

ITEM 4

LOCAL PLANNING PANEL AGENDA

LOCAL PLANNING PANEL MEETING: 20 June 2018

Proponent	Mr & Mrs G Bell and Ms T Nicholls
Owner	As Above
Site Area	10.29 hectares
Political Donation	None Disclosed

REPORT

The purpose of this report is to present the planning proposal applicable to land at 32-34 Jacks Lane, Maroota (Lot 4 DP864355) to the Local Planning Panel for comment in accordance with Section 2.19 of the Environmental Planning and Assessment Act 1979.

The planning proposal seeks to rezone the site from RU1 Primary Production to RU2 Rural Landscape.

THE HILLS LOCAL ENVIRONMENTAL PLAN 2012

	Existing	Proposed by Proponent
Zone:	RU1 Primary Production	RU2 Rural Landscape
Maximum Height:	10 metres	No change
Maximum Floor Space Ratio:	Not applicable	No change
Minimum Lot Size:	10ha	No change

THE SITE

The subject site is irregular in shape and comprises an approximate area of 10.3 hectares. The site has a moderate slope of approximately 10% from east to west away from Jacks Lane. The western portion of the site is heavily vegetated with Shale Sandstone Transition Forest which is a species listed as a Critically Endangered Ecological Community under the Biodiversity Conservation Act 2016. This endangered vegetation covers at least 21% of the subject site and forms part of a vast and largely undisturbed network of vegetation. The subject site contains a single storey dual occupancy and rural sheds. Adjoining sites also comprise rural and residential development of a similar character.



Figure 1
Subject Site and Existing Locality

DESCRIPTION OF PLANNING PROPOSAL

The planning proposal seeks to rezone the site from RU1 Primary Production to RU2 Rural Landscape to facilitate a development application for a rural cluster subdivision. The proposal also requests an amendment to the Terrestrial Biodiversity Map within The Hills LEP 2012 to include vegetation on the subject site.



Figure 2
Existing Land Zone (left) and Terrestrial Biodiversity Map (right)

In support of the planning proposal the proponent has submitted a subdivision concept illustrating the intended future development outcomes for the site. Figure 3 below includes indicative building envelopes and resulting lot sizes between 7,000m² and 1 hectare.



- Greater Sydney Region Plan

The proposal would facilitate the opportunity to map environmental values to secure future protection on site and connect the area to the existing biodiversity network (Objective 27). However the Plan advocates a place-based planning approach that stipulates rural-residential development is not an economic value of the Metropolitan Rural Area and is generally not supported. It may be supported where there are no adverse impacts on local amenity and where environmental, social and economic values are protected.

- Central City District Plan

The proposal presents the opportunity to map significant vegetation on site and ensure its protection as part of the existing protected network of established bushland (Priority C15). However, the management approach to rural areas emphasises that Sydney's future housing needs will be comfortably satisfied within the current boundary of the Urban Area.

Further rural residential development within the Metropolitan Rural Area is generally not supported because it is not an economic value and may only be supported where environmental, social and economic values are enhanced and protected. While the proposal presents an opportunity to facilitate protection of environmental values, it may also contribute to fragmentation and alienation of resource lands (Priority C18).

The District Plan's strategic approach to natural hazards specifies that proposals should not increase the density of development in areas with limited evacuation options as it increases the risk to life and property. It requires consideration of limiting new development in areas exposed to existing natural hazards (Priority C20).

- Ministerial Direction 1.2 Rural Zones

The objective of this Direction is to protect the agricultural production value of rural land. It provides that a relevant planning authority must not rezone land from a rural zone to a residential, business or industrial zone or increase the permissible density of land within a rural zone.

- Ministerial Direction 4.4 Planning for Bush Fire Protection

This direction requires a planning proposal to have regard to Planning for Bush Fire Protection 2006 and ensure the adequate provision of Asset Protection Zones, two-way access roads linking to perimeter roads and/or fire trail networks, adequate water supply for fire-fighting purposes, minimisation of the area of land directly interfacing with the hazard and controls regarding combustible materials in the Inner Protection Area.

A proposal may only be inconsistent with this Direction if written advice is obtained from the Commissioner of the NSW Rural Fire Service (NSW RFS) stating that notwithstanding the non-compliance the NSW RFS does not object to the proposal's progression. In its pre-Gateway consultation comments, the NSW RFS has provided written advice in response to the proponent's Bushfire Hazard Assessment Report stating that it does not support the proposal.

- Rural Lands Strategy and Employment Lands Direction

The Strategy aims to preserve and sustain the long-term agricultural land use and protect the future rural economy. The Strategy also aims to avoid and manage land use conflicts between rural residential and agricultural use and manage the demand for future rural subdivision. Agricultural land is easier to preserve if it is in larger land holdings and the difficulties and costs associated with reversal of subdivision make it unlikely to be put back into production for future use, leading to loss of agricultural potential.

Zoning is used to identify the principal or primary objective for any future use as well as existing uses. The Hills Local Environmental Plan 2012 permits rural cluster subdivision in the RU2 Rural Landscape zone and RU6 Transition zone for lots larger than 10ha. The subject site and surrounding locality was zoned RU1 Primary Production, in part, to reflect the existing and future activities permitted under SREP 9 – Extractive Industry as well as site opportunities and constraints such as topography, bushland and significant vegetation. Along this nominated spine is a concentration of other agricultural industries including nursery and horticulture, market gardens and orchards. The RU1 Primary Production zone applicable to this area was an acknowledgement of these existing uses and the lands potential for future use.

MATTERS FOR CONSIDERATION

The planning proposal requires consideration of the following matters:

(a) Bush Fire and NSW RFS Pre-Consultation Comments

The Bushfire Hazard Assessment Report submitted by the proponent states that the planning proposal has the capacity to comply with Planning for Bush Fire Protection 2006 and satisfactory Asset Protection Zones can be provided. Pre-Gateway consultation was sought with NSW RFS who have provided written advice indicating that they do not support the proposal due to its inconsistency with Planning for Bush Fire Protection 2006, the limited capacity to facilitate adequate emergency access and egress, the suitability of the site for intensification of development and the proposal's encouragement of incompatible land uses in a bush fire prone area.

The proponent's bush fire consultant provided a written response to NSW RFS concerns stating that deviations from Planning for Bush Fire Protection 2006 are minor and relate only to access. The response stated that written advice provided by RFS to Council significantly deviates from RFS pre-lodgement advice provided to the proponent. The proponent's bush fire consultant stated that a second egress could be provided but was not required by the RFS. RFS have raised concerns about providing a second egress directly through the northern hazard and have indicated that it is not likely to satisfy access issues.

NSW RFS have indicated that the issues raised are not likely to be mitigated through design solutions. RFS have also objected to rural cluster subdivisions in the Shire even in circumstances where they are a permissible use in the RU2 Rural Landscape zone.

It should also be noted that a similar planning proposal in the same locality is currently with the Department of Planning and Environment for finalisation and Council is unable to exercise its delegation due to an outstanding objection from the NSW RFS. RFS are likely to retain this standpoint at the crucial strategic assessment stage where rural cluster subdivisions can be most effectively addressed.

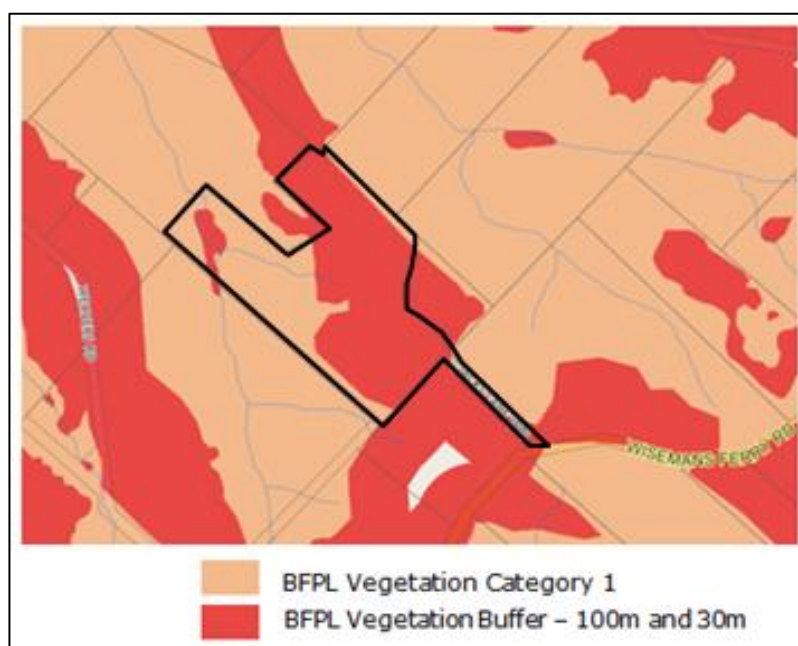


Figure 4
THSC Bush Fire Mapping

(b) Loss of Agricultural Land and Land Use Conflict

Retention of land with agricultural potential has increased in importance with the provision of housing and infrastructure to support Sydney's rapidly growing population. Opportunities to feed and support the population through agricultural land uses within the Greater Sydney Region have become more constrained, placing greater pressure on the retention of existing agricultural lands. This includes retention of land that may not currently have an agricultural use in operation but has some potential for future use. Rural residential development is not an economic value particularly as a result of the loss of agriculturally viable land. Strong biodiversity outcomes would need to be demonstrated.

The planning proposal report submitted by the proponent states that the suitability of the site for agricultural use is limited due to poor quality soil, significant vegetation and topography and Council-imposed restrictions on the site. The Soil Chemistry Profile submitted with the proposal states that the current soil quality of the site is not ideal for agriculture but can be improved for future agricultural use at a reasonable productivity.

(c) Precedent for Locality

The circumstances of the site used by the proponent to justify the proposal (currently zoned RU1, on the periphery of RU2 and containing significant vegetation) are not unique to this site and could be used to justify similar rezoning of a number of other properties within the locality. This proposal should be considered in the context of the implications for similar sites in the locality and the potential wider threat to land with current and future agricultural potential.

(d) Biodiversity Protection

The site comprises Shale/Sandstone Transition Forest (Shale), a species listed as a Critically Endangered Ecological Community under the Biodiversity Conservation Act 2016. The Terrestrial Biodiversity map in Figure 2 above does not extend to the subject site and this proposal facilitates the opportunity to map existing vegetation on site to potentially secure a protected outcome in the future.

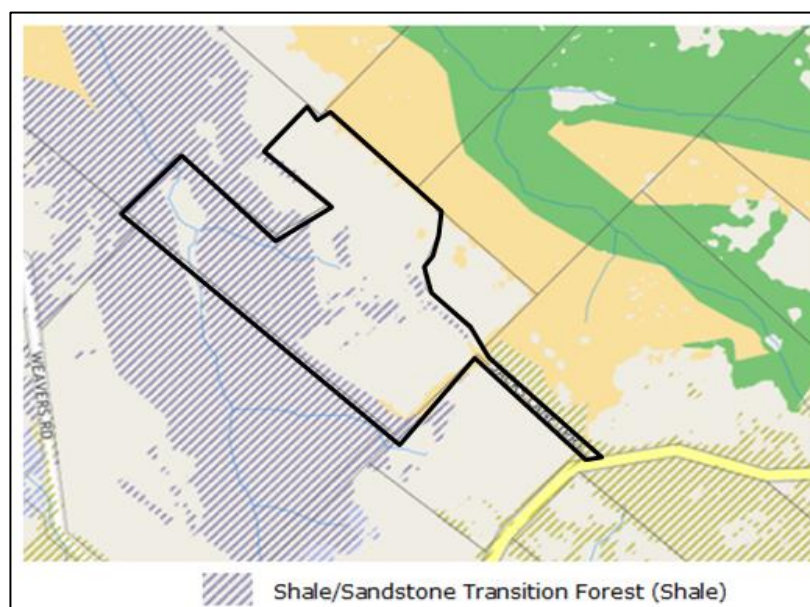


Figure 5
Significant Vegetation on Site

The potential biodiversity impacts required to construct the proposed fire trail may not be supported. More detail would be required to demonstrate avoidance, minimisation and offset in response to the new Biodiversity Conservation Act 2016.

NEXT STEPS

The planning proposal will be reported to Council for consideration along with any comments provided by the Local Planning Panel.

ATTACHMENTS

1. Cover Letter (1 page)
2. Planning Proposal (14 pages)
3. Restrictions by Hills Shire Council (1 page)
4. Existing Survey (1 page)
5. Proposed Cluster Subdivision (1 page)
6. SESL Soil Chemistry Profile (3 pages)
7. Bushfire Hazard Assessment (25 pages)
8. Bio Design & Associates PL Environmental Report (2 pages)
9. Flora and Fauna Report (42 pages)
10. NSW Rural Fire Service Pre-Gateway Comments (4 pages)
11. Proponent's Response to RFS Pre-Gateway Comments (10 pages)
12. RMS Pre-Gateway Comments (2 pages)

ITEM 2**PLANNING PROPOSAL – 28-30 BROOKHOLLOW
AVENUE, BAULKHAM HILLS – (15/2018/PLP)****SPEAKERS:**

Nil

DECISION AND REASONS

The Panel resolved to defer the matter for a further meeting before the same panel with a detailed report including recommendations.

Voting 4-0

ITEM 3**PLANNING PROPOSAL – 32-34 JACKS LANE,
MAROOTA (7/2018/PLP)****SPEAKERS:**

Nil

DECISIONS AND REASONS

The Panel resolved to defer the matter for a further meeting before the same panel with a detailed report including recommendations.

Voting 4-0

END MINUTES