests.

Further to the above point 'B. Relationship to strategic planning framework', the following briefly discusses some of the matters relevant to the proposal.

Planning Strategies

The following Planning Strategies would be applicable to the Planning Proposal.

Metropolitan Strategy

'City of Cities' – A Plan for Sydney's Future, better known as the Metropolitan Strategy (NSW Department of Planning, 2005), is a long-term blueprint to plan for Sydney's economy and employment, centres and corridors, housing, transport, environment and resources and parks and public places over 25 years.

The Sydney Metropolitan Strategy (SMS) provides local councils with strategic directions and challenges associated with reinforcing the economic and population growth of the metropolitan region while ensuring ongoing and improved quality of life for its residents. The State Government anticipates that Sydney's population will increase by 1.1 million people between 2004 and 2031 (i.e. from 4.2 million to 5.3 million), necessitating an additional 640,000 dwellings and 500,000 jobs.

This growth is to be managed by creating stronger cities within the metropolitan area. This will be achieved by focussing housing and jobs in major centres, maintaining a strong global economic corridor and limiting development in suburban neighbourhoods to protect the local character. To implement the SMS strategies, Sydney is arranged into ten subregions. The North West Subregion contains the Baulkham Hills Shire Council.

North West Subregional Strategy

Subregional strategies are the result of the metropolitan area being too large to resolve all of the planning aims and directions to a detailed local level through one metro strategy. Subregional planning is an intermediate step in translating the Metropolitan Strategy to a local level. The strategy acts as a link between local and State planning issues.



The North West Subregion is expected to have the highest housing (140,000) growth in the Sydney Region (Draft North West Subregion Strategy (Draft NWSS), Department of Planning (DoP)). The key actions for the North West Subregion, to meet housing targets, is to:

- ▶ Provide sufficient zoned residential to meet the housing capacity targets.
- ▶ Provide for a significant majority of new dwellings in strategic and local centres. (NW C2.1.2).
- ▶ Improve the subregion's performance against the target for State Plan Priority E5, 'Jobs Closer to Home'.

The Draft NWSS aims to establish a balanced approach to accommodating residential growth by concentrating development in centres and by strengthening towns, villages and neighbourhoods. The Government is planning for 5,185 new dwellings per annum for the North West Subregion. The housing targets set by the Draft NWSS for Baulkham Hills are 21,500 additional dwellings by 2031. West Pennant Hills has been identified as a small village under the draft NWSS. This is usually an area of between 800 and 2,700 dwellings.

In terms of the demographic character of the area, the Draft NWSS states that the average age of the population in the North West Subregion is 33 years old and there is a higher proportion of families with children than the Sydney Region. The area is also expected to have 16% of its population over the age of 65 by 2031. The North West Subregion has one of the lowest housing densities in the Sydney Region at 145 people per km² while across the Sydney Region housing density is 353 people per km². Detached housing is the most prevalent form of housing in this subregion at 82.3% while semi-detached housing and flats and units comprise of 6.9% and 10.8% respectively. This demographic character will have implications on the residential densities and dwelling types for Baulkham Hills.



State Environmental Planning Policies

State environmental planning policies (SEPPs) deal with issues significant to the State. The following SEPPs would be applicable.

Table 6-1 State Environmental Planning Policies

State Environmental Planning Policies	Applicable	Relevant
SEPP 1: Development Standards	No	No
SEPP 4: Development without consent and Miscellaneous Exempt and Complying Development	No	No
SEPP 6: Number of Storeys in a building	No	No
SEPP 10: Retention of Low-Cost Rental Accommodation	No	No
SEPP 14: Coastal Wetlands	No	No
SEPP 15: Rural Landsharing Communities	No	No
SEPP 19: Bushland in Urban Areas	Yes	Yes
SEPP 21: Caravan Parks	No	No
SEPP 22: Shops and Commercial Premises	No	No
SEPP 26: Littoral Rainforests	No	No
SEPP 29: Western Sydney Recreation Area	No	No
SEPP 30: Intensive Agriculture	No	No
SEPP 32: Urban Consolidation (Redevelopment of Urban Land)	Yes	Yes
SEPP 33: Hazardous and Offensive Development	No	No
SEPP 36: Manufactured Home Estates	No	No
SEPP 39: Spit Island Bird Habitat	No	No
SEPP 41: Casino Entertainment Complex	No	No
SEPP 44: Koala Habitat Protection	Yes	Yes
SEPP 47: Moore Park Showground	No	No
SEPP 50: Canal Estate Development	No	No
SEPP 52: Farm Dams, Drought Relief and Other Works	No	No
SEPP 53: Metropolitan Residential Development	No	No
SEPP 55: Remediation of Land	Yes	Yes
SEPP 59: Central Western Sydney Economic and Employment Area	No	No
SEPP 60: Exempt and Complying Development	No	No
SEPP 62: Sustainable Aquaculture	No	No
SEPP 64: Advertising and Signage	No	No



State Environmental Planning Policies	Applicable	Relevant
SEPP 65: Design Quality of Residential Flat Development	Yes	No
SEPP 70: Affordable Housing (Revised Schemes)	No	No
SEPP 71: Coastal Protection	No	No
SEPP (Building Sustainability Index: Basix) 2004	No	No
SEPP (Housing for Seniors or People with Disability) 2004	No	No
SEPP (Major Development) 2005	No	No
SEPP (Sydney Region Growth Centres) 2006	No	No
SEPP (Mining, Petroleum Production & Extractive Industries) 2007	No	No
SEPP (Temporary Structures and Places of Public Entertainment) 2007	No	No
SEPP (Infrastructure) 2007	No	No
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	No	No
SEPP (Exempt and Complying Development Codes) 2008	No	No
SEPP (Rural Lands) 2008	No	No
SEPP (Western Sydney Parklands) 2009	No	No

Ministerial Directions (Section 117 Directions)

The Minister for Planning, under Section 117(2) of the EP&A Act, may issue directions that local councils must follow when preparing new LEPs. A draft LEP may be inconsistent with the terms of some s.117 directions where the Director-General is satisfied that the provisions of the draft plan that are inconsistent are justified within the planning proposal.

6.3.5 Part 4 – Community Consultation

The document *A guide to preparing local environmental plans* outlines the consultation required for different types of planning proposals. For the purpose of public notification the guide distinguishes between "low impact" and other types of planning proposals. This part of the planning proposal should outline the community consultation that is to be undertaken in respect of the proposal, having regard to the requirements set out in the guide.



7. Conclusion

The constraints analysis has revealed that the subject site is constrained as a result of the high ecological values, bushfire risk and management requirements and flood risk. The area of high constraint has been identified as non-developable land in this report.

The current assessment recommends that development on the site be restricted to areas of low conservation significance. High and medium density housing is not recommended on the site due to the presence of high conservation value vegetation. However, low density housing would also provide a similar development footprint as that of a higher density, but with a reduced impact on ecological values.

It is recommended that native vegetation and native fauna habitat be retained within the site. A comprehensive Vegetation Management Plan is needed to describe the regeneration and revegetation program proposed for the site as part of this development. Also, a feral animal control program should be implemented to control the Rabbit population present on the site. Finally, appropriate signage should be erected at strategic areas points across the site to encourage pet owners to have dogs on leads in the park and to discourage the dumping of garden waste and rubbish on the site. Signs promoting the ecological attributes of the site are also recommended.

The study area is identified as bushfire prone land, with a Level 2 bushfire category and a Bushfire Protection Buffer on the site. Recommendations are included to minimise bushfire hazard through the incorporation of a managed APZ. A 35m APZ was recommended around the high conservation area.

A managed APZ would ensure effective fire-fighting through providing for fire access and ingress for emergency crews and residents and to provide water, access and other services.

It is recommended that development be limited to the western portion of the site adjacent to Hill Road (approx 7,900m²), with the modification and/or removal of approximately 4,380m² of BGHF ECC required to accommodate APZs. The development impacts are likely to be significant and any future development is likely to trigger a requirement for a Species Impact Statement and a biodiversity offset strategy. The offset strategy suggested relies on the removal of existing dwelling and associated structures on Lot 4 and rehabilitation of areas to increase the net area gain of EEC of approx 3700 m2 (including rehabilitation of medium conservation areas).

The overall biodiversity values of the site can be improved with the development of the identified areas of the site and implementation of the offset strategy.



8. Recommendations

The following steps are recommended if consideration is to be given to development of the site:

1. The merits of the proposal and offset strategy to be discussed with DECCW to determine whether to proceed with the development;
2. Targeted ecological site identification and survey be completed to locate assess and map vegetation across the site. The survey will locate individual trees via GPS to determine the exact removal impacts.
3. Council develop a VMP and overall management plan for the site;
4. Negotiations with DECCW and RFS be instigated for the requirements of the offset strategy and the APZs.
5. Council considers the site rezoning be incorporated with the LEP Standard Instrument process currently being developed by Council.
6. Council reclassify the land under the Local Government Act 1993 from community land to operational land.



9. References

- ▶ Abel Ecology (2005) Flora and Fauna Condition Report for Hill Road Reserve and Adjoining Properties, West Pennant Hills. Report prepared for Baulkham Hills Council.
- ▶ CD Recreation Services and Parkland Environmental Planners (2004) Recreation Needs Study for West Pennant Hills Valley.
- ▶ Department of Environment and Water Resources (2007) Draft Threat Abatement Plan for Competition and Land Degradation by Feral Rabbits. Online
<http://www.environment.gov.au/biodiversity/threatened/publications/draft-tap-rabbits.html>
- ▶ Department of Planning (2005) *Metropolitan Strategy "Cities of Cities"*, Department of Planning, Sydney.
- ▶ Department of Planning (2007) *North West Subregional Strategy*, Department of Planning, Sydney.
- ▶ Department of Planning (2006) Section 54(4) Notification Advice Cover Sheet, Version 15.
- ▶ GHD (2008) *Report for Hill Road Reserve - Flora and Fauna Report*. Report for Baulkham Hills Shire Council April 2008.
- ▶ Keith, D (2004) Ocean shores to desert dunes: the native vegetation of New South Wales and the ACT. Department of Environment and Conservation (NSW), Hurstville.
- ▶ NSW RFS (NSW Rural Fire Service) 2006. *Planning for Bush Fire Protection: A Guide for Councils, Planners, Fire Authorities and Developers*. Prepared by NSW Rural Fire Service in cooperation with the Department of Planning.
- ▶ Patterson Britton (2005). *Flooding Investigation – Hill Road and Adjacent Properties*, Patterson Britton Pty Ltd.
- ▶ Department of Environment and Water Resources (2007) Draft Threat Abatement Plan for Competition and Land Degradation by Feral Rabbits. Online
<http://www.environment.gov.au/biodiversity/threatened/publications/draft-tap-rabbits.html>
- ▶ Practice Note 06-002 Preparing LEPs using the standard instrument: standard zones, Department of Planning, 2006.
- ▶ Baulkham Hills Shire Council, *Local Environmental Plan 2005*.
- ▶ Baulkham Hills Shire Council, *Draft Residential Development Control Plan*, July 2008.



Appendix A

Ecology Assessment

ATTACHMENT 7



Legend

- | | |
|---|--|
| — Creek Line | High conservation significance to be impacted (4379m2) |
| Subject Site Lots | High conservation significance retained (20247m2) |
| Riparian Corridor | Medium Conservation significance area to be rehabilitated (privet Thicket/regrowth 2834m2) |
| APZ 35m depth | Rehabilitation Area (5653m2) |
| Potential Development Area (min depth 27m - 7883m2) | |

Development Potential Plan & Legend, GHD Development Opportunity Report, December 2009