

## Greater Sydney, Place and Infrastructure

IRF19/7022

### Gateway determination report

<b>LGA</b>	Hawkesbury
<b>PPA</b>	Hawkesbury City Council
<b>NAME</b>	Jacaranda Ponds (580 homes (no increase on existing), 0 jobs)
<b>NUMBER</b>	PP_2019_HAWKE_004_00
<b>LEP TO BE AMENDED</b>	Hawkesbury Local Environmental Plan 2012
<b>ADDRESS</b>	102, 123, 211, 213, 361 Spinks Road, 11 James Street, 3 Derby Place and 746A and 780A-780C Kurmond Road, Glossodia
<b>DESCRIPTION</b>	Lot 2 DP 533402, Lot 52 DP 1104504, Lots 19 & 20 DP 214753, Lot 75 DP 214752, Lot 3 DP 230943, Lot 44 DP 214755, Lot 50 DP 751637, Lots 1, 2 & 3 DP 784300
<b>RECEIVED</b>	24 September 2019. Additional information received 24 December 2019, 30 January 2020, EES Biodiversity Certification Adequacy letter on 5 March 2020 and Planning Proposal appendices received in April 2020.
<b>FILE NO.</b>	IRF19/7022
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

Jacaranda Ponds was rezoned under a previous site-specific planning proposal (Amendment No.5) which was gazetted in 2014. This amendment sought to rezone the subject site from rural land (RU1 Primary Production) to rural residential (R5 Large Lot Residential), residential land (R2 Low Density Residential), public recreation and infrastructure land uses. The LEP amendment would facilitate the creation of 580 residential lots.

The current planning proposal (**Attachment AA**) seeks to introduce an E2 Environmental Conservation zone to protect critically endangered species and ecological communities to Jacaranda Ponds. The proposal will also redistribute the land use zones to maintain the same dwelling capacity of 580 dwellings and reduce land zoned SP2 Infrastructure (Sewerage Systems) as a result of technological advances for the development's wastewater treatment plant.

The planning proposal will amend the Land Use Zoning map under the Hawkesbury Local Environmental Plan (LEP) 2012 as follows and are visually shown under Section 2.3 of this report:

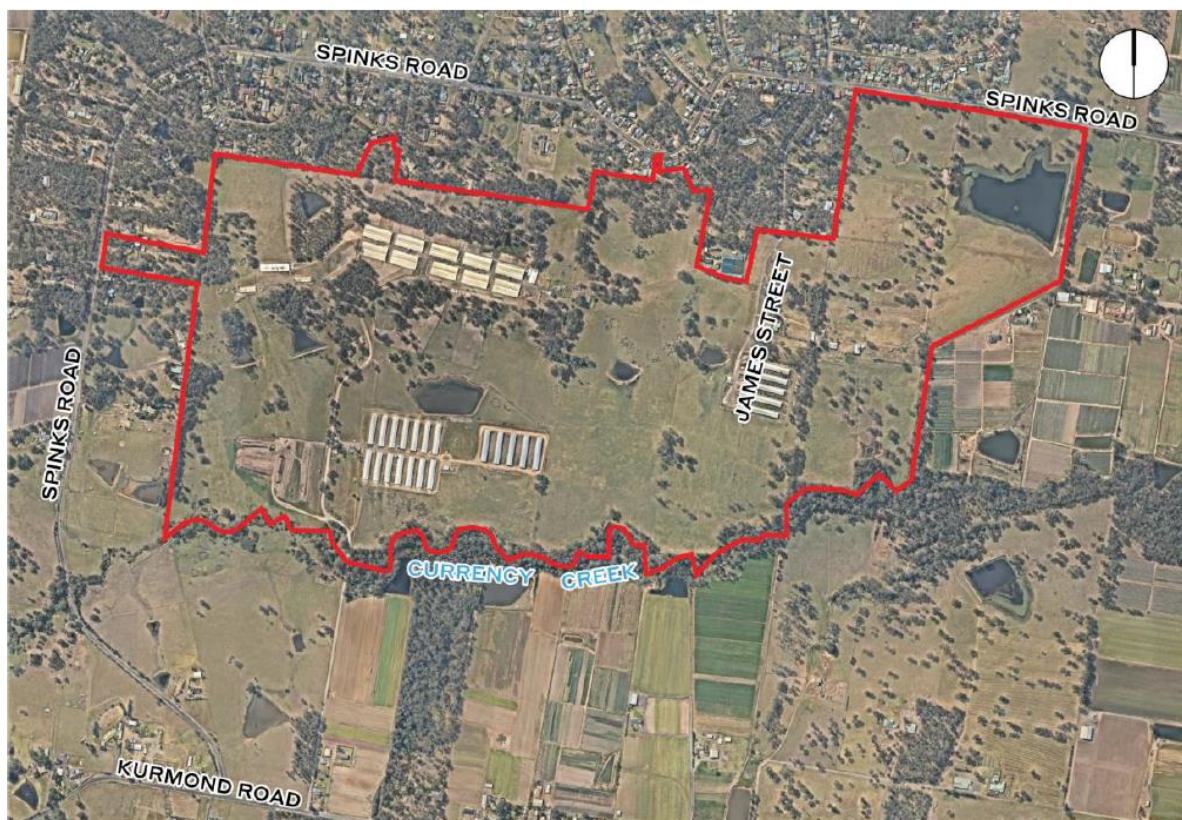
- Increase the amount of R2 Low Density Residential land use zone;
- Decrease the amount of R5 Large Lot Residential land use zone;
- Increase the amount of RE1 Public Recreation land use zone;
- Decrease the amount of SP2 Infrastructure land use zone; and
- Introduce a E2 Environmental Conservation land use zone.

Lot size and height of building amendments are proposed to support the reconfiguration of land uses. No new lot sizes or building heights are introduced.

## 1.2 Site description

The subject site is irregular in shape (Figure 1 below), contains 11 properties as shown in Table 13 of the planning proposal (page 12 of **Attachment AA**), with an area of approximately 185.3ha. It has road frontage to Spinks Road and access to James Street.

The site currently contains a free-range egg production farm, a chicken rearing farm, eight (8) dwellings, ancillary farm buildings and eight (8) dams. The remainder of the subject site is cleared and undeveloped with spare tree coverage. An aerial image of the site is shown in Figure 1.



 The Site

**Figure 1 Subject site** (source: Proponent Planning Proposal)

### 1.3 Existing planning controls

The existing LEP controls for the subject site are as follows:

- zoned R2 Low Density Residential, R5 Large Lot Residential, RE1 Public Recreation and SP2 Infrastructure (Sewerage Systems);
- minimum lot sizes of 1000m<sup>2</sup> for the R2 zoned land, and 2000m<sup>2</sup> and 4000m<sup>2</sup> for the R5 zoned land; and
- maximum building height of 10m for the R2 and R5 zoned land.

### 1.4 Surrounding area

The subject site is located immediately south of the existing Glossodia residential area as shown in Figure 2 (below). Further south of the site and to the north east is agricultural land.

The site is located approximately 700m from the existing Glossodia Neighbourhood Centre, 7km from Richmond, 9km from Windsor.

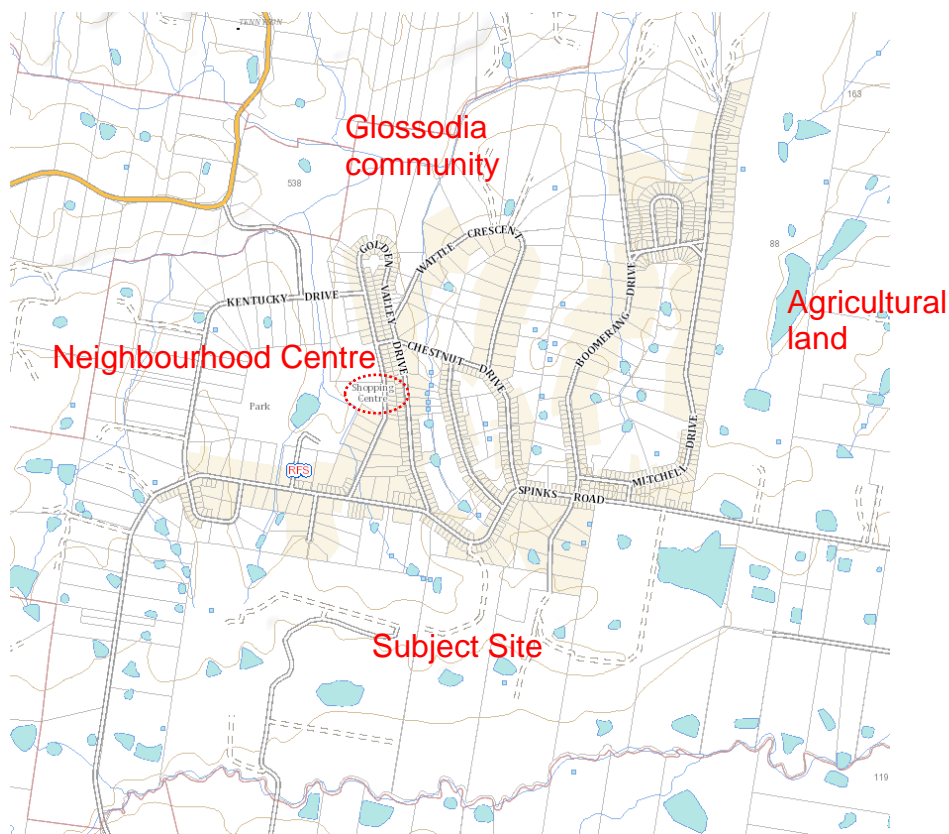


Figure 2 Context of subject site within the locality (source: SIX Maps)

### 1.5 History

Jacaranda Ponds was rezoned through a site specific LEP amendment in 2014. Following its gazettal a number of detailed ecological studies were undertaken to inform the design of the future development. These studies identified in more detail the presence of significant vegetation and endangered habitat on the site, including Cumberland and Alluvial Plain Woodlands, listed as critically endangered habitat and endangered ecological communities under the *Biodiversity Conservation Act 1995* (BC Act) and the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The identification of these critically endangered species and ecological communities has necessitated further amendments to the LEP in order to ensure the future development has an acceptable ecological impact.

In addition, the area required for the wastewater treatment plant and its operation (SP2 Infrastructure – Sewerage Systems) can be reduced as a result of technological advances.

## **1.6 Summary of recommendation**

The planning proposal has merit and should proceed subject to conditions as it will enable the protection of significant biodiversity through the introduction of the E2 Environmental Conservation land use zone while retaining the capacity to deliver 580 dwellings.

## **2. PROPOSAL**

---

### **2.1 Objectives or intended outcomes**

The objective of this planning proposal is to amend the Hawkesbury LEP 2012 to enable a better ecological outcome for significant vegetation and endangered habitat for Jacaranda Ponds by:

- introducing an E2 Environmental Conservation land use zone and redistributing the RE1 Public Recreation zone to protect the Cumberland Plain Woodland (critically endangered under the BC Act, EPBC Act) and Alluvial Woodlands (endangered) under the BC Act;
- rezoning part of the SP2 Infrastructure (Sewerage System) along Currency Creek to RE1 Public Recreation and R2 Low Density Residential due to technological advancements and improvements in Flow Systems' technology which has reduced the amount of land needed for recycled water irrigation; and
- re-distributing and altering the remainder of the land use zones to maintain original development yield of 580 residential lots.

### **2.2 Explanation of provisions**

The planning proposal will amend the Hawkesbury LEP 2012 for Jacaranda Ponds as follows:

- Provide an increase of R2 Low Density Residential zoned land which allows for more lots within 1,000m<sup>2</sup>-2,000m<sup>2</sup>;
- R5 Large Lot Residential land is maintained along all interfaces to existing residential land to provide a transition of larger lots. R5 land use zone together with larger lots sizes was to enable housing and vegetation retention of the Grey Box – Forest Red Gum grassy woodland;
- Provide an increase of 7.9ha of RE1 Public Open Space to a total of 53.48ha:
  - 33.71ha to be maintained by Council (approximately 11ha less than the existing proposal), and
  - 19.77ha to be biobank site/funded open space.



- The RE1 land across the north eastern, southern and western portion of the site will assist in protecting Cumberland Plain and Alluvial Woodlands and the riparian corridor along Currency creek.
- Introduction of 8.75ha of E2 Environmental Conservation to ensure:
  - critically endangered Cumberland Plain and Alluvial Woodlands are protected, and
  - Habitat for the endangered Cumberland Plain Land Snail and threatened microbat species is also protected
  - E2 zone provides the highest level of protection and management of areas of ecological significance, with the primary intention to conserve and/or manage environmental values.
- The redistribution of residential land use zones facilitates development on the less sensitive area, for example, residential development will not coincide with the largest pockets of best condition vegetation communities of ecological significance.
- Reduction of SP2 infrastructure (Sewerage Systems) from 12.4ha to 0.82ha as a result of reduced spatial requirements for the wastewater facilities needed to service the site.

A comparison of the current and proposed land zoning map is provided in Figure 3 below.



**Figure 3 Existing (top) and Proposed (bottom) land use zones**

Table 1 below is an excerpt from Council's report (**Attachment BC**) comparing the existing and proposed land use zones areas. The table also compares the land for biodiversity certification and conservation.

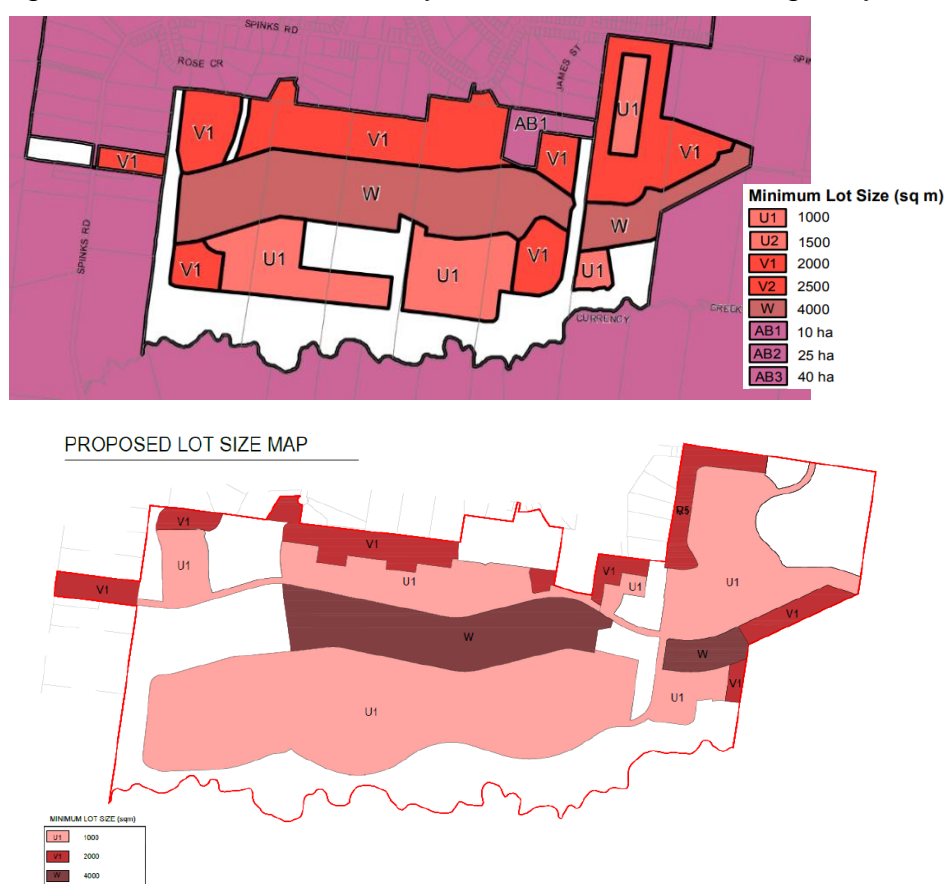
**Table 1: Comparison of Existing and Proposed land use zone areas**

Element	Current Zoning	Proposed Revised Zoning	Change
Site Area	185.3Ha	185.3Ha	No Change
Total Lots	580	580	No Change
R2 Low Density Residential	33.4Ha	85.1Ha	51.7 Ha increase
R5 Large Lot Residential	94.7ha	37Ha	57.5 Ha decrease
RE1 Open Space	44.7Ha	52.6Ha	7.9 Ha increase
E2 Environmental Conservation	0Ha	9.6Ha	9.6 Ha increase
SP2 Infrastructure	12.4Ha	0.8Ha	11.6 Ha decrease
Land for Bio Certification	0Ha	143.72Ha	143.72 Ha increase
Land for Conservation	0Ha	28.12Ha	28.2 Ha increase
VPA	\$17.4M (for 580 lots)	New VPA required	New VPA required

## 2.3 Mapping

The proposal includes figures that show current and proposed controls including land use zoning, minimum lot size and building height. Figures 3 (previous page) and 4 (below) show the current and proposed land use zoning and minimum lot size maps.

Figure 5 demonstrates that the spatial distribution of lot sizes is similar between the existing and proposed with 2,000m<sup>2</sup> lots interfacing with the existing residential development and larger lots (4,000m<sup>2</sup>) in an east/west band in the centre of the site to enable vegetation retention of the Grey Box – Forest Red Gum grassy woodland.



**Figure 4 Existing (top) and Proposed (bottom) minimum lot size map**

### 3. NEED FOR THE PLANNING PROPOSAL

---

The planning proposal demonstrates that amending the Hawkesbury LEP 2012 to introduce an Environmental Conservation zone and expand the public recreation area is the best means of achieving the intended outcome being to protect and manage significant biodiversity (refer to Section 2.1).

The proposal's rationale is supported as the most appropriate mechanism to protect significant biodiversity through a suitable land use zone.

### 4. STRATEGIC ASSESSMENT

---

#### 4.1 District

The Western City District Plan is the applicable district plan to this planning proposal. Directions relating to Liveability and Sustainability are relevant to this proposal and are discussed below:

##### Liveability

*Direction 3 'A city for people', Planning Priority W4 'Fostering healthy, creative, culturally rich and socially connected community'*

The planning proposal states that it is consistent with this planning priority as the proposal provides additional open space to encourage physical activity and social connections. The proposal provides integrated vegetation corridors and recreational open spaces throughout the site.

No community facilities are proposed as part of the planning proposal however the local voluntary planning agreement supporting the original rezoning contains a list of community facilities to be provided either works in kind or cash contribution. This planning proposal will be subject to a revised (new) voluntary planning agreement with Council. The proposal is consistent with this Direction.

*Direction 3 'Housing the city' Planning Priority W5 'providing housing supply, choice and affordability, with access to jobs and services'*

The planning proposal states it will provide 580 large residential lots in a range of sizes contributing to the housing supply in close proximity to Richmond and Windsor employment centres. This proposal is not increasing the number of residential lots from the original rezoning. The proposal is consistent with this Direction.

*Direction 5 'A city in its landscape', Planning Priority W14 'Protecting and enhancing bushland and biodiversity'*

The planning proposal states it is a direct response to protecting and conserving the significant vegetation and endangered habitat identified on the site. The planning proposal is introducing an E2 Environmental Conservation zone and increasing the quantity of land zoned RE1 Public Recreation zone as the mechanism to ensure the existing habitat and biodiversity is recognised, managed and protected from development. The proposal is consistent with this Direction.

*Planning Priority W17 'Better managing rural lands'*

The proposal is on land identified within the Metropolitan Rural Area. The objective of this Planning Priority is to ensure the environmental, social and economic values in rural areas are protected and enhanced. Rural-residential development is not

generally supported in the MRA however the site has already been rezoned and the current proposal represents an improvement in environmental outcomes.

This planning proposal states it has regard to the rural land in that the proposal does not increase the residential density beyond what was approved previously and considered suitable for the site. The proposal is consistent with this planning priority. The Gateway has been conditioned to require a residential lot yield of 580 dwellings within the LEP amendment.

#### *Planning Priority W18 'Delivering high quality open space'*

The proposal states it provides high quality open space through providing a number of primary and secondary open spaces distributed across the site. The Village Green and Currency Creek will interface with the residential areas providing passive surveillance of these areas. This will need to be reviewed as a result of Council's request for additional land within these areas to be rezoned E2 Environmental Conservation and EES' biodiversity certification letter of adequacy.

The objective for this planning priority is to ensure public open space is accessible, protected and enhanced. The key considerations for planning for open space are quality, quantity and distribution. The proposal states that 95% of future residents will be within 400m of a public open space or public open space link. The proposal is consistent with this Planning Priority.

## **4.2 Local**

### Hawkesbury Residential Land Strategy

Hawkesbury's 2011 Residential Land strategy provides a strategic framework for accommodating 5,000-6,000 dwellings within the Hawkesbury LGA by 2031. The Residential Land strategy identified five areas with high opportunity for future development including Glossodia.

The subject site is identified within the Glossodia Investigation Area. This proposal is consistent with Hawkesbury's 2011 Residential Land strategy and in addition and is not seeking an increase in residential dwellings from the previous LEP amendment. Council has a draft residential strategy which anticipates that this proposal will proceed to implementation.

### Hawkesbury Community Strategic Plan 2017-2036

The planning proposal states the following components of the Community Strategic Plan are applicable to the proposal:

#### *Our Community - Direction 2.1 Enable a shared responsibility for community safety and disaster management*

The proposal states that the Stormwater and Flooding Strategy and Flood Evacuation Evaluation ensure appropriate design guidance and evacuation limits flood damage. A Bushfire Constraints Assessment is also provided and identified bushfire management measures including asset protection zones can be accommodated on the site.

#### *Direction 2.2 Participation in recreational and lifestyle activities in increased*

The planning proposal states that the proposal seeks to provide the residential community with integrated recreational open space and green through site links to encourage a range of recreational opportunities



*Our Environment – Direction 3.1 Value, protect and enhance our unique environment*

The planning proposal states that the proposal is a direct response to protecting and conserving the biodiversity on site with the introduction of the E2 Environmental Conservation zone.

*Our Assets – Direction 4.2 Facilitate the delivery of infrastructure through relevant agencies and Council's own works*

The planning proposal states that development has been planned in line with servicing infrastructure.

It is considered that the planning proposal is consistent with the Hawkesbury Community Strategic Plan.

Draft Hawkesbury Local Strategic Planning Statement

Council's Draft Local Strategic Planning Statement refers to Jacaranda Ponds as contributing 580 lots to Hawkesbury's five-year housing target. The planning proposal is consistent with this reference as the proposal will provide 580 lots.

Local Planning Panel

The planning proposal was heard by the Local Planning Panel on 21 February 2019. It recommended that:

- The current planning proposal not be supported at this stage;
- Any planning proposal for the site be considered holistically with relevant VPAs, Biodiversity and DCP provisions included with all proposed LEP amendments;
- The desired character of the site be described so as to inform the planning framework – particularly landscape character and density of the area;
- The proposed planning framework needs to respond to site constraints – particularly flooding and vegetation retention; and
- Council consider the areas and locations of open space and the management of ecological management regimes. The location of the open space to be central to the area and accessible.

In response to this advice, the planning proposal was amended to address the above matters and is the subject of this Gateway. The detailed response is included in **Attachment BC**.

The Department provides the following commentary:

*Character of Jacaranda Ponds*

It is understood the Local Planning Panel was concerned about how the character of Jacaranda Ponds would integrate into the existing Glossodia village. It is acknowledged that the lot sizes proposed are adding to the housing choice in the area and providing a lot size that represents only 4% of the Glossodia village.

The Department requested the proponent demonstrate how the character of the existing Glossodia Village would be maintained. The proponent responded stating the vision for Jacaranda Ponds is focused on creating a 'rural village'. To help establish this 'rural village' character, and to ensure Jacaranda Ponds integrates with and reflects the character of the existing Glossodia village, it has been proposed that

a Housing Typology and Character study will be produced as part of the DCP process. The Gateway has been conditioned accordingly.

### *Central Village*

It is understood the Local Planning Panel commented on its desire to see a more centrally located village to accommodate uses such as a general store, childcare centres. Council agreed with the Panel's comments, but argued it would need to be supported by a detailed economic feasibility study. Figure 5 is an excerpt of the Jacaranda Ponds Concept Masterplan.

Considering the size of this new community, exploration of whether there is demand for convenience stores or community facilities is warranted. It is understood Council support in principle a general store subject to findings of a detailed economic impact assessment, feasibility study and consultation with the local community. The proponent has discussed with Council that it is open to the introduction of additional land uses to support a Central Village. As such, this Gateway has been conditioned to require Council to demonstrate how the convenience retail needs of the local community can be met and incorporated in the final proposal. This could include a site specific clause allowing services at an appropriate location in the masterplanned community or the identification of a neighbourhood business zone in a specific location.



**Figure 5 Potential Convenience Shopping/Community Facilities** (Source: Jacaranda Ponds Concept Masterplan – Attachment AG)

### 4.3 Section 9.1 Ministerial Directions

The following Section 9.1 Ministerial Directions are applicable and require further discussion in relation to the planning proposal:

#### Direction 2.1 Environment Protection Zone

This Direction seeks to protect and conserve environmentally sensitive areas and directs the relevant planning authority to include provisions to facilitate the objective. A planning proposal must not reduce the environmental protection standards that apply to that land.

This planning proposal is consistent with this direction as the proposal is protecting and conserving environmentally sensitive areas through the introduction of an E2 Environmental Conservation land use zone. The planning proposal states the revised land use zone plan is a better biodiversity outcome compared to the existing land use zone plan.

#### Direction 2.6 Remediation of Contaminated Land

This Direction seeks to ensure planning proposal authorities consider contamination and remediation of certain lands as set out in this Direction. The planning proposal was supported by a Site Contamination Investigation **(Attachment AS)**.

The report concluded that there is potential for some contamination of the site to have occurred on past and current site agricultural uses, however there were no indications of gross or widespread impacts that would impede development of the site. It also noted that the site contained low to moderate salinity potential which may require management for future development in some areas.

The planning proposal's supporting documentation demonstrates that the site can be made suitable for residential development following further testing, remediation and reporting. The proposal is consistent with this Direction.

#### Direction 3.1 Residential Zones

This Direction seeks to encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of infrastructure and minimise the impact of residential development on the environment and resource lands.

This planning proposal is consistent with this direction as the proposal seeks to: provide an increase in housing supply to provide for future housing needs; and minimising the impact of residential development on the environment lands. Residential development will not occur until the site is adequately serviced; an Infrastructure Services assessment report supported the planning proposal **(Attachment AQ)**.

#### Direction 3.4 Integrating Land Use and Transport

This Direction seeks to ensure that proposals achieve planning objectives relating to improving access to housing, jobs and services by walking, cycling and public transport, increasing the choice of available transport, reducing travel demand and supporting efficient operation of public transport.

This Direction applies as the proposal seeks an amendment to provisions relating to urban land, specifically residential land. The planning proposal is consistent with this Direction as will provide dwellings in close proximity to public transport (i.e. 668 bus



service) and active transport links. In addition, Council's report (**Attachment BC**) refer to a new VPA that would include active transport linkages to Glossodia Village.

#### Direction 4.1 Acid Sulfate Soils

This Direction seeks to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. This Direction applies to the planning proposal as the subject site is identified in the Hawkesbury LEP 2012 Acid Sulfate Soils Map as containing Class 5.

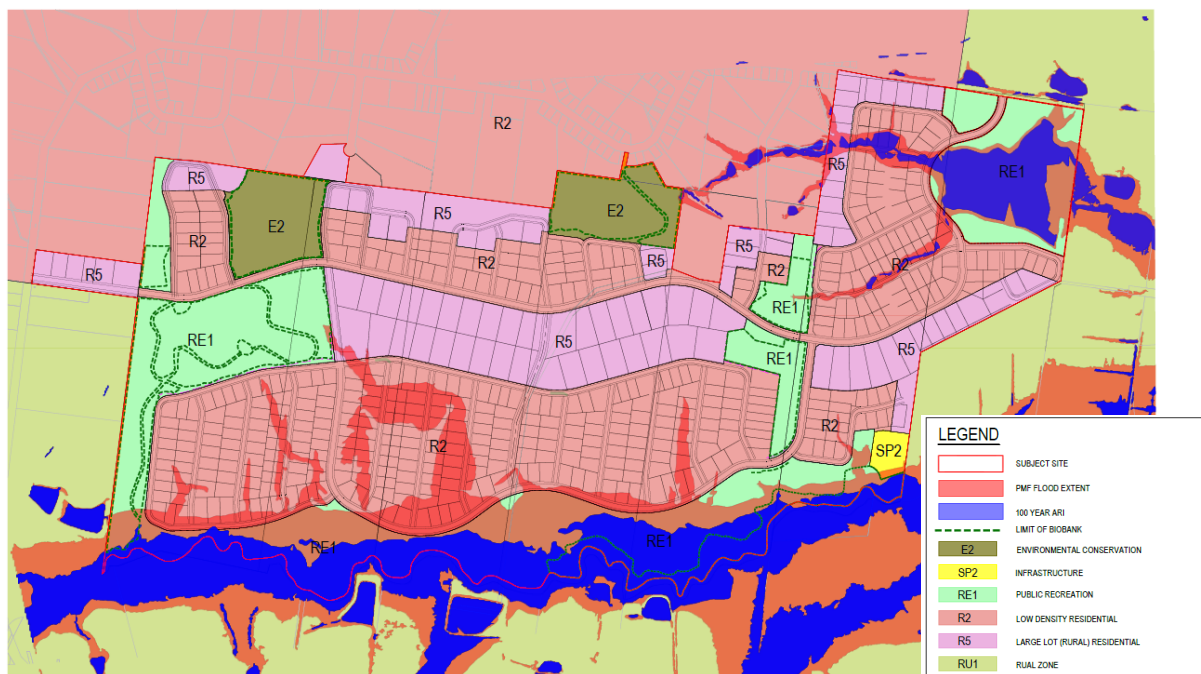
The planning proposal states an assessment of acid sulfate soil provisions will be undertaken as part of a future development application. In addition, Class 5 is considered the least constrained class of acid sulfate soils. The Hawkesbury LEP 2012 also contains provisions under clause 6.1 Acid Sulfate Soils which ensures any future development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

It is recommended the delegate agrees that any inconsistency with this direction is of minor significance.

#### Direction 4.3 Flood Prone Land

This Direction aims to ensure that development on flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 and considers potential flood impacts.

Only small portions of the site are affected by the 1 in 100 year AEP as shown in Figure 6 below. The planning proposal states that the extent of 1% AEP is generally limited to the riparian corridors along Currency Creek. The PMF flood event affects the north eastern portion of the site and the area along Currency Creek (Figure 6).



**Figure 6 Indicative lot layout with flooding affection** (Source: Additional information dated 24 Dec 2019)

The planning proposal emphasises that the flood study results showing the affection of the 1% AEP and PMF was undertaken on current site conditions and does not consider the site's future levels.



Further engineering design work was undertaken to investigate the two portions of the site that are potentially subject to flooding in a PMF event. When the sites future surface levels are taken into consideration, no houses will experience above floor flooding in a PMF. The subject lots in the north east portion of the site will be elevated using batters and or raised floor slabs, and the road design level along Currency Creek will be elevated.

This planning proposal does not permit development in floodway areas, will not result in significant flood impacts to other properties, does not permit a significant increase in the development of that land, not result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, and does not permit development to be carried out without development consent. The planning proposal is consistent with this Direction.

#### Direction 4.4 Planning for Bushfire Protection

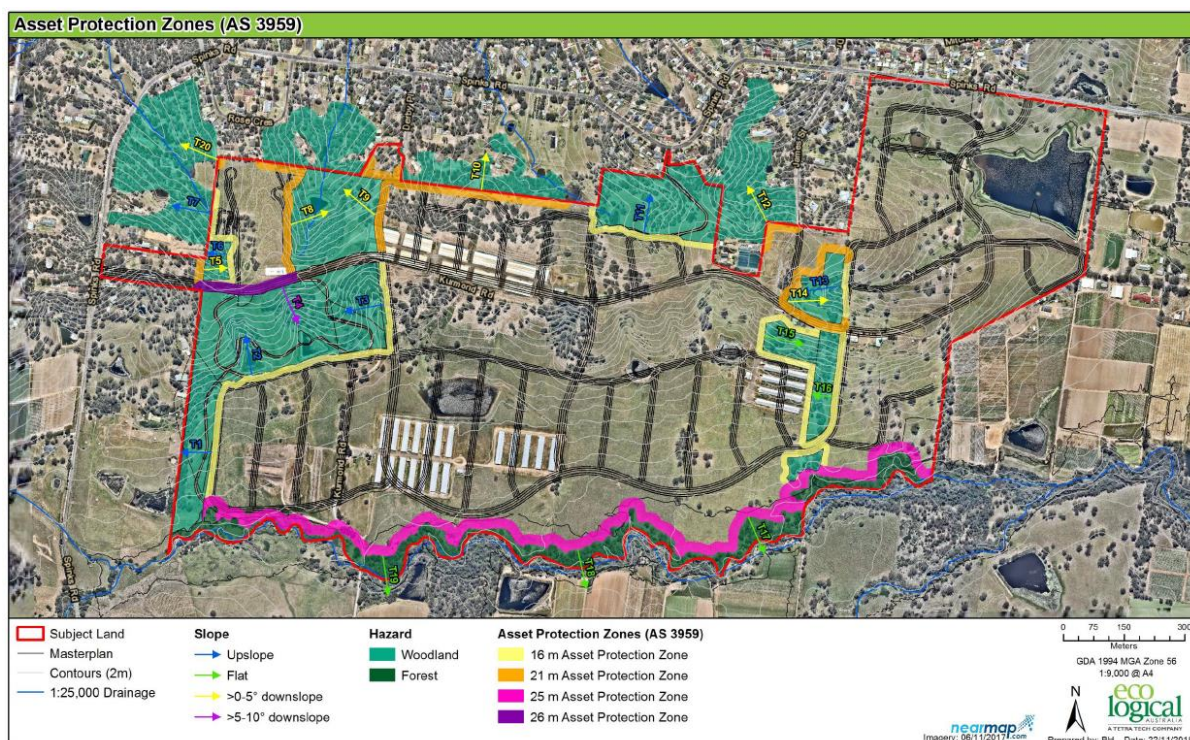
The objectives of this Direction include protecting life, property and environment from bush fire hazards by discouraging the establishment of incompatible land uses in bush fire prone areas and to encourage the sound management of bush fire prone areas.

The planning proposal was supported by a Bushfire Management Strategy (**Attachment AP**) that provides bushfire protection measures that meet the statutory and policy requirements for bushfire protection in NSW. The report provides strategies to reduce the bushfire risk associated with the re-zoning including:

- Setbacks from bushfire prone vegetation (Asset Protection Zones);
- Integration of non-combustible infrastructure within APZs such as roads, easements and parking areas;
- Access and egress from the site through a well-design road system;
- Landscaping and garden design principles and guidance to minimise bushfire risk;
- Underground electricity and gas services;
- Compliant water supplies; and
- Emergency response planning.

The following APZs in accordance with AS 3959 are recommended for the development as shown in Figure 7:

- An APZ between 15 and 20m is required for the southern portion of the site containing Forest Red Gum- Rough-barked Apple grassy woodland;
- An APZ between 10 and 15m is required for parts of the site relating to the Grey Box- Forest Red Gum grassy woodland;
- A 20m APZ is required from the Currency Creek riparian corridor; and
- Development applications for construction on future lots will be subject to assessment against Planning for Bushfire Protection 2006 with construction standard requirements determined by Australian Standard 3959 Construction of buildings in bushfire-prone areas 2009.



**Figure 7 Proposed Asset Protection Zones for the proposal**

The planning proposal is generally consistent with this Direction. However, in accordance with the requirements of this Direction, Council is required to consult the NSW Rural Fire Service (RFS) prior to public exhibition to ensure it does not object to the progression of the planning proposal. Therefore, the consistency will remain unresolved until this requirement is completed.

#### Direction 6.2 Reserving Land for Public Purposes

The objectives of this Direction are to facilitate the provision of public services and facilities by reserving land for public purpose and to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

This Direction states a planning proposal must not create, alter or reduce existing zonings or reservations or land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning.

The planning proposal seeks to reduce the SP2 infrastructure (Sewerage Systems) zone and redistribute the RE1 Public Recreation zone within the site. As Council is the relevant public authority for this land and seeks the changes then the changes are considered to be justified. The Department does not have any objections to this proposed change therefore the proposal is consistent with this Direction.

#### Direction 6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site-specific planning controls. This Gateway has been conditioned to insert an LEP provision for a maximum lot yield of 580 residential dwellings lots considering the site is wpolitan Rural Area. The inconsistency with this Direction is considered to be of minor significance as the site-specific clause will ensure that the site is not overdeveloped.

### **4.5 State environmental planning policies (SEPPs)**

### SEPP No.19 – Bushland in Urban Areas

The general aim of this Policy is to protect and preserve bushland within an urban area. The planning proposal states the proposal protects rare and endangered flora and fauna.

The planning proposal is consistent with this SEPP.

### SEPP (Vegetation in Non-Rural Areas) 2017

The aim of this Policy is to protect the biodiversity values of, and amenity created by, trees and other vegetation in non-rural areas of the State.

The planning proposal states the LEP amendment protects the values of trees and vegetation within the site. Further justification will be required to demonstrate how the land use zone proposed and associated minimum lot size appropriately protects the Grey Box – Forest Red Gum grassy woodland (critically endangered Cumberland Plain Woodland). This Gateway has been conditioned accordingly.

### SREP No.20 – Hawkesbury – Nepean River (No.2 – 1997)

The aim of SREP 20 is to protect the Hawkesbury-Nepean River system and Part 2 and provides general planning considerations, specific planning policies and recommended strategies to achieve this outcome.

A Stormwater Management Report was provided to support the planning proposal (**Attachment AN**). It concludes that the proposed stormwater management requirements and features would satisfy relevant statutory and development controls through both stormwater quality and quantity mechanisms.

The subject sites comprise a watercourse and areas of significant vegetation. In order to ensure consistency with this deemed SEPP the proposal should be forwarded to the NSW Office of Water for consideration. The Gateway determination has been conditioned accordingly.

## **5. SITE-SPECIFIC ASSESSMENT**

---

### **5.1 Social & Economic**

The planning proposal states that it will generate a positive social and economic impacts through:

- The provision of housing choice and diversity;
- The continued viability of existing goods and services within Glossodia through expenditure generated by future local resident; and
- The generation of local employment during civil and construction works associated.

Under this planning proposal, the amount of local open space would be increased for the community to use. The proposal will have positive social impacts for the residents and surrounding area.

In respect of economic impacts, a new local VPA will be entered into dedicating additional RE1 and E2 land to Council which will be retained as biobanking sites. This will reduce the financial burden of maintenance to Council as these sites will be managed in-perpetuity under a management trust fund as paid for by the developer.



## 5.2 Environmental

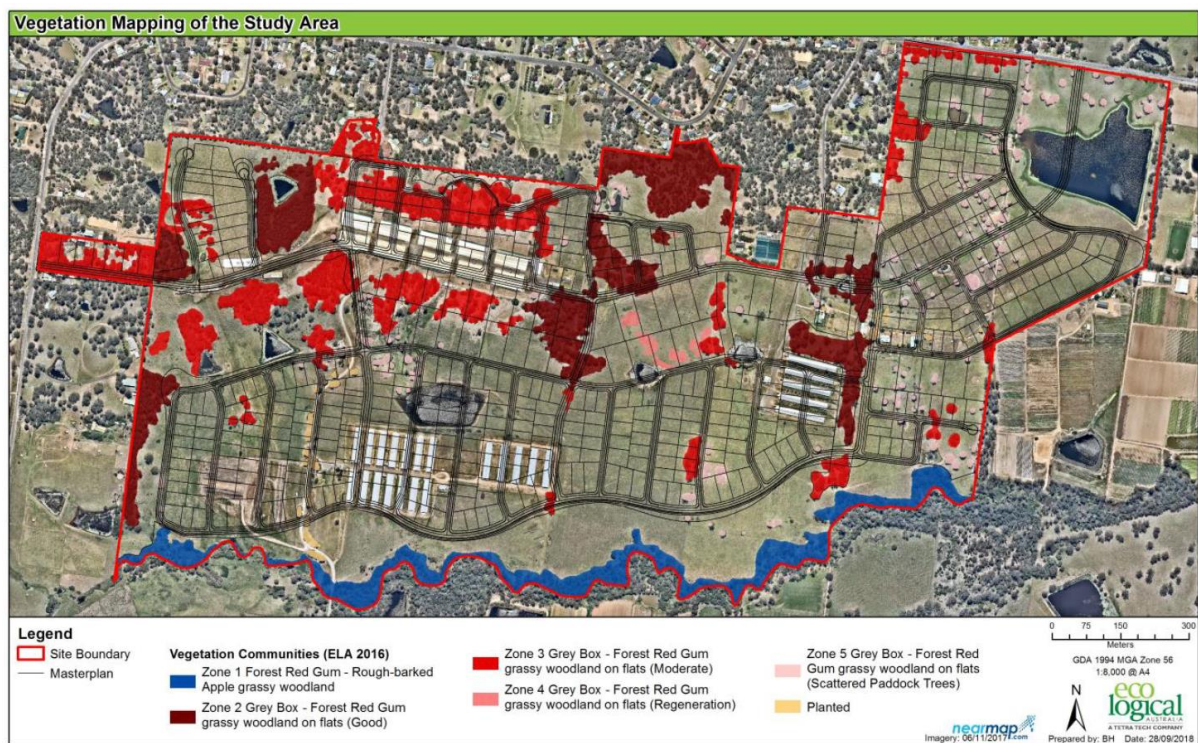
### Biodiversity

The planning proposal states that the site contains five threatened fauna species and two vegetation communities of ecological significance. The fauna species include:

- *Meridolum corneovirens* (Cumberland Plain Land Snail) – listed as vulnerable under the BC Act;
- *Miniopterus australis* (Little Bent-wing Bat) – listed as vulnerable under the BC Act;
- *Miniopterus schreibersii oceanensis* (Eastern Bentwing-bat) – listed as vulnerable under the BC Act;
- *Mormopterus norfolkensis* (Eastern Freetail-bat) – listed as vulnerable under the BC Act;
- *Myotis macropus* (Southern Myotis) – listed as vulnerable under the BC Act; and
- *Pteropus poliocephalus* (Grey-headed Flying-fox) – predicted to be present - listed as vulnerable under the BC Act and EPBC Act.

The existing flora on the site are as follows and Figure 8 shows their locations on the site with an indicative lot layout:

- Cumberland Plain Woodland (Shale Plain Woodland) – listed as Critically endangered ecological community under the EPBC Act and BC Act; and
- Alluvial Woodland – Endangered ecological community under the BC Act.



**Figure 8 Vegetation communities within the Site** (source: Proponent Planning Proposal)



A Biodiversity Certification Application was also submitted to EES in August 2019. EES issued a letter of adequacy (**Attachment D**) and recommended that its comments be addressed prior to public exhibition. The comments include:

- The site contains 37.02ha (20% of the site) of existing native vegetation and 148.201ha (80% of the site) of cleared land.
- The concept masterplan will reduce the existing area of native vegetation so that only 8% of the site will retain remnant native vegetation.
- 30.2ha of existing Cumberland Plain Woodland is present on site and total areas to be impacted is 17.33ha (57% of the CPW):
  - 12.53ha of CPW is in good condition, 4.04ha (32%) of this will be impacted and 8.51 ha (68%) is to be in a biobank site;
  - 14.40ha of CPW is in moderate condition, 10.59ha (73%) will be impacted, 3.81ha (27%) will be in a biobank site.
- 6.82ha of existing Alluvial Woodland – River-Flat Eucalypt Forest is present on site. The total area impacted is 0.02ha (0.3%), 99.7% will either be in a biobank area or in retained land.
- The proposed biobank site will protect 28.10ha or 15% of the site for conservation including 15.54ha of existing native vegetation and 12.56ha of land that is to be restored. Figure 9 is an excerpt of the planning proposal documentation showing the proposed biobank sites.



**Figure 9 Proposed biobanking areas on the site** (Source: Jacaranda Ponds Concept Masterplan – Attachment AG)

- EES' preference for biobank sites is to be zoned E2, rather than RE1, so that the land use zoning reflects the intent to conserve biodiversity values:
  - All biobank sites shown in Figure 24 in the planning proposal report (see Figure 9 above).
  - The riparian corridor along the entire length of Currency Creek (circled in black) on site and any remnant native vegetation which extends beyond the riparian zone particularly Alluvial Woodland – River-flat Eucalypt Forest, Alluvial Woodland (good condition along the creek).
- The biobank agreement will dictate what is permitted to occur in the biobank sites, it will not permit any uses that are incompatible with conservation values.

- Portions of land containing Grey Box – Forest Red Gum grassy woodland (critically endangered Cumberland Plain Woodland) are proposed to be zoned R5 to ensure larger lot sizes enable housing and vegetation retention. EES question how the minimum lot sizes of 2000m<sup>2</sup> and 4000m<sup>2</sup> adequately minimise impacts where the proposed R5 lots are mostly vegetated with CPW. It is recommended that the lot sizes are increased to allow the good and moderate condition CPW that is marked to be retained.
- EES recommend a review of the certification impact footprint to avoid impacts to the remnant CPW that Council has identified as having conservation value. If it is Council's intention to protect CPW on the R5 lots, these areas should not be certified and it is recommended they are conserved as E2. Alternatively, they can be made retained land and any future development will be subject to the *Biodiversity Certification Act*.

It is noted that Council's covering letter (**Attachment BB**) supporting the submission of the planning proposal states: *"a minor amendment to the planning proposal from will be made to rezone the riparian corridor along Currency Creek which is currently zoned RE1 Public Recreation to E2 Environmental Conservation in order to provide improved protection of the riparian corridor in line with Council's resolution"*. Figure 10 below illustrates the riparian buffer along Currency Creek in purple in the Flora and Fauna Assessment (**Attachment AL**).



**Figure 10 Riparian Buffers**

The Department notes that although the Council resolution does not enable this alteration to the planning proposal it is recommended that this change is implemented to address ESS's concerns. The Gateway has been conditioned for Council to discuss further with ESS and if the proposed RE1 and E2 land zonings are altered then Council will need to update the planning proposal including all maps, justifications and table calculations before the proposal can be exhibited. It is also noted that the revised proposal will need to be reviewed and endorsed by the Department.

## Heritage

An Aboriginal and Non-Aboriginal Heritage Assessment supported the previous LEP amendment. The previous investigations identified four Aboriginal sites including:

- Two single isolated artefacts on existing road surfaces;
- A ridge located within the north-eastern portion of the site potentially containing Aboriginal objects;
- A ridge running east to west along the site's northern boundary potentially containing archaeological deposits by Aboriginal stakeholders.

A revised Heritage Impact Assessment prepared by GML Consultants (**Attachment AT**) does not identify any additional or new Aboriginal or non-Aboriginal areas of significance within the site. No items of non-Aboriginal significance were identified.

## Site Topography

The site is undulating and varies in elevation, falling in a north-south direction towards Currency Creek. The slopes range from 2-12% in the southern portion of the site, a downhill slope (4-6%) towards the existing dam within the north-eastern portion of the site and a ridge line running east-west through the northern part of the site.

Currency Creek (fourth order water stream) forms the southern boundary of the subject site and bounded by a riparian vegetation corridor. Three unnamed streams run north to south at the northern boundary. Each stream is a tributary of Howes Creek and are classified as first order streams.

## Flooding & Flood Evacuation

The planning proposal states Currency Creek is subject to flooding with predicted depths between 0.30 and 1.00 metres at the 1% AEP flood event. The planning proposal documentation notes that the extent of 1% AEP is generally limited to the riparian corridors along Currency Creek. The PMF flood event affects the north eastern portion of the site and the area along Currency Creek.

A Flood Evacuation assessment supported the planning proposal (**Attachment AO**). The assessment states the following:

- Cardno's flood study confirmed the land is above the reach of any flooding of the Hawkesbury River and is only affected by local flooding within Currency Creek.
- The site is not affected by the 1% AEP (1 in 100 year flood level) and only a handful of lots would be impact by the PMF.

In conclusion:

- no houses will experience above floor flooding in a PMF;
- there would be no imperative for any house to be evacuated in any flood;
- only about a dozen houses in the north of the site would ever be isolated by local flooding and this would be for a few minutes in events much larger than 1% AEP; and
- the proposed development does not pose a significant direct or indirect risk to life.

### Compatibility with surrounding land

The planning proposal states that the land surrounding the subject site is predominately rural residential allotments with detached residential dwellings and agricultural/farming land. Specifically:

- Land directly south of the site, across Currency Creek, is a turf farm;
- Land along the northern and western boundary adjoin rural residential allotments which front Spinks Road; and
- Land along the eastern boundary of the site comprises land for agricultural purposes and rural allotments.

This proposal includes buffers to surrounding land such as larger lot sizes for transition zones or open space/environmental conservation land. It is not considered this proposal has an adverse impact on surrounding land.

### **5.3 Infrastructure**

#### Servicing Infrastructure

An Infrastructure Services Assessment (**Attachment AQ**) was submitted to support the planning proposal. The report concludes that the proposed development can be serviced, the revised planning proposal does not generate any additional demand and/or any additional impact on utility services in the vicinity of the site.

The development will require the following:

- Electrical: a new underground feeder;
- Sewerage: a local water centre is proposed to treat sewage flows from the development and a pressure sewer and recycled water reticulation system will be constructed;
- Potable water: the water infrastructure in the area is sufficient to supply the development with minimal network augmentation requirements. The closest bulk water supply is the Glossodia reservoir located to the west of the site; and
- Communications: Fibre optic infrastructure will be delivered to the area as part of the National Broadband Network rollout.

A Review of Environmental Factors (REF) (**Attachment AM2**) was prepared to provide the Independent Pricing and Regulatory Tribunal (IPART) and the NSW Minister for Lands and Water, to identify all matters affecting, or likely to affect, the environment by the construction and operation of Glossodia Local Water Centre.

The REF concluded that the construction of the Glossodia LWC will allow the provision of reticulated sewer services, including recycled water to Jacaranda Ponds. Minor environmental impacts were identified in the REF which were generally temporary in nature. The REF included mitigation measures to be implemented.

The REF states a Recycled Water Irrigation Management Plan has been prepared and will be refined closer to the time of recycled water being produced. This will include further details of the location of irrigation of recycled water is to be established.



## Stormwater Management

A Stormwater Management Strategy (**Attachment AN**) was submitted to support the planning proposal. The proposed strategy for the management of stormwater within the site will involve the implementation of a treatment train including catchment wide primary treatment measures and secondary/tertiary treatment measures (bio-retention systems of constructed wetlands).

On-site detention basins are to be located adjacent to each bio-retention system.

These measures would be sized to ensure post-development run off was no greater than pre-development run off.

## Contributions

A State voluntary planning agreement (VPA) (**Attachment AE1**) has been executed between the developer and the Department. It is in the form of a monetary contribution of \$10,000 per subdivision lot. The contribution is to be used for upgrades to the local State road network and North Richmond/Bells Line of Road. This State VPA will not be amended as the residential yield proposed under this planning proposal is the same yield at the time the VPA was executed.

A local VPA (**Attachment AE2**) is also in place between the developer and Hawkesbury City Council. The VPA provides for the contribution of local infrastructure including road works, new open space and community facilities and the dedication of land zoned RE1 Public Recreation.

As the planning proposal is seeking to increase the provision of RE1 Public Recreation zoned land, introduce the land zoned E2 Environmental Conservation and dedicate these lands to council, and dedicate stormwater infrastructure to Council, the local VPA will need to be amended.

Council's report has stated that considerations for a new Draft Voluntary Planning Agreement will include, but not limited to:

- Transport;
- Traffic Management including intersections;
- Active Transport linkages to Glossodia Village;
- The upgrade/expansion of Community Facilities in Glossodia Village;
- A Drainage Management Charge to reflect the cost of maintaining the drainage system; and
- Recreation and Open Space areas where ongoing maintenance is not funded through Biocertification process.

## **6. CONSULTATION**

---

### **6.1 Community**

The planning proposal states the proponent, Celestino, has been engaging with the community on a regular basis to provide updates on the planning process and timing of development. A meeting was held in April 2019 to inform the community about the details of the planning proposal.

Council resolved in its meeting on 13 August 2019 that in the event that the planning proposal receives a Gateway to proceed, public exhibition not occur until such time

as a Draft Voluntary Planning Agreement and site-specific Development Control Plan have been prepared and endorsed by Council.

Considering the above, the Gateway will be conditioned to ensure the planning proposal is publicly exhibited for 28 days and in conjunction with the draft voluntary planning agreement, draft site-specific development control plan and biodiversity certification application.

## **6.2 Agencies**

Consultation with the following agencies is recommended:

- NSW Environment, Energy and Science;
- NSW Rural Fire Service;
- NSW Office of Water;
- DPIE – Water & Utility Team; and
- IPART.

## **7. TIME FRAME**

---

Council has not proposed a timeframe for completing the LEP. The recommended timeframe for making the LEP is 18 months considering a draft VPA, draft DCP and biodiversity certification application are required to be exhibited simultaneously.

## **8. LOCAL PLAN-MAKING AUTHORITY**

---

Council has requested to be the local plan-making authority, it is considered that Council should be authorised to be the local plan-making authority due to the local nature of the proposal.

## **9. CONCLUSION**

---

The planning proposal has merit and should proceed subject to conditions as it enables the introduction of an E2 Environmental Conservation land use zone to protect the Cumberland Plain Woodland and Alluvial Woodlands. This planning proposal also rezones SP2 Infrastructure land along Currency Creek that is no longer required due to technological advances. This proposal will also deliver 580 residential lots to accommodate a range of housing types.

## **10. RECOMMENDATION**

---

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 4.1 Acid Sulfate Soils and 6.3 Site Specific Provisions are minor or justified; and
2. note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition, the planning proposal must be amended to include the following:

- (a) Consult and address the concerns raised by the Environment, Energy and Science (EES) Group's as identified in its letter Biodiversity Certification Adequacy Letter dated 5 March 2020:
    - i. Any requirements for amending land use zones to comply with a future biobank agreement are to be addressed such as the preference for biobank sites to be E2 Environmental Conservation not RE1 Public Recreation; and
    - ii. Review whether the minimum lot size within the R5 Large Lot Residential land use zone will appropriately protect the Grey Box-Forest Red Gum grassy woodland, particularly areas mapped as Good and Moderate condition; and
    - iii. Update the proposed maps and information in the proposal including table calculations to reflect the changes following the resolution of matters raised by EES.
  - (b) Under Part 2 Explanations of Provisions, include a restricted lot yield map for 580 residential lots across the subject site.
  - (c) Review the implications of converting the RE1 Local Open Space to E2 Environmental Conservation along Currency Creek on the provision of RE1 local open space to support the new community. The review would include revising all references to quantum of RE1 and E2 land, a catchment and accessibility analysis of the RE1 land for the future residents and an analysis against 2.63ha/1,000 persons.
  - (d) Preparation of a site-specific development control plan including a section on desired character such as landscape character and density for the site, and the identification of the irrigation areas.
  - (e) Review of how the local convenience retail needs of the community will be met and incorporation of a planning provision to address these if they are not found to be met by the existing Glossodia Village.
  - (f) Consult the NSW Rural Fire Service prior to public exhibition in accordance with section 9.1 Direction 4.4 Planning for Bushfire Protection and address any comments from this agency.
2. After satisfying condition 1, the planning proposal is to be forwarded to the Department for endorsement prior to public exhibition.
3. Public exhibition of this planning proposal should be in conjunction with the public exhibition of the draft Development Control Plan supporting Jacaranda Ponds and the biodiversity certification application.
4. Council is to ensure that appropriate measures are in place to provide for adequate local facilities to support the development. These measures may include a Voluntary Planning Agreement. Any Agreement should be exhibited in conjunction with the planning proposal and Development Control Plan.
5. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and

- (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
6. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
- NSW Environment, Energy and Science;
  - NSW Rural Fire Service;
  - NSW Office of Water;
  - DPIE – Water & Utility Team; and
  - IPART.
- Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.
7. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
8. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
  - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
  - (c) there are no outstanding written objections from public authorities.
9. The time frame for completing the LEP is to be **18 months** following the date of the Gateway determination.



**Gina Metcalfe**  
**Acting Director, Central (Western)**  
**Greater Sydney, Place and Infrastructure**

Assessment officer: Elizabeth Kimbell  
Acting Manager, The Hills & Hawkesbury  
Phone: 9860 1521