



planning consultants

Planning Proposal

Amendment to Blacktown Local Environmental Plan 1988



To rezone 1-3 Kilbenny Street, Kellyville
from Residential 2(a) to Residential 2(c)

Prepared for: Rosie Bonham
Project No: 6637B
Date: November 2010



Planning Proposal
1-3 Kilbenny Street, Kellyville

Printed: 18 November 2010
File Name: P:\PROJECTS\6637B 1-3 Kilbenny Street, Kellyville\Reports\6637B.doc
Project Manager: Warwick Gosling
Client: Rosie Bonham
Project Number: 6637B

Document history and status

Version	Issued To	Qty	Date	Reviewed
Draft	Project Manager	1	16/11/2010	Rob Player
Draft	Project Manager	1	17/11/2010	Stephen Earp
Final	Blacktown Council	1	18/11/2010	Warwick Gosling



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1 Introduction

Don Fox Planning Pty Ltd (DFP) has been commissioned by Rosie Bonham to prepare a Planning Proposal to rezone the subject land at 1-3 Kilbenny Street, Kellyville which is located on the western side of the intersection of Windsor Road and Sanctuary Drive, from Residential 2(a) to Residential 2(c) under Blacktown Local Environmental Plan 1988 (Blacktown LEP).

To facilitate the proposed rezoning, it is requested that Blacktown Council forward this Planning Proposal to the Department of Planning for a Gateway Determination to allow a draft Local Environmental Plan to be prepared. The purpose of the Planning Proposal is to ultimately facilitate a medium density residential development on the subject land, to rectify the existing land use conflict and make consistent the built form in the area.

2 The Site and Surrounds

2.1 The Site

The subject land is legally described as Lots 601 and 602 DP 1015995, known as 1-3 Kilbenny Street, Kellyville.

2.1.1 Site Location

The subject site is located on the western side of the intersection of Windsor Road and Sanctuary Drive. The site is located approximately 430 metres to the south of the Rouse Hill Shopping Centre. A Locality Plan is attached at **Figure 1**, and an aerial photograph of the subject site is attached at Figure 2.

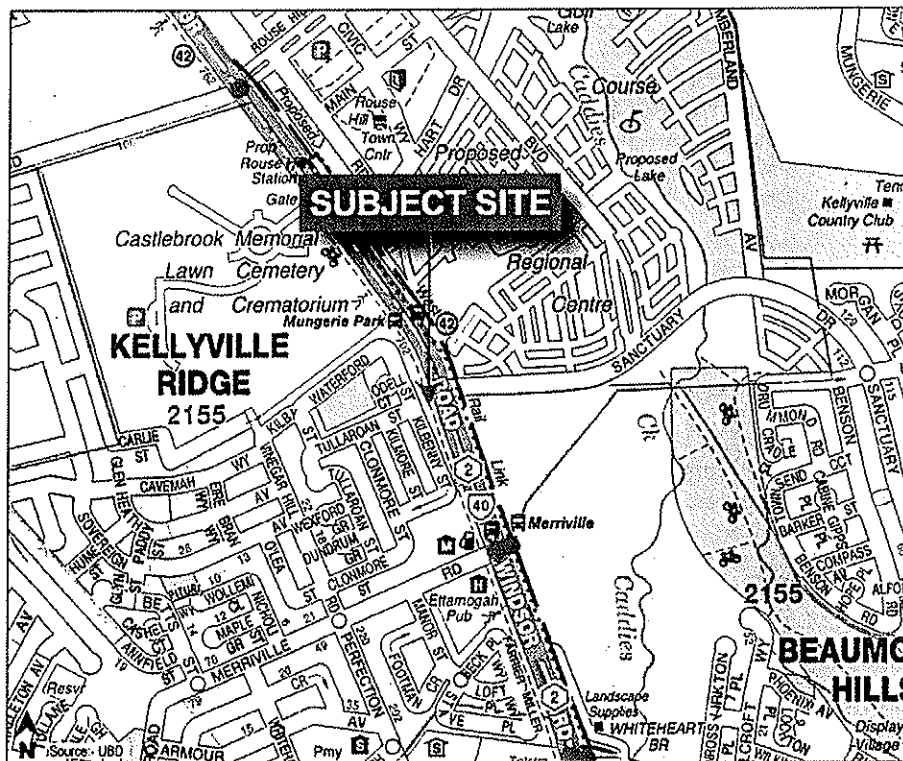


Figure 1 - Locality Plan

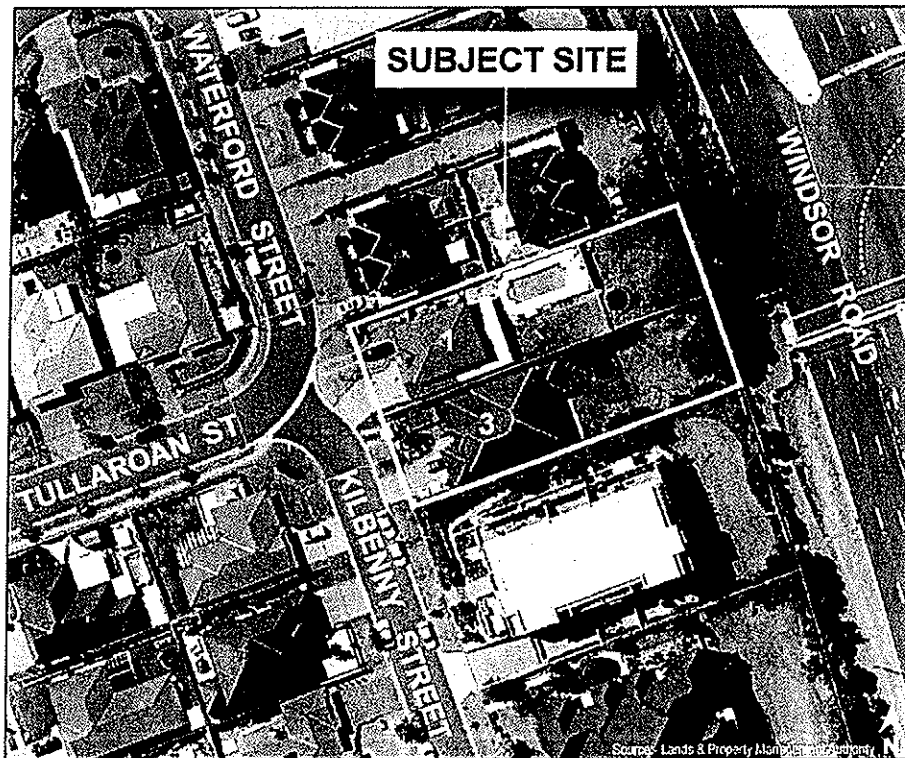


Figure 2 - Aerial Site Photograph

2.1.2 Site History

Land within the broader area of Kellyville ridge, between Clonmore Street in the west, Waterford Street in the north, Windsor Road in the east and Kilmore Street in the south was previously all zoned 2(c) Residential pursuant to the provisions of Blacktown Local Environmental Plan (BLEP) 1988. This 2(c) zoning was put in place by Council in April 1991 with the gazettal of amending LEP's for the Parklea Release Area.

In September 2001 Council resolved to downzone large parts of this area from 2(c) to 2(a) Residential, to more appropriately reflect the aspirations of Council for low density, single dwelling house-style development and appropriate forms of medium density housing. Some 10 years after the gazettal of the amending LEP's for the Parklea Release Area Council did not believe that this was a suitable location for broadscale Residential Flat Building (RFB) development.

By way of history, in mid 2000 Council first began to receive preliminary enquiries from developers wishing to submit DA's for RFBs within this 2(c) Residential zone. Council was concerned at the prospect of repetitive residential flat buildings on small sites in this location. However, as the former 2(c) zone allowed this form of RFB development, Council would be unlikely to sustain refusals of DA's if they became the subject of appeals in the NSW Land and Environment Court.

Council therefore sought to prevent this form of RFB development and, in September / October 2000 placed on public exhibition a draft LEP to replace the 2(c) zone with a conventional 2(a) Residential zone.

This action by Council resulted in a strident outcry from developers who claimed that they had already purchased subdivided land in this area with the express purpose of fully utilising the RFB development potential of the 2(c) Residential zone. Further, the NSW Department of Urban Affairs and Planning (DUAP) indicated to Council, in response to the

draft LEP, that it was extremely unlikely to agree to the total elimination of this 2(c) zone in this location, given its close proximity to the Rouse Hill Regional Centre and major transport infrastructure.

Given these factors, Council reluctantly decided in late 2000 that the draft LEP as exhibited would not receive State Government support and resolved instead to prepare a new draft LEP which would reduce the extent of the 2(c) Residential zone as opposed to completely eliminating it. The new residential zonings in this area, as a result of the "down-zoning" process, are shown below in **Figure 3**. The LEP Amendment resulted in 1-3 Kilbenny Street being rezoned to Residential 2(a), which adjoined a 4 storey residential flat building to the south and townhouse development to the north.

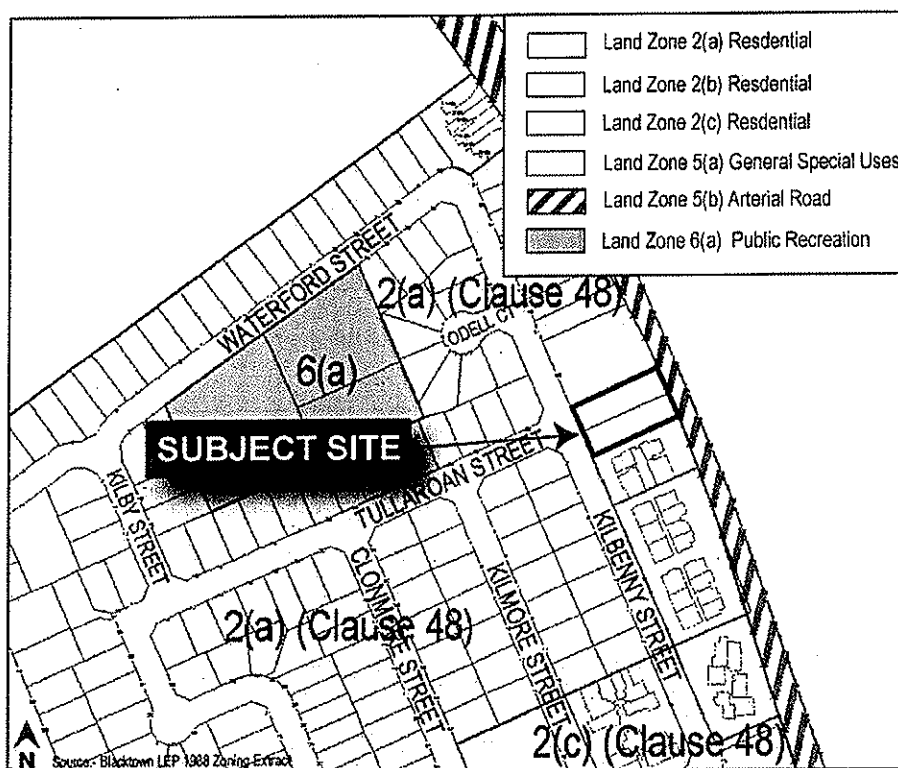


Figure 3 – Extract of Blacktown LEP 1988

2.1.3 Site Details

No's 1 & 3 Kilbenny Street are legally described as Lot 601 and 602 DP 1015995 and are located adjacent to each other and are approximately 811m² and 821m² in area respectively, comprising a total site area of approximately 1,632m². The composite site fronts Windsor Road to the north west, and Kilbenny Street to the south east, which is accessible via Merriville Road to the south.

The subject site gently slopes down to the southeast, and comprises 2 x two storey detached brick dwellings with pitched tiled roofs at 1 & 3 Kilbenny Street, with backyards and direct driveway access to Kilbenny Street. The composite site (**Figure 4**) is bounded by townhouses to the north (**Figure 5**) and a RFB to the south (**Figure 6**).



Figure 4 – 1-3 Kilbenny Street and Adjoining RFB



Figure 5 – 1 Kilbenny Street and Adjoining Townhouse Development at 53 Waterford Street



Figure 6 – 3 Kilbenny Street and Adjoining RFB Development at 5-7 Kilbenny Street

2.2 The Surrounds

The subject site is located within the Kellyville Ridge residential estate, which through various land use zoning changes, comprises residential development of a variety of scale and residential types, including detached dwellings, multi-dwelling townhouse developments and 4 storey RFBs.

Adjoining the site to the north is a 2 storey townhouse development whilst to the south a 4 storey residential flat building adjoins the site (see Figure 2).

The eastern side of Kilbenny Street comprises the 2 dwellings on the subject site and the residential flat building for the remainder. On the opposite side of the street detached dwellings houses are present.

3 A Guide to Preparing Planning Proposals

This section of the report addresses the criteria to be considered in the NSW Department of Planning's *A Guide to Preparing Planning Proposals*.

3.1 Part 1 - Objectives or Intended Outcomes

The objective of this Planning Proposal is to rezone the subject site from Residential 2(a) to Residential 2(c) pursuant to the Blacktown Local Environmental Plan 1998. The proposed 2(c) zoning will facilitate the rectification of an irregular residential built form context resulting from conflicting densities of residential land uses.

3.2 Part 2 – Explanation of Provisions

To facilitate the proposed amendment to BLEP 1988 it will be necessary to amend the land use zoning map by extending the blue residential outline to include the subject land, and to rezone the site 2(c) Residential.

As the subject site is adjoined by two storey townhouse development to the north, and four storey RFB development to the south, it is recommended that the zoning of the site not constrain potential residential development to two storeys in height. Rather, it should permit three storey development to provide as a transition between the existing townhouse development and RFB development on the adjoining properties, and to rectify the existing residential density and land use conflict of the locality.

Clause 48 of BLEP 1988 allows development for the purpose of dual occupancies, integrated housing and medium density housing to be carried out with the consent of the Council, but only if the development is limited to two storeys in height. To achieve this, the subject property would be required to be exempt from the provisions of Clause 48 of BLEP 1988.

Therefore, the BLEP 1988 zoning map would reflect the new 2(c) Residential zoning, while not identifying the land as subject to Clause 48 of BLEP.

The proposed amendment to BLEP 1998 will ensure that the site correctly relates to the land use zones, and established development on adjoining land, and permits a three storey residential development which would ensure an appropriate residential built form and streetscape along both Kilbenny Street and Windsor Road.

3.3 Part 3 – Justification

Part 3 – Justification addresses the questions that the Department of Planning applies to Planning Proposal Gateway Determinations for the rezoning of land. Each of the questions is addressed individually below.

1. Is the Planning Proposal a result of any strategic study or report?

This Planning Proposal is not the subject of any strategic study or report, but is a response to the existing land use zoning and established residential built form in this locality which has resulted in an irregular planning context of residential development in this locality along both Kilbenny Street and Windsor Road.

As the subject land is located between existing townhouse development and a residential flat building, the proposed 2(c) zoning under BLEP 1988 is considered the most appropriate to allow for suitable residential redevelopment of the site.

2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning history of the subject site and locality (refer to Section 2.1.2 above) identifies the haphazard approach to land uses in the Kellyville Ridge locality, which involved Blacktown Council converting 2(c) zoning back to 2(a) across the Local Government Area (LGA). The rezoning of land in this area back to 2(a) Residential, except where approved RFB developments had already been approved, had left No's 1 and 3 Kilbenny Street in the extremely difficult position of being located at the northern extremity of the RFB zone.

Due to the limitations implied on development within the 2(a) Residential zone, the current land owners are not able to achieve a suitable outcome which appropriately reflects the existing built form and adjoining residential densities.

Therefore the only means through which this matter can be resolved is to have the subject land rezoned from 2(a) Residential to 2(c) Residential, thus achieving the objectives

outlined above and rectifying the existing land use and residential development density issue.

3. Is there a net community benefit?

It is considered that there will be a number of benefits to the general community and to the Blacktown LGA as a whole. The net community benefits are discussed below:

- Removal of residential density conflict

As identified above, the Waterford Street / Kilbenny Street frontage is comprised of a mixture of residential densities, with the subject land and associated low density residential development adjoining medium density Townhouse development to the north and medium density RFB development to the south. Under the current zoning, the subject land is not capable of being re-developed to address this matter.

It is considered appropriate that Council support the rezoning of Lots 601 and 602 to allow RFB development pursuant to the 2(c) Residential zone. This will allow the redevelopment of these 2 sites into a form of development more compatible with the nature of surrounding development.

It is suggested that any RFB development on these lots should be developed based on Lots 601 and 602 being consolidated and based upon 3 storey development only being permitted on these sites. This will allow for an appropriate transition between the existing 4 storey RFB development to the south and the existing 2 storey Townhouse development to the north.

- Increased housing supply

Considering the proximity of the subject land to the Rouse Hill Regional Centre complex to the north, additional residential housing supply in the locality is able to be supported, and improve the demand of services and facilities provided nearby.

It is likely that future redevelopment of the subject land would provide more dwelling units, than the 2 dwellings currently provided for.

- Providing new housing opportunities in established areas reduces the need for green field redevelopment

On a broader public benefit matter, it is more economical for new housing to be located in existing areas that are already serviced by public utilities such as water, sewer, electricity, phone and communications than locating development in Greenfield areas. Redeveloping infill sites like the subject land is better economic practice than establishing new housing in greenfield release areas. This ultimately reduces the burden of cost for new infrastructure on the tax payers.

4. Is the Planning Proposal Consistent with the Objectives and Actions Contained within the Applicable Regional and Subregional Strategy (including the Sydney Metropolitan Strategy and Exhibited Draft Strategy)?

Yes, the proposal is consistent with the aims of the Sydney Metropolitan Strategy.

Sydney Metropolitan Strategy

The Sydney Metropolitan Strategy aims to provide new housing stock around public transport nodes and within areas close to public transport, retail and commercial centres and community facilities.

The subject site has an area of approximately 1,632m², and is located approximately 430m from the Rouse Hill Regional Centre. Public bus transport is available along Windsor Road, which provides access not only to retail and commercial services and community facilities at Rouse Hill, but to the surrounding public rail network and the wider district.

The Sydney Metropolitan Strategy identified that the population of Sydney will grow by 1.1 million people by the year 2031. This has been reviewed in the *Sydney Towards 2036* publication which indicates that the population is forecast to reach 6 million by 2036, an increase of 1.7 million people since 2006. This will require an additional 770,000 homes to be built by 2036. The Sydney Metropolitan Strategy aims to provide 70% of new dwellings in existing urban areas.

It is considered that the rezoning of the subject site from 2(a) Residential to 2(c) Residential is consistent with the aims of the Sydney Metropolitan Strategy.

North West Subregional Strategy

The North West Subregional Strategy identifies the nearby Rouse Hill Regional Centre as a 'planned Major Centre'. Major centres are considered to have a radius of 1km and are described as follows:

"Major shopping and business centre serving immediate subregional residential population usually with a full scale shopping mall, council offices, taller office and residential buildings, central community facilities and a minimum of 8,000 jobs."

Provision of additional medium density residential development on the subject site which is located approximately 430m from the Rouse Hill Regional Centre is consistent with the aims of the North West Subregional Strategy to provide dwellings in close proximity (i.e. within 1km) to the major centre.

The Strategy states that *"over the past decade almost two thirds of new residential development has been accommodated within existing centres, defined as being 800 metres from a rail line or 400 metres from a high frequency bus route."* The subject site is located approximately 430 metres from the Rouse Hill Regional Centre and is directly adjacent to a bus service that provides access to Blacktown and surrounds. Therefore it is considered that the proposed rezoning is consistent with these components of the Strategy.

The Strategy states *"over the next 10 years, it is proposed that the majority of future dwelling growth will be located in centres with good public transport"* and further outlines that *"across the Metropolitan Region a target of 60-70 percent of new housing will be accommodated in existing urban areas, focused around centres and corridors."*

The rezoning of the subject site to facilitate new medium density residential housing in an area that is within an easy 5 to 10 minute walk from the Rouse Hill Regional Centre and a bus service along Windsor Road will provide future residents with convenient access to a range of retail, commercial and community facilities and services. The site is well served by public infrastructure and retail and commercial facilities and as such is an appropriate location for a new medium density residential development.

It is therefore evident that the proposal complies with the provisions and aims of the North West Subregional Strategy.

5. Is the Planning Proposal Consistent with the Local Community Strategic Plan or other Local Strategic Plan?

Blacktown City Council has undertaken the Blacktown City 2025 Strategy. The Strategy statement for urban living and infrastructure is as follows:

"To provide housing that meets the diverse needs of our community in liveable neighbourhoods and is supported by infrastructure that serves the current and future demands of the community in a balanced manner."

It is considered that rezoning the subject site from Residential 2(a) to Residential 2(c) is consistent with the Strategy statement as the site is approximately 430 metres from the

Rouse Hill Regional Centre and is accessible to public bus services adjacent to the site on Windsor Road that will provide good access to Blacktown.

6. Is the Planning Proposal Consistent with the applicable State Environmental Planning Policies?

When considering an amendment to an LEP, it is necessary to consider the provisions of State Environmental Planning Policy No. 55. Considering the established residential zoning and use of the site, the provisions of SEPP 55 do not apply to the subject LEP amendment as the established use of the land for residential purposes will not be altered.

The proposed rezoning of the subject land from 2(a) Residential to 2(c) Residential would allow for the development of a RFB, which upon submission of a Development Application to Council, would be subject to the provisions of SEPP 65 – Design Quality of Residential Flat Buildings. However, the provisions of SEPP 65 do not apply at this time. SEPP (BASIX) will also apply at the Development Application stage.

7. Is the Planning Proposal consistent with applicable Ministerial Directions (S117 Directions)?

Yes, the proposal is consistent with the relevant S117 Directions – 3.1 Residential zones as discussed below.

Direction 3.1 Residential Zones, requires LEPs to include provisions consistent with the broad housing choice objectives when preparing LEPs. These objectives are as follows:

- “(a) To encourage a variety and choice of housing to provide for existing and future housing needs.*
- “(b) To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services.*
- “(c) To minimise the impact of residential development on the environment and resource lands.”*

The proposed rezoning is consistent with the relevant Section 117 Directions as it will increase the residential density in an area close to the Rouse Hill Regional Centre and in a location that is well served by bus services to Blacktown.

Rezoning of the subject land from 2(a) Residential to 2(c) Residential would permit development of a RFB on the site. This increase in residential density would be taking advantage of existing services and infrastructure currently available to the site which is occupied by two detached dwellings. No new infrastructure or services would be required to be provided to the locality as a result of the proposed residential flat development on the subject site.

As the subject site currently contains two double storey detached dwellings, there would be a negligible impact upon the environment and resource lands.

“Direction 3 – Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?”

The site is located within the North West Subregional Strategy area and the site is within a 1km radius of the Rouse Hill Regional Centre. Provision of additional housing opportunities within the Kellyville Ridge area will assist the economic viability of the Rouse Hill Regional Centre and ensure that housing is in a location well served by retail and commercial opportunities. The subject site is also located near a bus stop on Windsor Road that provides good access to Blacktown City Centre.

"Direction 4 – Will the LEP facilitate permanent employment generating activity or result in a loss of employment lands?"

The proposed rezoning seeks to change the existing zoning from 2(a) Residential to 2(c) Residential. As such there will be no loss of employment lands, and will potentially increase the competition for employment at the Rouse Hill Regional Centre.

"Direction 5 – Will the LEP be compatible/complementary with surrounding land uses?"

Lots 601 and 602 have each been developed for a single dwelling, whereas the adjoining land immediately to the south is developed with a 4 storey RFB under a 2(c) Residential zone. This has meant that the families living in these two allotments, and particularly at Lot 602, are significantly affected by a lack of privacy from the neighbouring RFB. To the north, the subject site is adjoined by a medium density Townhouse development which has increased the intensification of residential land use in the area.

Therefore the proposed rezoning of land from 2(a) Residential to 2(c) Residential is considered to be not only compatible and complementary to the neighbouring land uses, but will result in the rectification of incompatible residential land use densities around the Kellyville Ridge locality.

"Direction 6 – Is the LEP likely to create a precedent; or create or change the expectations of the land owner or other land holders?"

Considering the unique history and location of the subject land (refer to Section 2.1.2 above), the grounds for amendments to BLEP based upon incompatible residential land use densities are considered rare due to the nature of this application and the existing medium density residential development that adjoins the subject site. Therefore the proposed amendment to BLEP is not likely to create a precedent or change the expectations of other land holders in the Blacktown LGA.

"Direction 7 – Will the LEP deal with a deferred matter in an existing LEP?"

This site is not a deferred matter in the Blacktown LEP 1988.

"Direction 8 – Have the accumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?"

DFP has recently submitted an application for a spot rezoning for land at 236 Richmond Road, however this site requested rezoning of land from Special Uses 5(a) to Residential 2(a) to reflect the change in use from a previous public works site to a proposed residential development, therefore re-activating the land.

Accordingly, it is considered that this planning proposal can be considered in isolation and is designed to facilitate an appropriate medium density residential development consistent with existing RFB and townhouse development on nearby properties in this locality.

8. 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 this Planning Proposal?

The existing residential properties have been developed within the last 15 years, and do not contain any critical habitat or threatened species on the subject site. The potential future re-development of the land to accommodate a RFB will not require the removal of any critical habitat, threatened species, population or ecological community.

9. Are there any likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

The subject site is not constrained by any of the following:

- Land slips

- Flooding
- Bushfire
- Other geotechnical issues

The subject site is therefore not likely to be impacted by any environmental impacts as a result of the proposed 2(c) Residential zoning. As the subject site is already developed with two detached dwellings, the proposed future re-development of the site is therefore not likely to be subject to any additional environmental effects as a result of the construction of a RFB on the subject site.

10. Has the Planning Proposal adequately addressed any social and economic effects?

The subject site does not contain any items of environmental heritage and is not likely to contain any identified archaeologically significant sites. The rezoning of the site from 2(a) Residential to 2(c) Residential will ensure that the subject site appropriately reflects the existing medium density residential development on the adjoining properties. Accordingly, it is considered that there will be a social benefit from ensuring that future residential development on the subject site is consistent with the existing streetscape and character of the locality.

As discussed previously, it is considered that the rezoning will have a positive economic effect on the Rouse Hill Regional Centre.

11. Is there adequate infrastructure for the Planning Proposal?

The subject site is well serviced by all public utility services including:

- Electricity
- Water
- Sewer
- Telephone and internet services

As discussed, there is a bus stop on Windsor Road near the subject site that provides public bus transport access to Blacktown City Centre.

The subject site is within 430 metres of the Rouse Hill Regional Centre and as such is well served by retail and commercial services to satisfy the daily needs of the residents. Additional regional facilities are available at the Blacktown City Centre which is within a 15 minute bus trip or a 10 minute car journey.

There is public open space available to the future residents of the development proposal at the subject site directly to the west on the opposite side of Waterford Street.

Accordingly it is considered that the subject site is well serviced by all essential public infrastructure services, commercial and retail facilities, community services and recreation areas.

12. What other views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Due to the local nature and history of the subject site and surrounds, and due to the residential nature of the subject land, no further consultation has been required with the State and Commonwealth public authorities in accordance with this Planning Proposal Gateway submission.

4 Conclusion

This planning proposal has provided a detailed assessment of the subject site and the surrounding development and has provided a justification for the rezoning proposal against the criteria provided in *"A Guide to Preparing Planning Proposals"* published by the Department of Planning.

It is considered appropriate that Council support the rezoning of Lots 601 and 602 to allow an RFB development pursuant to the 2(c) Residential zone. This will allow the redevelopment of these 2 sites into a form of development more compatible with the nature of existing medium density residential developments in this locality.

It is suggested that any RFB development should be permitted on Lots 601 and 602 as a consolidated development site with a 3 storey height limit. This will allow for an appropriate transition between the existing 4 storey RFB development to the south and the existing 2 storey townhouse development adjoining to the north.

The subject site is well serviced by all essential urban infrastructure and is in close proximity (ie. within 430 metre) of the Rouse Hill Regional Centre and, accordingly, the subject site is considered appropriate for a new residential flat development.

Accordingly, for the reasons outlined in this Planning Proposal report it is considered appropriate by Don Fox Planning for the subject site to be rezoned from Residential 2(a) to Residential 2(c) pursuant to an amendment to BLEP 1988.