

Attachment 29 - Deferred Matters: 2-10 Watson Street, Glenbrook

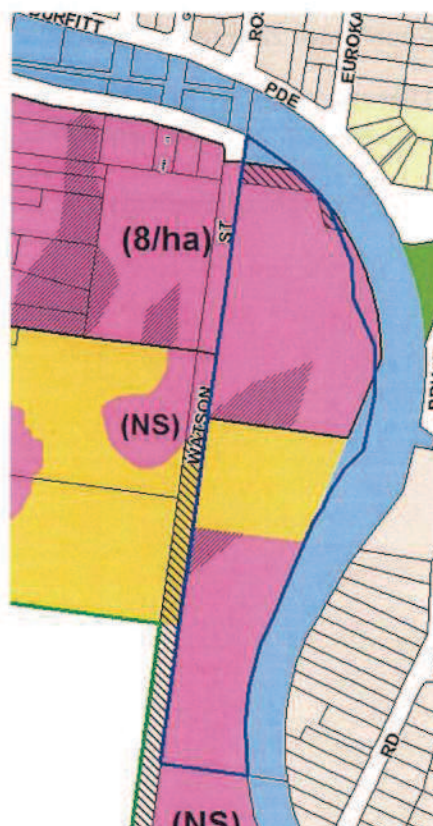
Deferred Item

2-10 Watson Street Glenbrook**Previous Resolution of the Council**

At the Extraordinary Meeting on the 9 October 2014, the Council resolved to defer 2-10 Watson Street Glenbrook from DLEP 2013.

Background and Proposal

The Blue Mountains Conservation Society and an individual requested a review of E2 with view to extending it on Station St and Crown Reserve.

**Figure 1 – Locality Map****Figure 2 – Current Zones**

The 7.2ha parcel is undeveloped vacant Crown land and was part zoned Residential Bushland Conservation (8 lots per hectare) and part Environmental Protection under LEP 1991. As part of the background work to DLEP 2013, a review of zoning and protected area mapping on public land was not carried out at a strategic level. Accordingly the general approach was a direct translation of existing zoning to the equivalent zoning under DLEP 2013. The proposed zonings under DLEP 2013 therefore were part E4 Environmental Living and part E2 Environmental Conservation, although the extent of the E2 Environmental Conservation was increased to reflect mapping showing slopes greater than 33 per cent.

During the review of submissions on this property it was however acknowledged that scheduled vegetation on the site did warrant further investigation and the site was subsequently deferred from DLEP 2013.

The vegetation on the site has since been reviewed by site inspection and is as shown on the following map.

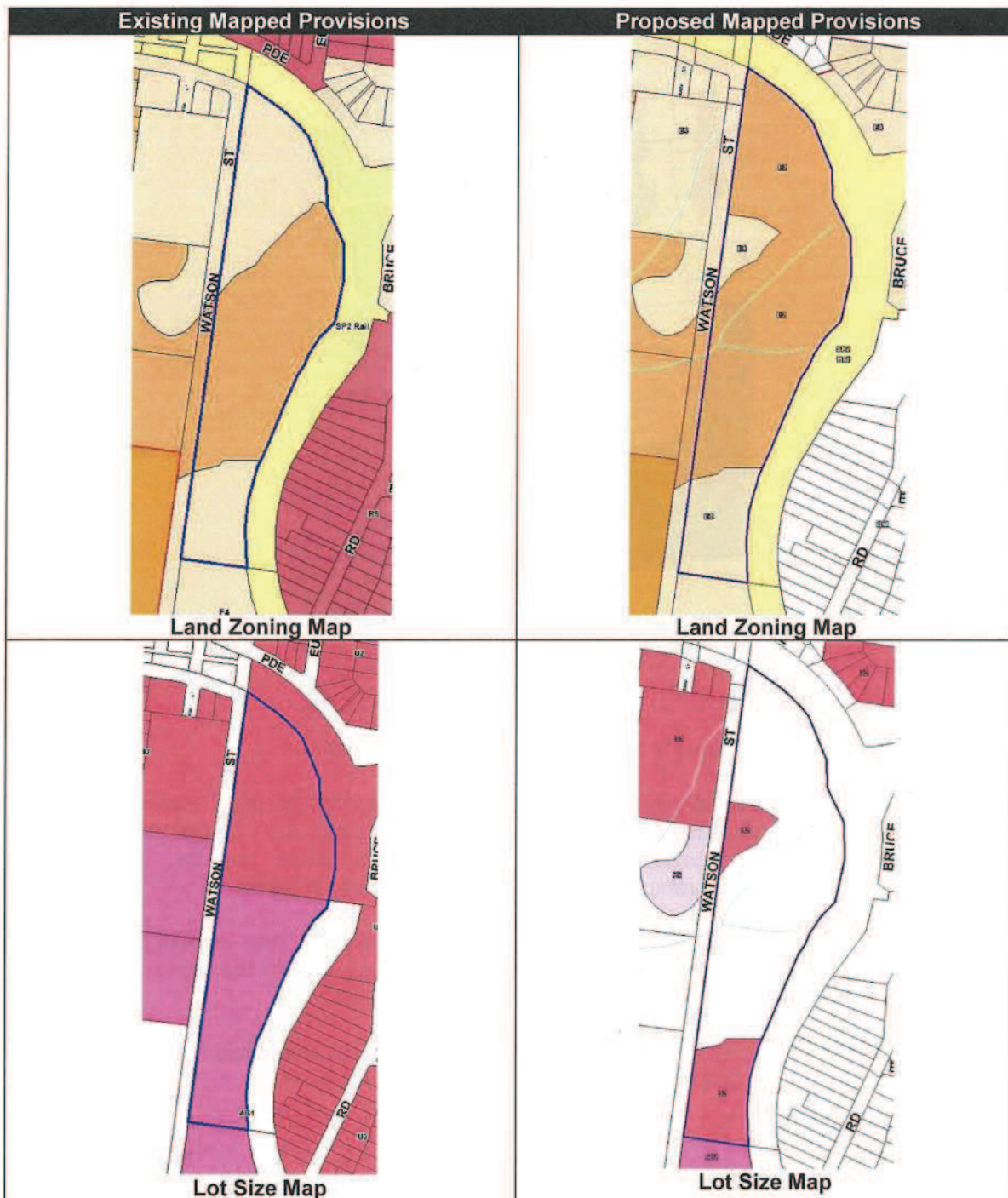


Figure 3 – Verified Scheduled Vegetation

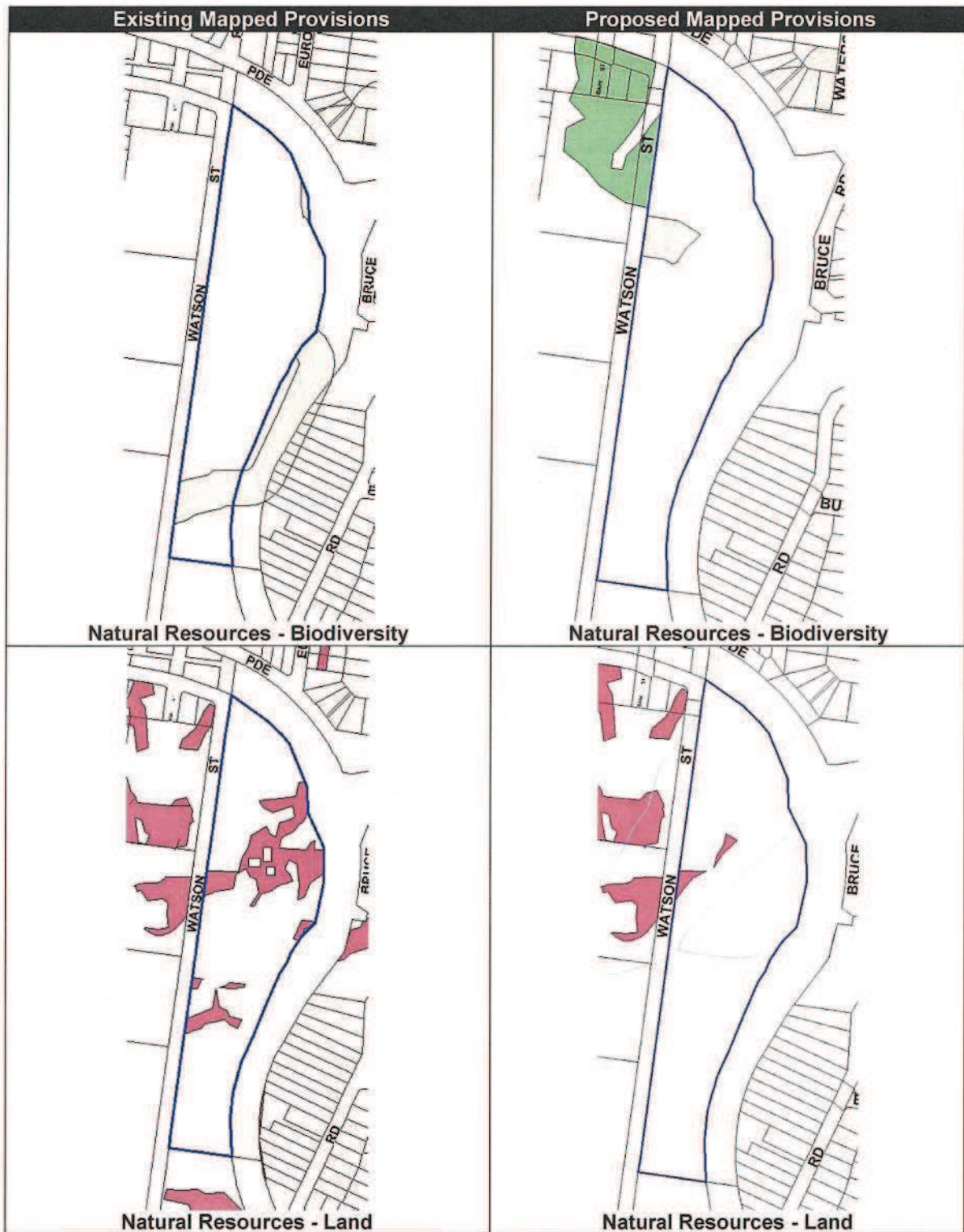
The E2 Environmental Conservation zone has been applied where land contains one or more environmental constraints such as contiguous slopes steeper than 33 per cent, verified significant vegetation communities or land within a watercourse corridor, unless the proposed extent of E2 would prohibit development opportunities on a site.

As a result of the vegetation at this site having been verified by site inspection, the E2 Environmental Conservation Zone has been increased as below, with the remainder of the site retaining the E4 Environmental Living zone under DLEP 2013.

The introduction of the E2 Environmental Conservation Zone has implications for associated mapped provisions under DLEP 2013 and these are also shown below.







Recommendations

- G.7 That the Blue Mountains DLEP 2015 Land Application Map for 2-10 Watson Street Glenbrook be amended by deleting the "Deferred Matter" notation.
- G.8 That the Blue Mountains DLEP 2015 Land Zoning Map for 2-10 Watson Street Glenbrook be amended as shown on the Land Zoning Map in Attachment 29, Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- G.9 That the Blue Mountains DLEP 2015 Lot Size Map for 2-10 Watson Street Glenbrook be amended as shown on the Lot Size Map in Attachment 29, Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- G.10 That the Blue Mountains DLEP 2015 Lot Averaging Map for 2-10 Watson Street Glenbrook be amended as shown on the Lot Averaging Map in Attachment 29, Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- G.11 That the Blue Mountains DLEP 2015 Riparian Lands and Watercourses Map for 2-10 Watson Street Glenbrook be amended as shown on the Riparian Lands and Watercourses Map in Attachment 29, Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- G.12 That the Blue Mountains DLEP 2015 Natural Resources – Biodiversity Map for 2-10 Watson Street Glenbrook be amended as shown on the Natural Resources – Biodiversity Map in Attachment 29, Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- G.13 That the Blue Mountains DLEP 2015 Natural Resources – Land Map for 2-10 Watson Street Glenbrook be amended as shown on the Natural Resources – Land Map in Attachment 29, Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- G.14 That the Blue Mountains DLEP 2015 Height of Buildings Map for 2-10 Watson Street Glenbrook be amended as previously exhibited.

Attachment 30 - Deferred Matters: 21 Barnet Street, Glenbrook

Deferred Item

21 Barnet Street Glenbrook**Previous Resolution of the Council**

At the Extraordinary Meeting on the 9 October 2014, the Council resolved to defer 21 Barnet Street Glenbrook from DLEP 2013.

Background and Proposal

Two submissions from individuals note that the land contains endangered plant communities.



Figure 1 – Locality Map



Figure 2 – Current Zones

This site is privately owned and currently zoned Living Bushland Conservation under LEP 2005. As part of the background work to DLEP 2013, a review of zoning and protected area mapping on land under LEP 2005 was not extensively carried out. Accordingly the general approach was a direct translation of existing zoning and mapping under LEP 2005 to the equivalent zoning and mapping under DLEP 2013.

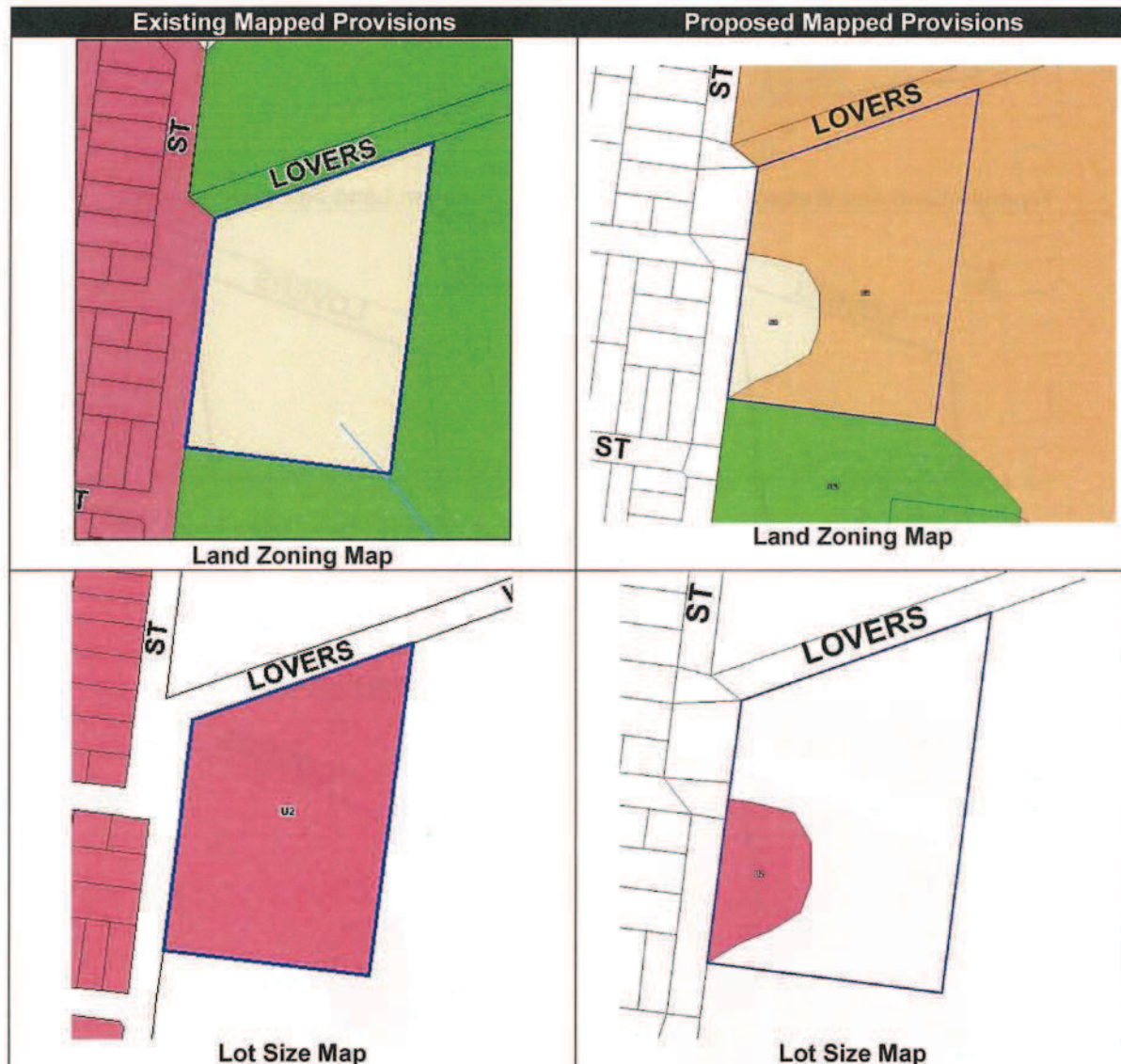
Vegetation mapping on the site in 2010 showed scheduled vegetation more extensively on the site than currently mapped, although this was not verified during the preparation of DLEP 2013. The site was subsequently deferred from DLEP 2013 to carry out a review of the 2010 vegetation mapping, and enable further public consultation.

The E2 Environmental Conservation zone is applied where land contains one or more environmental constraints such as contiguous slopes steeper than 33 per cent, verified significant vegetation communities or land within a watercourse corridor, unless the proposed extent of E2 would prohibit development opportunities on a site. When the application of the E2 Environmental Conservation zone would preclude development potential on a site then Protected Area mapping is used.

The vegetation on the site has been reviewed and verified on this site with extensive areas of scheduled vegetation found to be present (Figure 3) with the presence of endangered plant communities confirmed.

It is therefore recommended that E2 Environmental Conservation zone be applied on the site, apart from an area that will retain development potential under E4 Environmental Living. Where the E4 Environmental Living zone applies any scheduled vegetation on the site will be protected through the Protected Area – Vegetation Constraint map that would require the impacts of development in this area to be managed through the development application process.

The introduction of the E2 Environmental Conservation Zone has implications for associated mapped provisions under DLEP 2013 and these are also shown below.





Recommendations

- G.15 That the Blue Mountains DLEP 2015 Land Application Map for 21 Barnet Street Glenbrook be amended by deleting the "Deferred Matter" notation.
- G.16 That the Blue Mountains DLEP 2015 Land Zoning Map for 21 Barnet Street Glenbrook be amended as shown on the Land Zoning Map in Attachment 30, Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- G.17 That the Blue Mountains DLEP 2015 Lot Size Map for 21 Barnet Street Glenbrook be amended as shown on the Lot Size Map in Attachment 30, Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- G.18 That the Blue Mountains DLEP 2015 Riparian Lands and Watercourses Map for 21 Barnet Street Glenbrook be amended as shown on the Riparian Lands and Watercourses Map in Attachment 30, Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- G.19 That the Blue Mountains DLEP 2015 Natural Resources – Land Map for 21 Barnet Street Glenbrook be amended as shown on the Natural Resources – Land Map in Attachment 30, Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- G.20 That the Blue Mountains DLEP 2015 Scenic and Land Values Map for 21 Barnet Street Glenbrook be amended as shown on the Scenic and Landscape Values Map in Attachment 30, Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- G.21 That the following Blue Mountains DLEP 2015 maps for 21 Barnet Street Glenbrook be amended as previously exhibited:
- Height of Buildings
 - Lot Averaging

Attachment 31 - Deferred Matters: Certain land in Glenbrook

Deferred Item

Area around Turella Street Glenbrook being certain lots in Hillside Cresc, Lucasville Road, Alexandra Cresc, Brooklands Road, Avoca Street, Bellata Court, Explorers Road and Turella Street Glenbrook**Previous Resolution of the Council**

At the Extraordinary Meeting on the 23 October 2014, the Council resolved to defer certain lots in Hillside Cresc, Lucasville Road, Alexandra Cresc, Brooklands Road, Avoca Street, Bellata Court, Explorers Road and Turella Street Glenbrook from DLEP 2013.

Background and Proposal

In the final stages of preparing the DLEP 2013, it was found that the application of the E2 Environmental Conservation zone was incorrectly processed.



Figure 1 – Locality Map

The Protected Area – Ecological Buffer Area is applied 50 metres from the edge of a significant vegetation community that has been zoned E2 Environmental Conservation, as shown below in an extract from *Environmental Management Plan 2002 Volume 1* (2002), which supported *Local Environmental Plan 2005*:

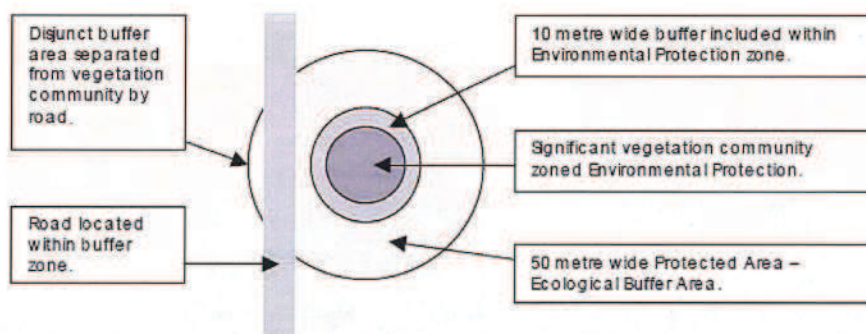


Figure 4: Application of Protected Area – Ecological Buffer Area

Figure 2 - Extract from *Environmental Management Plan 2002 Volume 1 (2002)*,

Arising from preparation of the response to dealing with the application of the E2 Environmental Conservation zone, it was found that the Protected Area – Ecological Buffer Area was not applied to properties in the area of Tunnel Gully west of Lapstone Reserve through a GIS processing error. This matter was subsequently deferred to enable public exhibition of the amended Ecological Buffer Area - Protected Area map.

Figure 3 shows where Protected Area – Ecological Buffer Area should be applied to the properties in the vicinity of that particular verified scheduled vegetation community.

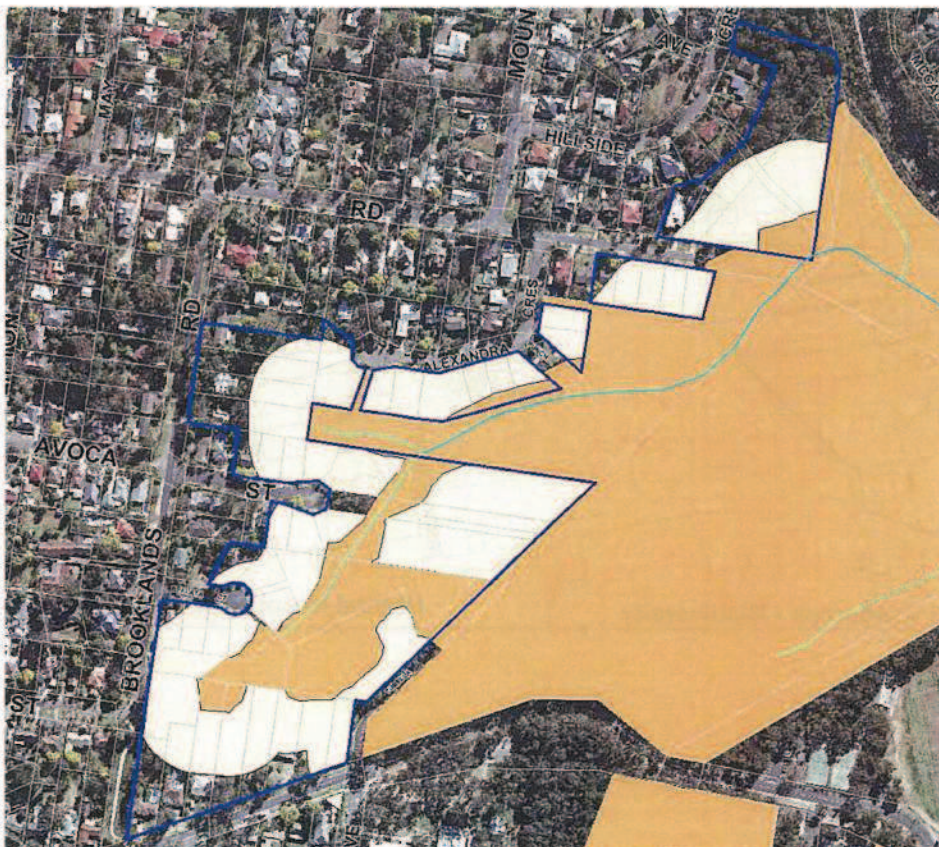
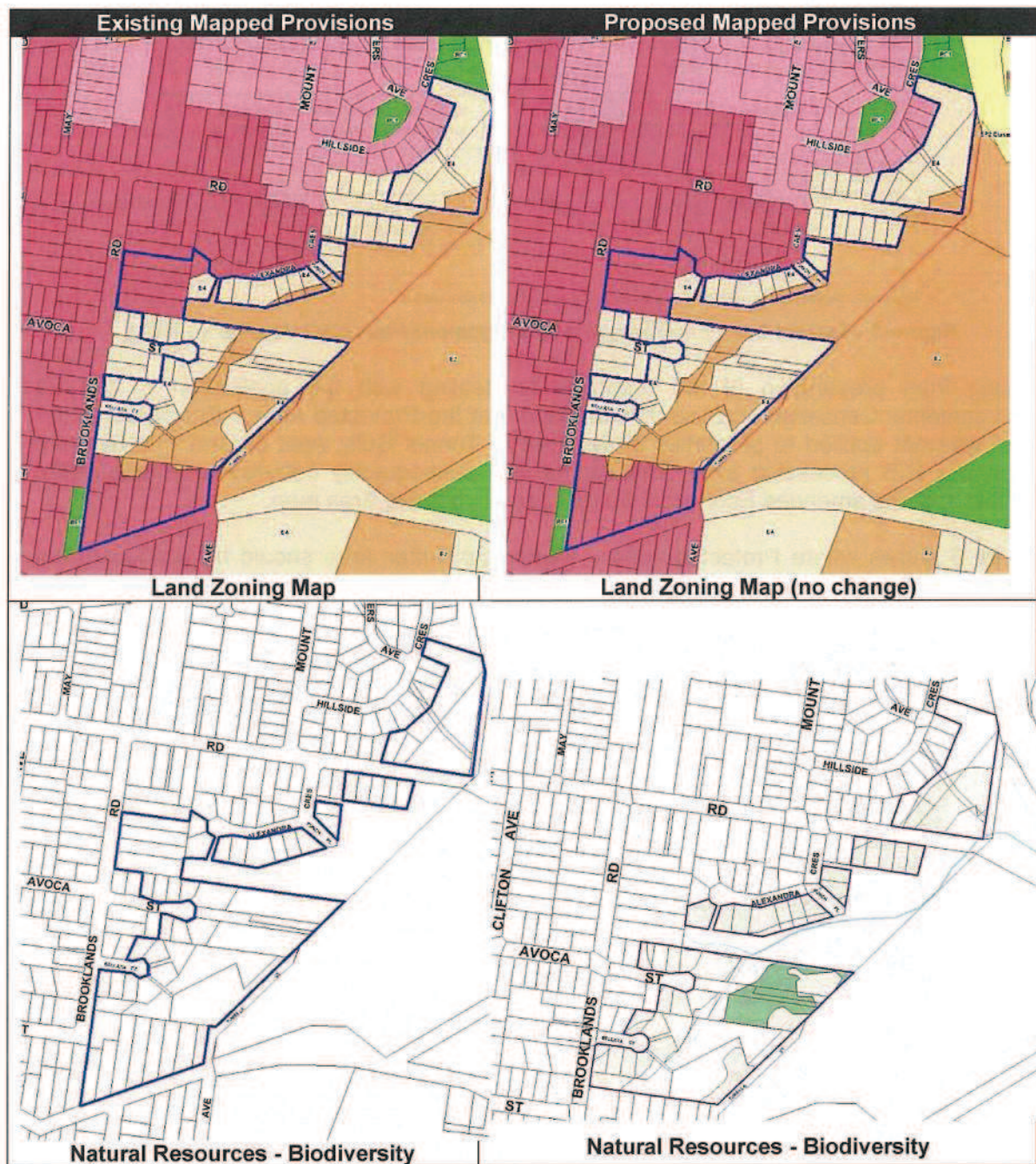


Figure 3: E2 Environmental Conservation zone (dark yellow) based on verified significant vegetation community and watercourse and proposed Protected Area – Ecological Buffer Area (light yellow). Blue border shows all lots affected.

It is recommended that the Protected Area – Ecological Buffer Area be appropriately applied to the areas noted.



Recommendations

- G.22 That the Blue Mountains DLEP 2015 Land Application Map for certain lots in Hillside Cresc, Lucasville Road, Alexandra Cresc, Brooklands Road, Avoca Street, Bellata Court, Explorers Road and Turella Street Glenbrook be amended by deleting the "Deferred Matter" notation.
- G.23 That the Blue Mountains DLEP 2015 Natural Resources – Biodiversity Map for certain lots in Hillside Cresc, Lucasville Road, Alexandra Cresc, Brooklands Road, Avoca Street, Bellata Court, Explorers Road and Turella Street Glenbrook be amended as shown on the Natural Resources – Biodiversity Map in Attachment 31, Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- G.24 That the following Blue Mountains DLEP 2015 mapped provisions for certain lots in Hillside Cresc, Lucasville Road, Alexandra Cresc, Brooklands Road, Avoca Street, Bellata Court, Explorers Road and Turella Street Glenbrook be amended as previously exhibited:
- Land Zoning
 - Height of Buildings
 - Lot Size
 - Lot Averaging
 - Riparian Land and Watercourses
 - Natural Resources - Land

Deferred Item

Minimum Lot Size for Land Zoned R1 General Residential**Previous Resolution of the Council**

At the Extraordinary Meeting on the 23 October 2014, the Council resolved to defer the minimum lot size of land zoned R1 General Residential lots from DLEP 2013.

Background and Proposal

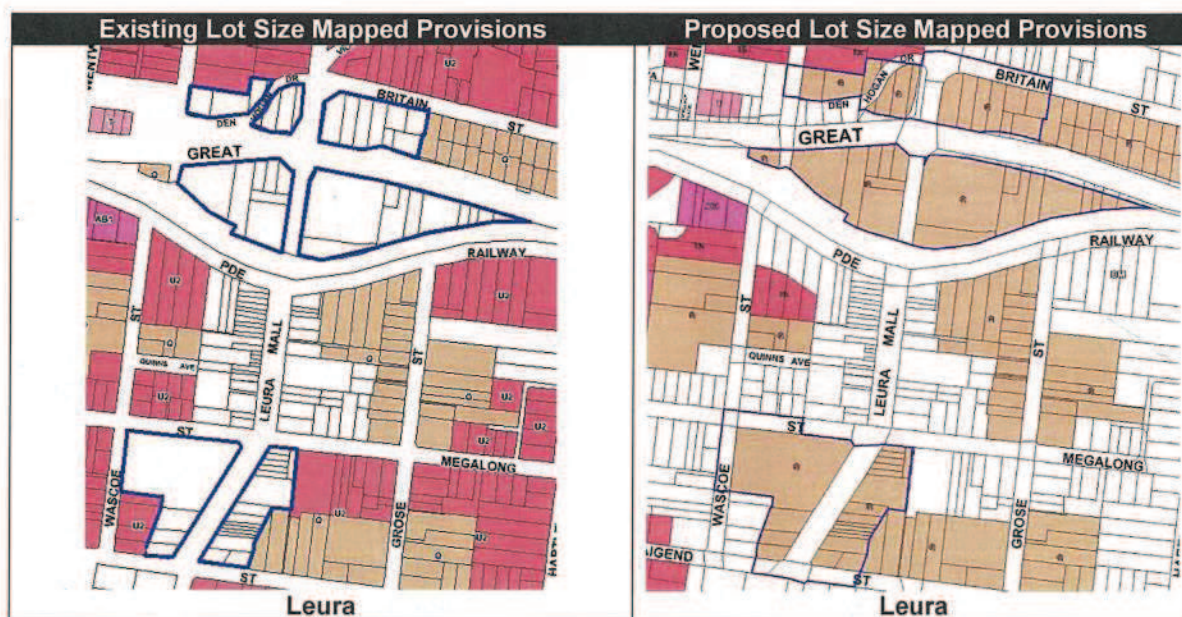
In the final stages of preparing the DLEP 2013, it was found that the application of the minimum lot size provision for land zoned R1 General Residential was incorrectly processed.

The R1 zone has been used to translate the existing Village – Tourist zone under LEP 2005. This zone includes significant areas in Mount Victoria, Medlow Bath, Katoomba, and Leura. The minimum lot size applying to the Village – Tourist zone under Clause 90 of LEP 2005 is 720m² for regular shaped lots. Despite the existing minimum lot sizes for all other zones being translated from LEP 2005 to DLEP 2013, the 720m² for R1 General Residential was omitted and all R1 zoned land shown blank on the Lot Size Map. This appears to have resulted from a technical error in the compilation of the DLEP 2013 maps and was not intended.

The minimum lot size for land zoned R1 General Residential has been reinstated as applied previously in LEP 2005. This amendment corrects the mapping anomaly from DLEP 2013 and allows land owners affected the opportunity to comment.







Recommendations

- R1.1 That the Blue Mountains DLEP 2015 Land Application Map for land zoned R1 General Residential be amended by deleting the "Deferred Matter" notation.
- R1.2 That the Blue Mountains DLEP 2015 Lot Size Map for land zoned R1 General Residential be amended as shown on the Lot Size Map in Attachment 32, Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- R1.3 That the following Blue Mountains DLEP 2015 mapped provisions for land zoned R1 General Residential be amended as previously exhibited:
- Land Zoning
 - Heritage
 - Built Character
 - Floor Space Ratio
 - Height of Buildings
 - Natural Resources – Land
 - Scenic and Landscape Values

22 April 2015

By email and post: greg.russell@dpi.nsw.gov.au

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Your reference: **Our reference:**
2814771

Dear Mr Russell

Bunnings Properties Pty Ltd v Blue Mountains City Council
Land and Environment Court Proceedings No. 10756 of 2014
Site: 48 Megalong Street, Katoomba NSW (Lot 1 in DP 921976)
DA: Development Application No. X/824/2013

We act on behalf of Bunnings Properties Pty Ltd (**Bunnings**) in relation to the above Land and Environment Court proceedings (**Proceedings**).

As you may be aware, the Proceedings are merit appeal proceedings commenced by our client against Blue Mountains City Council's (**Council**) deemed refusal of Bunnings' Development Application No. X/824/2013 (**DA**). The DA seeks development consent for the "*construction of a single level Bunnings store, outdoor nursery, timber trade sales, parking, signage and fitout at 48 Megalong Street, Katoomba NSW.*"

1 Council contentions in the Proceedings

- 1.1 Council contends that the DA should be refused because the DA is for integrated development pursuant to s91 of the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**), given that the construction method for the proposed building and car park area will result in the interception of site groundwater and will require dewatering of the Site. Council asserts that an aquifer interference approval is therefore required under s91 of the *Water Management Act 2000* (NSW) (**WM Act**).
- 1.2 Specifically, Council contends that:

"The development application should be refused because the NSW Office of Water has not issued its concurrence in relation to the proposal pursuant to section 91 of the Water Management Act 2000 in circumstances where the proposal includes an 'aquifer interference activity'".
- 1.3 Council has also provided to us a copy of your email to Kim Barrett of Council dated 26 February 2015 in relation to the DA. In that email, you requested that additional information be provided, stating in particular:

APAC-#26423693-v4

"In order to advise on the need for a licence to authorise dewatering activity (and therefore if the development is integrated in respect of groundwater impacts), the Office of Water needs to be advised of the volume of groundwater that is predicted to be pumped. The method by which the prediction of the dewatering volume has been reached must also be clearly documented and provided. An assessment of the significance of the dewatering can then be made and a determination of the need for a licence would then follow."

- 1.4 The purpose of this letter is to provide the further information that you requested in your email to Council dated 26 February 2015, and to set out our view that an aquifer interference approval is not, in fact, required in relation to the DA.

2 Aquifer interference approval

- 2.1 We do not agree with Council's contention that the DA requires the concurrence of the Office of Water pursuant to s91 of the WM Act.

- 2.2 It is our understanding that the provisions of s91 of the WM Act do not apply to the DA and accordingly an 'aquifer interference approval' is not required.

- 2.3 We have formed this view on the basis that:

- (1) under s88A of the WM Act, Part 3 of Chapter 3 of the WM Act only applies to certain parts of the State, certain water sources and certain kinds of approvals that are declared by proclamation to be subject to Part 3 of Chapter 3; and
- (2) clause 2 of the *Water Management (Application of Act to Greater Metropolitan Regional Water Sources) Proclamation 2011* (issued pursuant to s88A of the WM Act) applies to the Site and provides that:

*"...Part 3 of Chapter 3 of the Water Management Act 2000 applies to each water source to which a prescribed water sharing plan applies in relation to all approvals for any such water source **other than** drainage work approvals, flood work approvals and **aquifer interference approvals**."* (emphasis added).

- 2.4 We therefore conclude that an 'aquifer interference approval' is not required for the DA under s91 of the WM Act. Please let us know if you hold a different view.

3 Access Licence

- 3.1 The Office of Water may require Bunnings to obtain an access licence pursuant to Part 2 of Chapter 3 of the WM Act, or a bore licence under Part 5 of the *Water Act 1912* (NSW), in order for Bunnings to carry out its proposed development.

- 3.2 The need for an access licence or bore licence (if required) does not trigger the 'integrated development' provisions of s91 of the EP&A Act and could if applicable be imposed as a condition of any development consent that was issued by the Court in the Proceedings.

- 3.3 To assist the Office of Water in assessing whether an access licence or bore licence would be required, and in response to your email to Council dated 26 February 2015, we **enclose** a letter from Sam Cook, Senior Hydrogeologist at EMGA Mitchell McLennan which:

- (1) estimates the volume of groundwater predicted to be pumped during the construction of Bunnings' proposed development, and compares that volume to the long-term average extraction limit prescribed for the Sydney Basin Blue Mountains Groundwater Source under the *Water Sharing Plan for the Greater Metropolitan Region Groundwater Sources 2011*; and
- (2) demonstrates that no harm will be done to the water source as a consequence of water being taken from the water source.

22 April 2015

NORTON ROSE FULBRIGHT

- 3.4 We request confirmation from the Office of Water as to whether an access licence or bore licence will be required for Bunnings to carry out its proposed development, and if so, whether such a licence is able to be issued having regard to the predicted volumes.

You may be aware that the Proceedings have been listed for a section 34 conciliation conference on-site on **6 May 2015**. If at all possible, we would appreciate your response in relation to the above matters by **Friday 1 May 2015** so that the Court may have the benefit of the Office of Water's views on these matters.

We look forward to hearing from you. Please let us know if you have any questions or would like to discuss the above.

Yours faithfully



rev Felicity Rourke
Partner and Head of Office
Norton Rose Fulbright Australia
Contact: Rebecca Fleming

Encl.

- *Letter from Sam Cook of EMGA Mitchell McLellan to Norton Rose Fulbright dated 22 April 2015.*

cc Katherine McLellan (Marsdens Law Group), solicitor for Blue Mountains City Council



Extraordinary Meeting

26 March 2015

Addendum to Item 3



EXTRAORDINARY MEETING

26 MARCH 2015

AGENDA

ITEM NO.	PAGE	SUBJECT	COMMENTS
		<u>ADDENDUM</u>	
3	4	Draft Amendment 1 to Draft Local Environmental Policy 2015	

ITEM NO: **ITEM 3 - ADDENDUM**

SUBJECT: **DRAFT AMENDMENT 1 TO DRAFT LOCAL ENVIRONMENTAL POLICY
2015**

FILE NO: F09162 - 15/50336

Recommendations:

1. *That Council receives this report and the "Draft Local Environmental Plan 2015 (DLEP 2015) – Review of Deferred Matters", comprising the Attachments to this report, which contains staff discussion, options and recommendations arising from the consideration of deferred matters from then Draft Local Environmental Plan 2013;*
2. *That this extraordinary meeting of the Council be adjourned, pending the conclusion of the meeting of the Council as a Committee-of-the-Whole, to convene forthwith upon the adjournment of this meeting, for the purpose of considering the matters referred to in resolution 1 (in relation to DLEP 2015);*
3. *That this adjourned meeting of the Council resume following the conclusion of the meeting of the Council as Committee-of-the-Whole, referred to in resolution 2, and that the Council upon the resumption of the adjourned meeting receive any report from the Committee-of-the-Whole and thereafter take such action in response to that report as the Council then determines;*
4. *That the Council adopts the Planning Proposal for Draft Amendment 1 to Draft Local Environmental Plan 2015;*
5. *That the Council refers the Planning Proposal for Draft Amendment 1 to DLEP 2015 to the Minister for Planning requesting that an assessment of the Planning Proposal be undertaken recommending a Gateway determination be made; and*
6. *That the Council delegates to the General Manager (or their nominee) the authority to make minor amendments to the adopted Draft Planning Proposal for Amendment 1 to DLEP 2015 and associated maps, that may arise after the formal adoption of this planning proposal, subject to such amendments maintaining the policy intent of the draft amendment.*

Report by Director, Development & Customer Services:

This report is an addendum to Item 3 of the Business Paper (the 'main report') for the Ordinary Meeting of 26 March 2015.

Matters identified as Attachment 11 - 24 and 26-30 Glenwattle Street, Katoomba and Attachment 12- 19 Davidson Road and 22 Denison Road, Leura replace the items in the Business Paper as printed.

Matters identified as 111 Mort Street Katoomba and 112 - 20 Hazel Avenue Hazelbrook are additional matters considered for the consideration of the Council.

The Recommendations for Item 3 in the Business Paper remain as printed.

Attachment 11 - Deferred Matters: 24 and 26-30 Glenwattle Street, Katoomba

Deferred Item

24 & 26-30 Glenwattle Street, Katoomba (formerly 53 Burrawang Street)**Previous Resolution of the Council**

At the Extraordinary Meeting on the 4 September 2014, the Council resolved to defer 24 & 53 Burrawang Street, Katoomba from DLEP 2013. Please note, 53 Burrawang Street, Katoomba has since been renamed to 26-30 Glenwattle Street, Katoomba.

Background and Proposal

A submission from an individual requests that the land be rezoned E2 Environmental Conservation.



Figure 1 – Locality Map

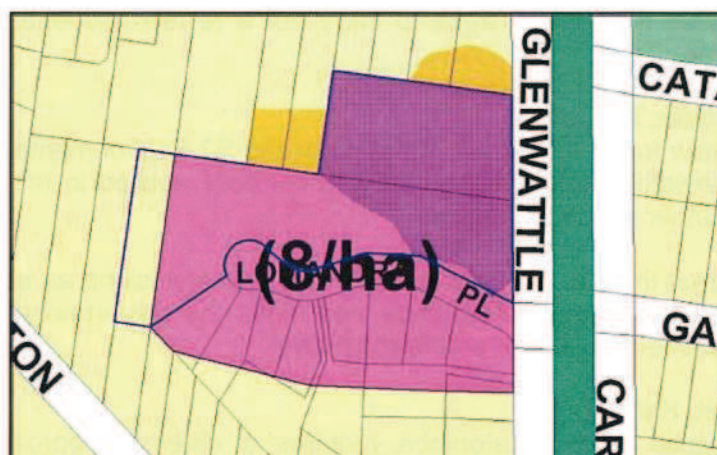


Figure 2 – Current Zones

The land at 24 and 26-30 Glenwattle Street, (formerly 53 Burrawang Street) Katoomba is currently zoned Residential Bushland Conservation (8 lots per ha) under LEP 1991 and was proposed to be zoned partly E4 – Environmental Living and partially E2 – Environmental Conservation under DLEP 2013.

The E2 Environmental Conservation zone is applied where land contains one or more environmental constraints such as contiguous slopes steeper than 33 per cent, verified significant vegetation communities or land within a watercourse corridor, unless the proposed extent of E2 would prohibit development opportunities on a site. When the application of the E2 Environmental Conservation zone would preclude development potential on a site then Protected Area mapping is used.

The subject properties contains two significant vegetation communities (5B Hanging Swamp) and (2F Tall Open Forest) identified under Schedule 6 of DLEP 2013, which were verified as part of Council's vegetation verification work undertaken as part of DLEP 2013, as shown in Figure 3.

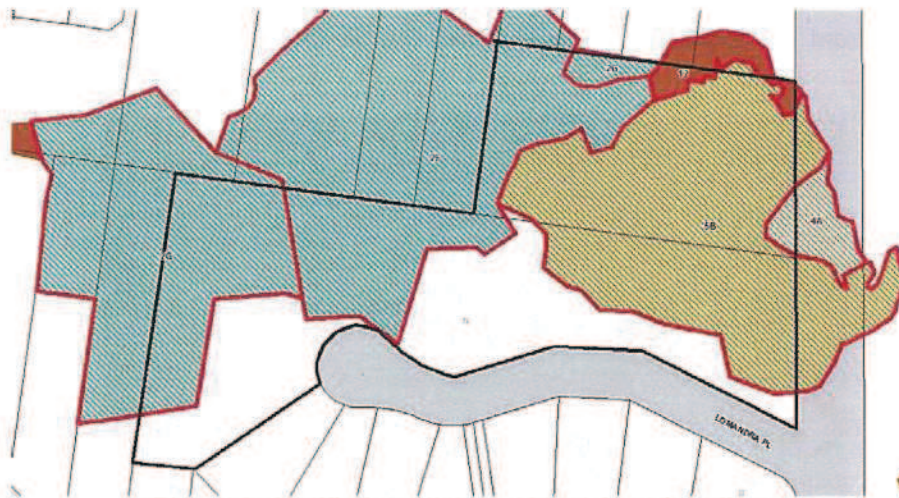


Figure 3 - Verified vegetation shown in red outline

Accordingly, the extent of E2 Environmental Protection zone on the properties applied under DLEP 2013 was chosen to maximise protection of the verified scheduled vegetation through the application of E2 Environmental Protection while permitting development potential on E4 Environmental Living zone with appropriate Protected Area mapping controls.

This land was deferred from DLEP 2013 to carry out a review and enable further public consultation if required.

26-30 Glenwattle Street, Katoomba

The subsequent review found the extent of the proposed E2 Environmental Protection zone on (now) 26-30 Glenwattle Street, Katoomba was correctly applied in the exhibited DLEP 2013 maps in the manner described above.

It is recommended that the Council reinstate the mapping provisions as exhibited in DLEP 2013 for 26-30 Glenwattle Street, Katoomba and notify the Department of Planning and Environment that this site is no longer a deferred matter.

24 Glenwattle Street, Katoomba

However 24 Glenwattle Street, Katoomba requires a different approach to take into consideration a Land and Environment Court approved subdivision plan from the early 1990s. This subdivision plan was initially approved by Council in 1991 under LEP 4, and subsequently amended on appeal to the Land and Environment Court in 1994 (refer Figure 4).

While it is unlikely a similar subdivision would be approved under LEP 1991, due to the introduction of a range of environmental considerations for subdivision in that instrument, the

subdivision plan is current and has been progressively taken up since that time. There now remain 5 lots to be registered on what is currently 24 Glenwattle Street, Katoomba, with each lot having a dwelling entitlement.

The appropriate planning response to the approved subdivision plan is to remove the application of E2 Environmental Conservation on 24 Glenwattle Street, Katoomba, as currently exists, and include all verified scheduled vegetation on that property as Protected Area – Vegetation Constraint Area. In this way should a development application be received for a dwelling, on either the existing lot or any of the 5 lots approved, the development assessment process will ensure the presence of scheduled vegetation on the site is explicitly considered.

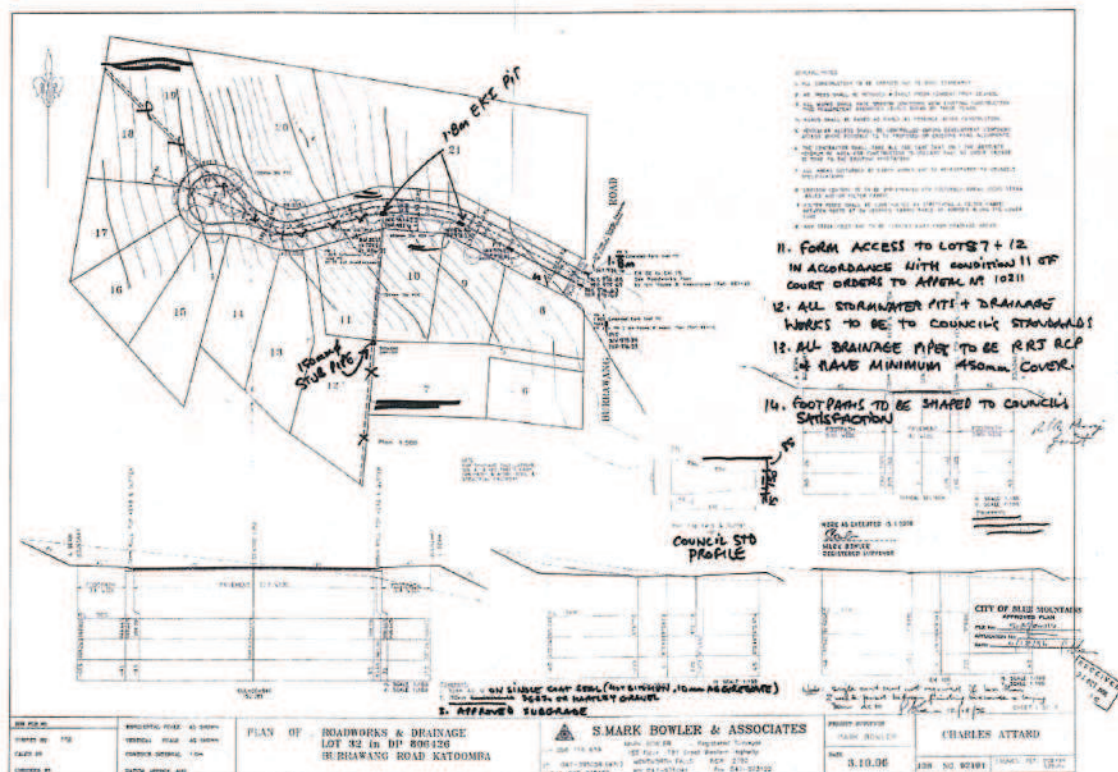
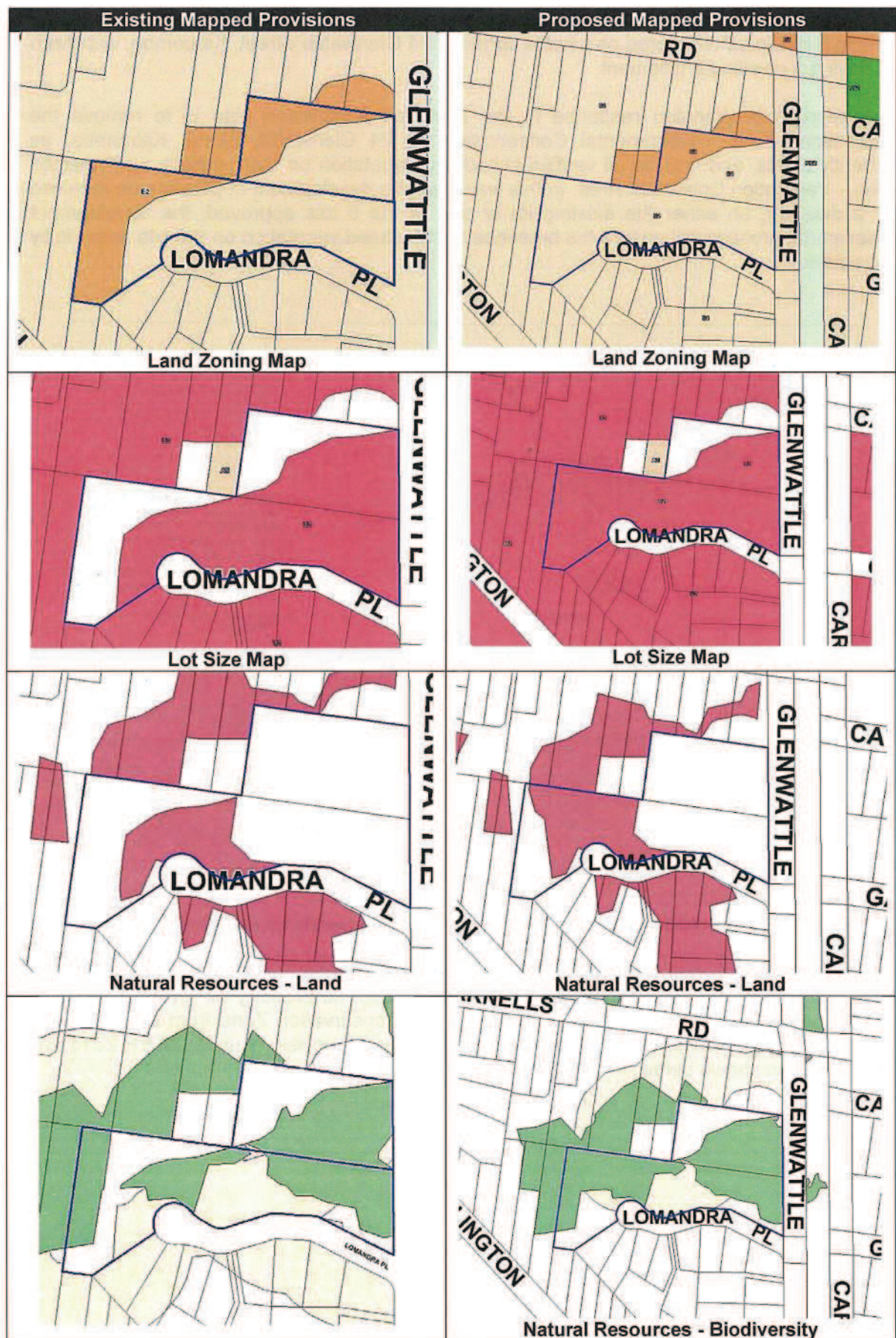


Figure 4 – Approved subdivision plan for 24 Glenwattle Street, Katoomba

It is recommended that the Council remove the E2 Environmental Conservation zone as exhibited on 24 Glenwattle Street, Katoomba and make the property all E4 Environmental Living zone. The removal of the E2 Environmental Conservation Zone from 24 Glenwattle Street, Katoomba has implications for associated mapped provisions under DLEP 2013 and these are also shown below.



Existing Mapped Provisions	Proposed Mapped Provisions
Natural Resources - Biodiversity	

Recommendations

- K.22 That the Council notify the Department of Planning and Environment that the land at 26-30 Glenwattle Street Katoomba (formerly 53 Burrawang Street) is no longer part of the deferred process.
- K.23 That the Blue Mountains DLEP 2015 Land Application Map for 26-30 Glenwattle Street Katoomba (formerly 53 Burrawang Street) be amended by deleting the "Deferred Matter" notation.
- K.24 That the Blue Mountains DLEP 2015 Land Application Map for 24 Glenwattle Street Katoomba be amended by deleting the "Deferred Matter" notation.
- K.25 That the Blue Mountains DLEP 2015 Land Zoning Map for 24 Glenwattle Street Katoomba be amended as shown on the Land Zoning Map in Addendum 1 (24 Glenwattle Street, Katoomba) Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- K.26 That the Blue Mountains DLEP 2015 Lot Size Map for 24 Glenwattle Street Katoomba be amended as shown on the Lot Size Map in Addendum 1 (24 Glenwattle Street, Katoomba) Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- K.27 That the Blue Mountains DLEP 2015 Natural Resources - Land Map for 24 Glenwattle Street Katoomba be amended as shown on the Natural Resources - Land Map in Addendum 1 (24 Glenwattle Street, Katoomba) Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- K.28 That the Blue Mountains DLEP 2015 Natural Resources Biodiversity Map for 24 Glenwattle Street Katoomba be amended as shown on the Natural Resources - Biodiversity Map in Addendum 1 (24 Glenwattle Street, Katoomba) Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- K.29 That the following Blue Mountains DLEP 2015 mapped provisions for 24 Glenwattle Street Katoomba be amended as previously exhibited:
- Height of Buildings Map;
 - Lot Averaging Map.

Attachment 12 - Deferred Matters: 19 Davidson Road and 22 Denison Road, Leura

Deferred Item

22 Denison Street and 19 Davidson Street Leura

Previous Resolution of the Council

At the Extraordinary Meeting on the 4 September 2014, the Council resolved to defer 22 Denison Street and 19 Davidson Street Leura from DLEP 2013.

Background and Proposal

An individual made a submission noting concern that the E4 zoning does not provide sufficient protection to the swamp and requests that a tributary of Yosemite Creek be mapped along with riparian buffer.



Figure 1 – Locality Map

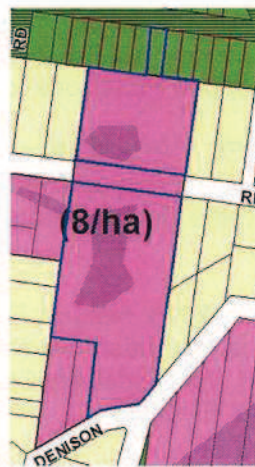


Figure 2 – Current Zones

The subject land comprises 3 parcels of land, the two northern parcels being 19 Davidson Road are developed with a dwelling and 22 Denison Road is developed with a church hall and associated infrastructure. The southern allotment of 19 Davidson Road was proposed to be zoned E4 Environmental Living and the northern allotment was proposed to be zoned E2 Environmental Conservation under DLEP 2013. All of 22 Denison Road, Leura was proposed to be E4 Environmental Living under DLEP 2013.

However, there are areas of confirmed scheduled vegetation on 19 and 22 Davidson Road, Leura currently shown as Protected Area – Vegetation Constraint Area. It appears in the process of preparing the mapping for DLEP 2013 that this area may not have been appropriately reviewed. As any increase in the coverage of E2 Environmental Conservation on a site would be a substantive change it was resolved that this site be deferred from the plan to carry out a review and enable further public consultation if required.

The E2 Environmental Conservation zone is applied where land contains one or more environmental constraints such as contiguous slopes steeper than 33 per cent, verified significant vegetation communities or land within a watercourse corridor, unless the proposed extent of E2 would prohibit development opportunities on a site. When the application of the

E2 Environmental Conservation zone would preclude development potential on a site then Protected Area mapping is used.

As noted above, there are areas of confirmed scheduled vegetation on 19 and 22 Davidson Road, Leura. The scheduled vegetation present on the site being Eucalyptus Radiata Forests, Blue Mountains Swamps and Blue Mountains Heath and Scrub. The extent and type of the scheduled vegetation is shown on the following map.

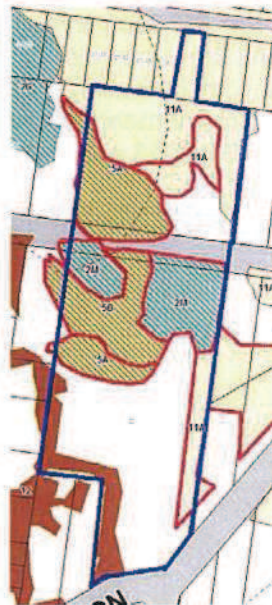


Figure 3 - Verified scheduled vegetation shown with a red border

Although these areas of verified scheduled vegetation were exhibited in DLEP 2013 as Protected Area – Vegetation Constraint Area on review the quality and coverage of these areas is such that they support the application of an E2 Environmental Conservation zone as opposed to a Protected Area designation.

The property owner of 19 Denison Rd, Leura noted there is a watercourse located on the properties and the riparian zone are missing and need to be mapped, as the watercourse often floods across the road and is a permanent creek fed by the swamp. A review of the aerial and topographic mapping of the subject site indicates a depression on the maps through which water in rain events would run, however there doesn't appear to be a defined bed or channel as stated in the definition of a watercourse in the DLEP 2013 dictionary. Therefore it is not considered appropriate to map this depression as a watercourse for the purposes of DLEP 2013 mapping.

If in the event of receiving a development application for either of these properties a site inspection could confirm the existence of a watercourse.

In relation to the zoning of 22 Denison Road, Leura a further council resolution was made at the Extraordinary Meeting on the 23 October 2014, in relation to Places of Public Worship, as below:

M.SP1.1 That the following approved 'Places of Public Worship' currently located in the E4 Environmental Living zone and the R6 Residential Character Conservation be rezoned to SP1 Special Activities and the Land Use Zoning Map is amended accordingly with the use 'Places of Public Worship' annotated on the map.

- 4 West St Wentworth Falls
- 22 Denison Rd Leura

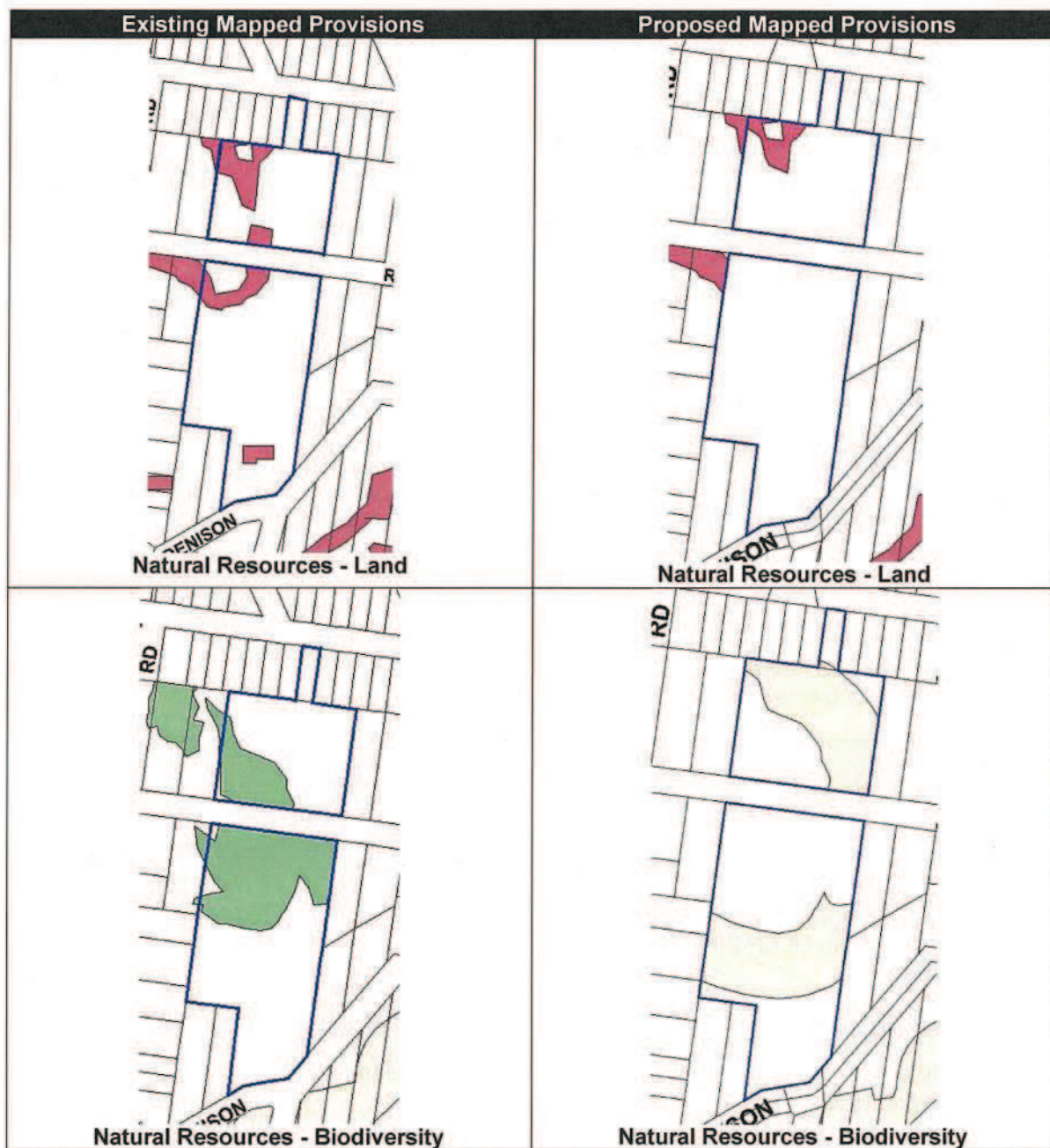
- 85 Narrow Neck Rd Katoomba
- 24 Hartley Esplanade Leura

[Minute No. 1206]

While the latter resolution determines the appropriate zone for land uses on the site, the environmental attributes on the property have primacy in determining the extent of the E2 Environmental Conservation zone.

Accordingly, it is recommended that the E2 Environmental Conservation zone be applied where there is scheduled vegetation and the remainder of the land at 19 Davidson Road is to be zoned E4 Environmental Living and the remainder of the land at 22 Denison Road is zoned SP1. The introduction of the E2 Environmental Conservation Zone has implications for associated mapped provisions under DLEP 2013 and these are also shown below.





Recommendations

- LA.1 That the Blue Mountains DLEP 2015 Land Application Map for 22 Denison Street and 19 Davidson Street Leura be amended by deleting the "Deferred Matter" notation.
- LA.2 That the Blue Mountains DLEP 2015 Land Zoning Map for 22 Denison Street and 19 Davidson Street Leura be amended as shown on the Land Zoning Map in Addendum 1 (22 Denison Street and 19 Davidson Street Leura) Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- LA.3 That the Blue Mountains DLEP 2015 Lot Size Map for 22 Denison Street and 19 Davidson Street Leura be amended as shown on the Lot Size Map in Addendum 1 (22 Denison Street and 19 Davidson Street Leura) Proposed Mapped Provisions to Amendment 1 to DLEP 2015.

- LA.4 That the Blue Mountains DLEP 2015 Natural Resources - Land Map for 22 Denison Street and 19 Davidson Street Leura be amended as shown on the Natural Resources - Land Map in Addendum 1 (22 Denison Street and 19 Davidson Street Leura) Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- LA.5 That the Blue Mountains DLEP 2015 Natural Resources Biodiversity Map for 22 Denison Street and 19 Davidson Street Leura be amended as shown on the Natural Resources - Biodiversity Map in Addendum 1 (22 Denison Street and 19 Davidson Street Leura) Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- LA.6 That the following Blue Mountains DLEP 2015 mapped provisions for 22 Denison Street and 19 Davidson Street Leura be amended as previously exhibited:
- Height of Buildings Map;
 - Lot Averaging Map.

Additional properties for inclusion in Amendment 1 to DLEP 2015

The following two properties were deferred from DLEP 2013 as they were previously used as sewerage treatment plants. This previous use triggered consideration of State Environmental Planning Policy 55 – Remediation of Land. The property owner, Sydney Water, is required to submit a satisfactory Preliminary Site Investigation (PSI) prior to any consideration of rezoning. On receipt of a satisfactory PSI the properties below will be included in the Planning Proposal for Amendment 1 to DLEP 2015. Should this not occur, these properties will be deferred to a future amendment to DLEP 2013.

Deferred Item

111 Mort Street Katoomba

Previous Resolution of the Council

At the Extraordinary Meeting on the 23 October 2014, the Council resolved to defer 111 Mort Street Katoomba from DLEP 2013.

Background and Proposal

The property owner, Sydney Water made a submission requesting that the land be rezoned E4 Environmental Living.



Figure 1 – Locality Map

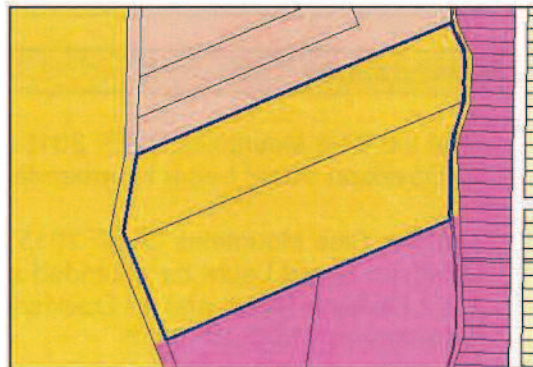


Figure 2 – Current Zones

If a favourable PSI is submitted to the Council, consideration needs to be given to the most appropriate residential zone for the property. A review of the site constraints and opportunities is provided below.

The parcels are currently zoned Environmental Protection (Sewage Treatment Plant) under LEP 1991 and have been proposed to be transferred to the equivalent zone of E2 Environmental Conservation in DLEP 2013. The Sewerage Treatment plant was decommissioned recently when the sewerage treatment was up graded and piped to the Winmalee treatment plant. Sydney Water has now requested that the land be rezoned to a residential zone which may facilitate its sale at a future date. Due to the lands previous use it could be contaminated as prescribed in *State Environmental Planning Policy 55-Remediation of Land (SEPP 55)*. SEPP 55 requires a Council be satisfied there is no contamination on the land. A Preliminary Site Investigation (PSI) prepared in accordance with SEPP 55 will outline the possible contamination status of the land. The owner of the land is responsible for providing Council with a PSI. Sydney Water were contacted in late 2014 and advised of this requirement.

The subject land which comprises two allotments is located on Mort St approximately 1.8 km north of the Great Western Highway. The property adjoins larger allotments to the north that are proposed to be zoned E3 Environmental Management and smaller allotments to the south that are proposed to be zoned E4 Environmental Living in DLEP 2013. The property is also opposite a large parcel of land that is owned by the Sydney Catchment Authority and proposed to be zoned SP2 Infrastructure Water Supply.

This property has an area of approximately 16 Ha, is located 2.3kms from the Katoomba town centre, has a 300m frontage to Mort Street, slopes towards the east to Katoomba Creek and is timbered. The eastern portion of the site contains areas of scheduled vegetation of Blue Mountains Swamps and Eucalyptus Oreades Open Forest as well as having areas of slope in excess of 20% and some areas in excess of 33% slope. Additionally there is riparian buffer adjacent to the creek on the eastern boundary. Land adjoining and adjacent to the north is proposed to be zoned part E3 Environmental Management and part E2 Environmental Conservation. Land adjoining and adjacent to the south is proposed to be zoned part E4 Environmental Living and part E2 Environmental Conservation.

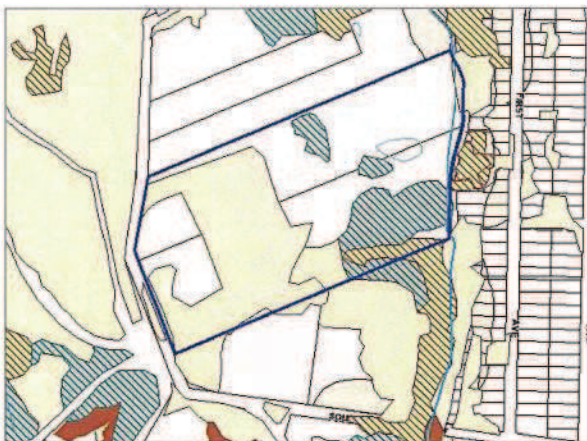


Figure 3: Significant Vegetation (hatched) and watercourse map.

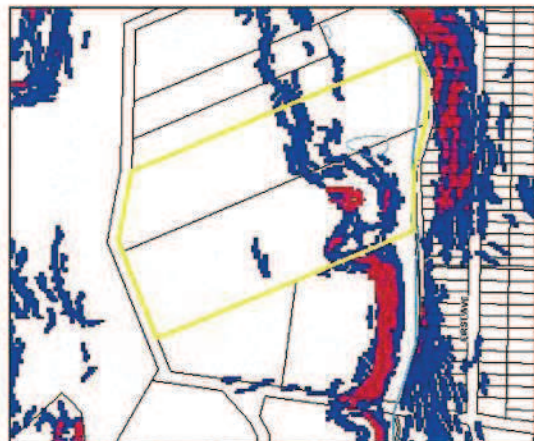


Figure 4: Slope Mapping

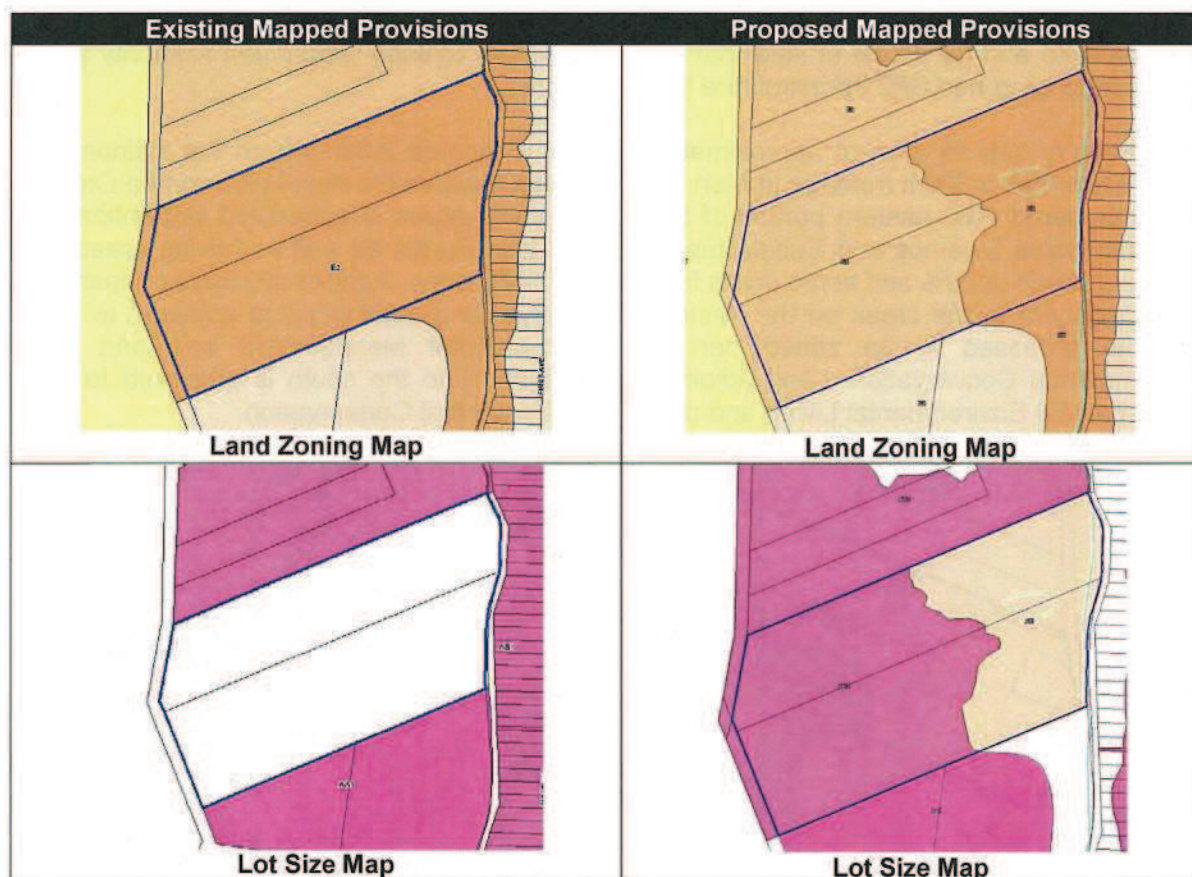
The Zone Objectives for E3 Environmental Management are:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.

- To provide for a limited range of development that does not have an adverse effect on those values.
- To protect the natural bushland buffer between towns, to avoid ribbon development and to conserve vistas of bushland obtained from public places and the Blue Mountains National Park.
- To ensure that the form and siting of buildings, colours, landscaping and building materials are appropriate for, and harmonise with, the bushland character of the areas.
- To encourage landscaping and regeneration of natural bushland in areas with sparse tree or canopy cover.

The E3 Environmental Management would be recommended for the western part of this site where there is potential for development and E2 Environmental Conservation would be recommended for the eastern portion of the land which contains scheduled vegetation, sloping land and riparian buffer.

As noted previously, this land will only be included in Draft Amendment 1 to DLEP 2015 following the receipt by Council of a favourable Preliminary Site Investigation prior to the this amendment being forwarded to The Department of Planning and Environment.





Recommendations

- K.30 That on receipt of a satisfactory Preliminary Site Investigation for 111 Mort Street, Katoomba, recommendations K.31 to K.37 be included within the Planning Proposal for Amendment 1 to DLEP 2015.
- K.31 That the Blue Mountains DLEP 2015 Land Application Map for 111 Mort Street Katoomba be amended by deleting the "Deferred Matter" notation.
- K.32 That the Blue Mountains DLEP 2015 Land Zoning Map for 111 Mort Street Katoomba be amended as shown on the Land Zoning Map in Addendum 1 (111 Mort Street Katoomba), Proposed Mapped Provisions to Amendment 1 to DLEP 2015.

- K.33 That the Blue Mountains DLEP 2015 Lot Size Map for 111 Mort Street Katoomba be amended as shown on the Lot Size Map in Addendum 1 (111 Mort Street Katoomba), Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- K.34 That the Blue Mountains DLEP 2015 Riparian Land and Watercourses Map for 111 Mort Street Katoomba be amended as shown on the Riparian land and Watercourse Map in Addendum 1 (111 Mort Street Katoomba), Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- K.35 That the Blue Mountains DLEP 2015 Natural Resources - Land Map for 111 Mort Street Katoomba be amended as shown on the Natural Resources - Land Map in Addendum 1 (111 Mort Street Katoomba), Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- K.36 That the Blue Mountains DLEP 2015 Natural Resources Biodiversity Map for 111 Mort Street Katoomba be amended as shown on the Natural Resources - Biodiversity Map in Addendum 1 (111 Mort Street Katoomba), Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- K.37 That the Blue Mountains DLEP 2015 Height of Building Map for 111 Mort Street Katoomba be amended as shown on the Height of Building Map in Addendum 1 (111 Mort Street Katoomba), Proposed Mapped Provisions to Amendment 1 to DLEP 2015.

Deferred Item**20 Hazel Avenue Hazelbrook****Previous Resolution of the Council**

At the Extraordinary Meeting on the 23 October 2014, the Council resolved to defer 20 Hazel Avenue Hazelbrook from DLEP 2013.

Background and Proposal

A submission from Sydney Water has requested that the site zoning be amended to E4 as it is now a decommissioned asset with underlying residential potential.



Figure 1 – Locality Map



Figure 2 – Current Zone

If a favourable PSI is submitted to the Council, consideration needs to be given to the most appropriate residential zone for the property. A review of the site constraints and opportunities is provided below.

The proposed E2 zoning across the site is a direct translation of the LEP 1991 Environmental Protection zone (sewage treatment plant). Now that the site has been decommissioned, Sydney Water have requested the site be zoned E4 to allow for residential development options. However, due to the lands previous use, the subject land could be contaminated as prescribed in *State Environmental Planning Policy 55- Remediation of Land (SEPP 55)*.

Due to the lands previous use it could be contaminated in as prescribed in *State Environmental Planning Policy 55- Remediation of Land (SEPP 55)*. SEPP 55 requires a Council be satisfied that there is no contamination on the land. A Preliminary Site Investigation (PSI) prepared in accordance with SEPP 55 will outline the possible contamination status of the land. The owner of the land is responsible for providing Council with a PSI. Sydney Water were contacted in late 2014 and advised of this requirement.

Sydney Water have advised they will provide Preliminary Site Investigation (PSI) as required by SEPP 55. It is recommended the land be included in this amendment if Sydney Water provide a satisfactory PSI prior to this draft amendment being forwarded to the Department of Planning and Environment. Should this not occur, this parcel will be deferred to a future amendment to DLEP 2013.

In considering their request to rezone the property to E4 Environmental Living the objectives of this zone and the adjoining E3 zone of the surrounding the larger lots to the north of the subject property are examined.

The irregular shaped parcel has an area of 3.5Ha and is located a little over 1km from the highway, Hazelbrook shops and the Hazelbrook station. The site slopes towards the north and contains areas of slope in excess of 20% and 33% (refer Fig.3). The vegetation was not verified as part of the preparation of DLEP 2013 however 2002 mapping shows extensive areas of Ecological Buffer Area – Riparian Land. There is an area of scheduled vegetation Blue Mountains Swamps on the parcel immediately to the north and this site (refer Fig.4).

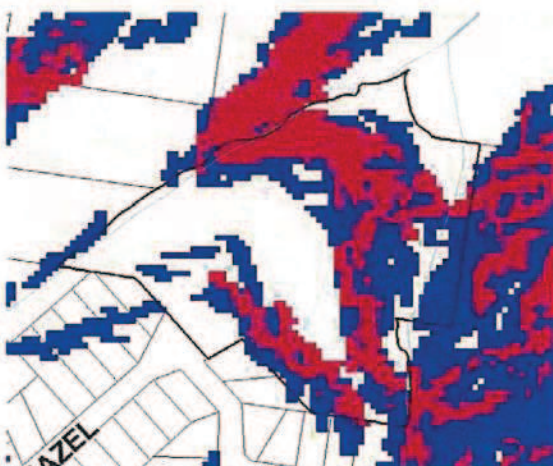


Figure 3 – Map of Slope

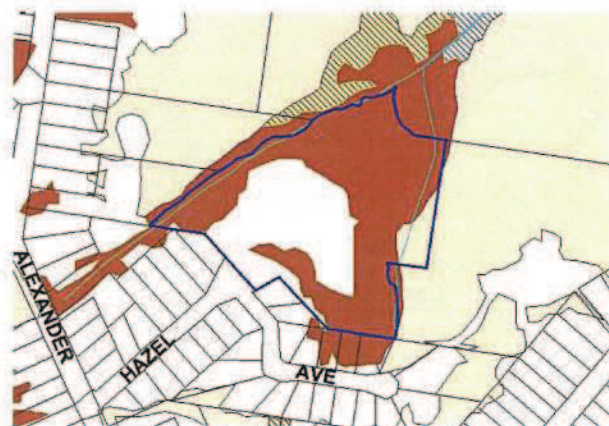


Figure 4 - Existing Vegetation

Adjoining land to the south is proposed to be zoned E4 Environmental Living and this land is developed for residential uses. Part of the subject land has been cleared and is not impacted by environmental constraints and it is this part of the site fronting Hazel Avenue which is considered to be suitable for residential purpose. The zone objectives for E4 Environmental Living are:

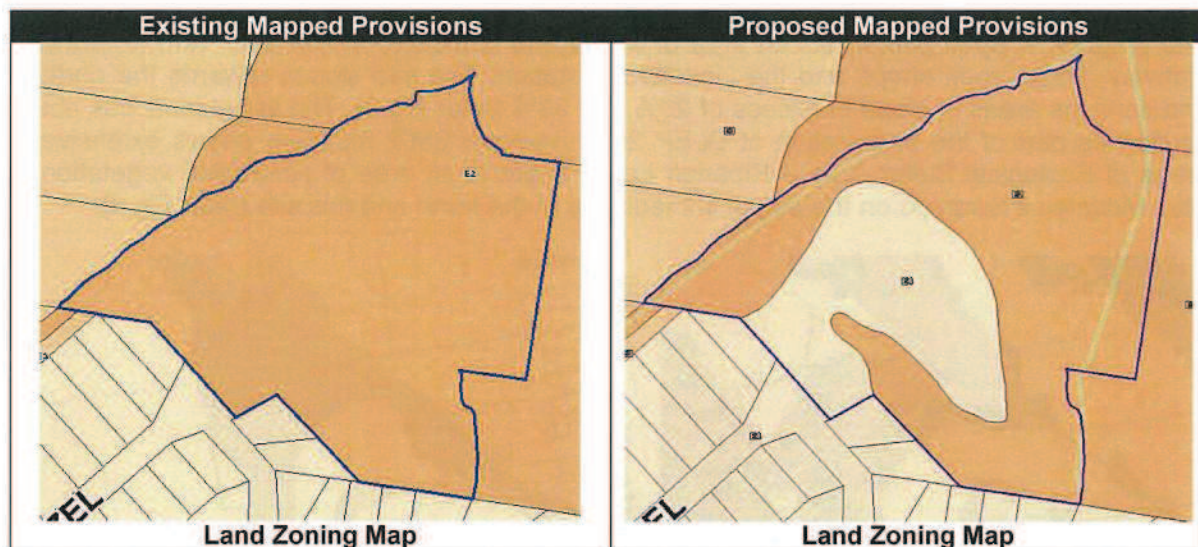
- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To preserve and re-establish native bushland in those areas that exhibit a predominantly bushland character, where consistent with the protection of assets from bush fire.
- To ensure that the form and siting of buildings are appropriate for and harmonise with the bushland character of the locality.

The zone E4 Environmental Living would be recommended for the southern part of this site where there is potential for development and E2 Environmental Conservation zone would be recommended for the northern, eastern and western portion of the land which is constrained by sloping land and riparian buffer.

Site provisions consistent with adjoining developed land are proposed for the part of the site that would be recommended to be zoned E4, these include:

- Minimum Lot Size - 1200m²;
- Height of Buildings – 8m
- Lot Averaging – G Cl.4.1F

As noted previously, this land will only be included in Draft Amendment 1 to DLEP 2015 following the receipt by Council of a favourable Preliminary Site Investigation prior to the this amendment being forwarded to The Department of Planning and Environment.





Recommendations

- H.5 That on receipt of a satisfactory Preliminary Site Investigation for 20 Hazel Avenue Hazelbrook, recommendations H.6 to H.11 be included within the Planning Proposal for Amendment 1 to DLEP 2015.

- H.6 That the Blue Mountains DLEP 2015 Land Application Map for 20 Hazel Avenue Hazelbrook be amended by deleting the "Deferred Matter" notation.
- H.7 That the Blue Mountains DLEP 2015 Land Zoning Map for 20 Hazel Avenue Hazelbrook be amended as shown on the Land Zoning Map in Addendum 1 (20 Hazel Avenue Hazelbrook) Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- H.8 That the Blue Mountains DLEP 2015 Lot Size Map for 20 Hazel Avenue Hazelbrook be amended as shown on the Lot Size Map in Addendum 1 (20 Hazel Avenue Hazelbrook), Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- H.9 That the Blue Mountains DLEP 2015 Height of Buildings Map for 20 Hazel Avenue Hazelbrook be amended as shown on the Lot Size Map in Addendum 1 (20 Hazel Avenue Hazelbrook), Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- H.10 That the Blue Mountains DLEP 2015 Lot Averaging Map for 20 Hazel Avenue Hazelbrook be amended as shown on the Lot Averaging Map in Addendum 1 (20 Hazel Avenue Hazelbrook), Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
- H.11 That the Blue Mountains DLEP 2015 Riparian Land and Watercourse Map for 20 Hazel Avenue Hazelbrook be amended as shown on the Riparian Land and Watercourse Map in Addendum 1 (20 Hazel Avenue Hazelbrook), Proposed Mapped Provisions to Amendment 1 to DLEP 2015.
