

ITEM-2	PLANNING PROPOSAL - 90 WEAVERS ROAD, MAROOTA (16/2015/PLP)
THEME:	Balanced Urban Growth
OUTCOME:	7 Responsible planning facilitates a desirable living environment and meets growth targets.
STRATEGY:	7.2 Manage new and existing development with a robust framework of policies, plans and processes that is in accordance with community needs and expectations.
MEETING DATE:	14 JUNE 2016 COUNCIL MEETING
GROUP:	STRATEGIC PLANNING
AUTHOR:	SENIOR TOWN PLANNER PATRICE GRZELAK
RESPONSIBLE OFFICER:	MANAGER FORWARD PLANNING STEWART SEALE

EXECUTIVE SUMMARY

This report recommends that the planning proposal to rezone 90 Weavers Road, Maroota from RU1 Primary Production to RU2 Rural Landscape and to identify part of the site on the Terrestrial Biodiversity Map, be forwarded to the Department of Planning and Environment for Gateway Determination. The proposal will allow for a development application to be made for rural cluster subdivision.

The RU1 Primary Production Zone was a new zone under the Standard Instrument Local Environmental Plan Template intended to encourage sustainable primary industries and minimise the fragmentation of resource lands. In the preparation of LEP 2012 this zone was used to recognise the significance of the Maroota sand resource and land in the same locality where there was a concentration of intensive plant and horticultural industries.

Whilst the importance of this zone for primary industries is recognised, the suitability of the subject site for agricultural activities is limited due to the poor quality of the soil and the site constraints including significant vegetation and slope which restrict the area of land available. The subject site is at the periphery of the identified primary production area and contains large areas of native vegetation including Shale Sandstone Transition Forest which is listed as a critically endangered ecological community. It is considered that there is justification for a rural cluster outcome on the site given the location of the site and the opportunity to secure the conservation and management of biodiversity.

It is acknowledged that proceeding with the subject planning proposal could result in other applications seeking a similar outcome with implications for the fragmentation of rural resource land and potential for land use conflict. It is considered that the subject site is distinguished from the majority of sites in the RU1 Primary Production zone by its reduced capacity to sustain agricultural activities, the peripheral location at the interface with the RU2 Rural Landscape zone and the extent of significant biodiversity on the site.

However, the Gateway Process allows for such issues to be further considered in consultation with the NSW Government, including the Department of Primary Industries.

APPLICANT

Mr Max Endicott

THE HILLS LOCAL ENVIRONMENTAL PLAN 2012

Zone:	RU1 Primary Production
Minimum Lot Size:	10ha
Maximum Height:	10m
Maximum Floor Space Ratio:	Not applicable

POLITICAL DONATIONS

Nil disclosures.

HISTORY

- 21/04/2015** Planning proposal to rezone 90 Weavers Road, Maroota from RU1 Primary Production to RU2 Rural Landscape lodged.
- 04/05/2015** Planning proposal presented at Councillor workshop.
- 25/06/2015** Site meeting held with Council officers and applicant.
- 01/07/2015** Letter sent to applicant following up the meeting and requesting further information to support the proposal.
- 28/07/2015** Revised bushfire report and flora and fauna report received.
- 06/11/2015** Letter sent to applicant requesting information related to the requirements for rezoning rural land and the subdivision concept, and biodiversity.

BACKGROUND

Council's 2009 Employment Lands Direction informed the drafting of Local Environmental Plan 2012 with regard to employment lands and employment generating activities. It included a strategy to create a specific zone to identify significant agricultural activities and rural resource lands such as extractive industries and intensive plant agriculture. The boundaries of the zone were not identified at this time however it was indicated that, in addition to the area for sand mining operations identified under Sydney Regional Environmental Plan No.9 – Extractive Industry (SREP No.9), there was a concentration of intensive plant and horticultural industries in the same locality along Old Northern Road and the spine of Wisemans Ferry Road towards Sackville Ferry Road.

In preparing LEP 2012, the specific boundaries of the RU1 Primary Production zone were defined by the SREP No.9 area and consideration of historic and existing agricultural activities identified by way of aerial photographs and site inspection. Consideration was also afforded to slope, bushland, and sensitive vegetation.

During the exhibition of Local Environmental Plan 2012, there were a number of requests for land proposed to be zoned RU1 Primary Production to be included in the RU2 Rural Landscape zone, specifically to permit community title 'rural cluster' subdivision. Landowners perceived the allocation of the RU1 Primary Production zone as a 'down zone', as other rural zones had more subdivision potential.

Following consideration of submissions no changes were made to the boundaries of the RU1 Primary Production zone given the matters raised were inconsistent with Council's strategic framework. At the time it was acknowledged the subject properties were not current in production, however the concentration of primary industry production in the locality was encouraged. It was also considered a rural landscape outcome was still achievable given the permissibility of other residential land uses such as dwelling houses, dual occupancies (attached) and secondary dwellings. The current extent of the RU1 Primary Production zone together with the location of the SREP No.9 area is shown in Figure 1.

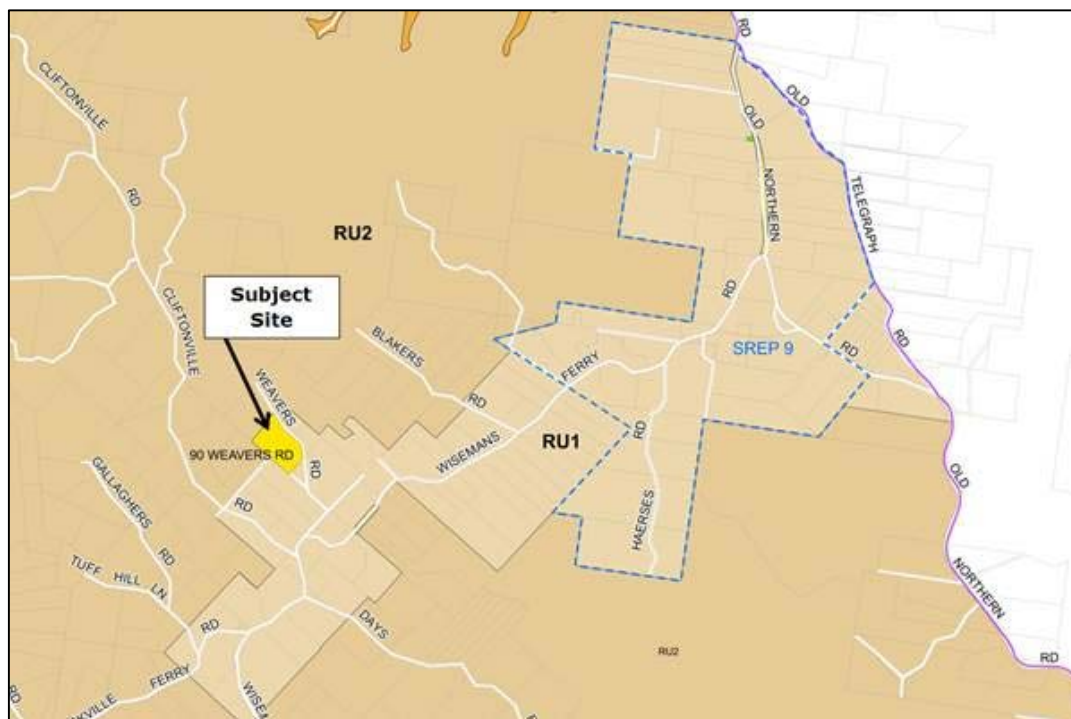


Figure 1
Current extent of RU1 Primary Production zone

A planning proposal to rezone 90 Weavers Road, Maroota from RU1 Primary Production to RU2 Rural Landscape was lodged with Council on 21 April 2015. Since this time, there have been other enquiries for land in the vicinity of this site for properties to be rezoned from RU1 Primary Production to RU2 Rural Landscape. Given the level of interest, a review of agriculture in the Shire and, in particular, the function of RU1 Primary Production zoned land is included as part of the assessment of this planning proposal (Section 4 (a) of this report).

REPORT

The purpose of this report is to consider a planning proposal for land at 90 Weavers Road, Maroota (Lot 239 DP752025), which seeks to rezone the site from RU1 Primary Production to RU2 Rural Landscape.

1. THE SITE

The subject site has an irregular shape and an area of 10.12 hectares. The site is heavily vegetated and falls away from Weavers Road with a slope of over 20% to a gully at the site's centre.

The subject site contains a single storey dwelling and rural shed. Adjoining and adjacent properties also contain similar rural residential development with some previous horticultural activity evident at 103 Weavers Road opposite. Land immediately to the west and north-west of the subject site are currently zoned as RU2 Rural Landscape.

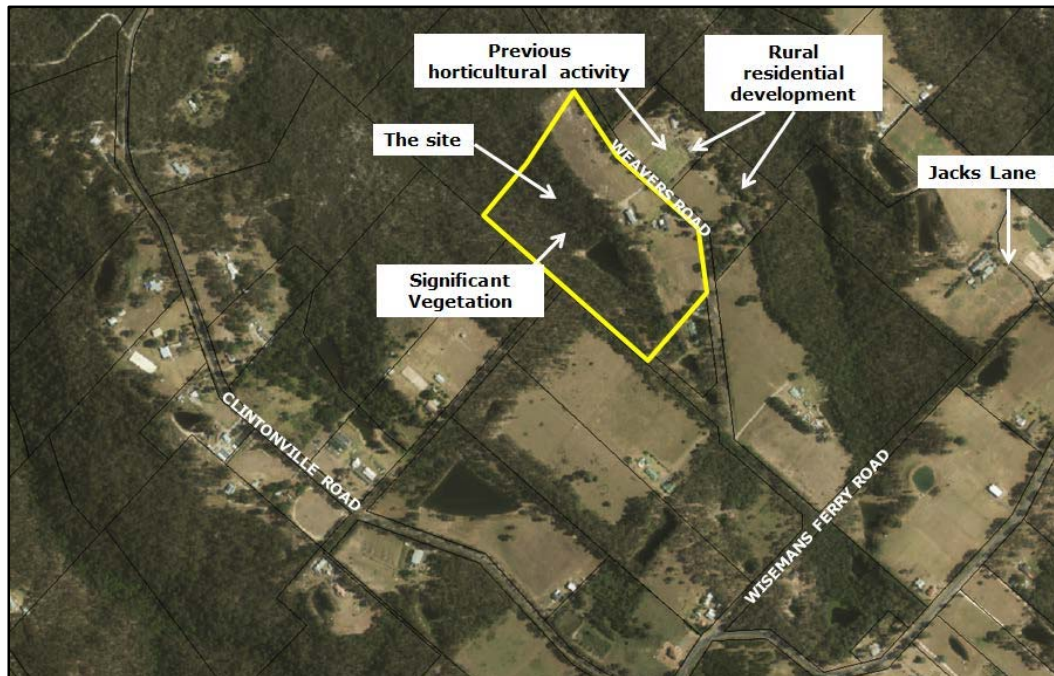
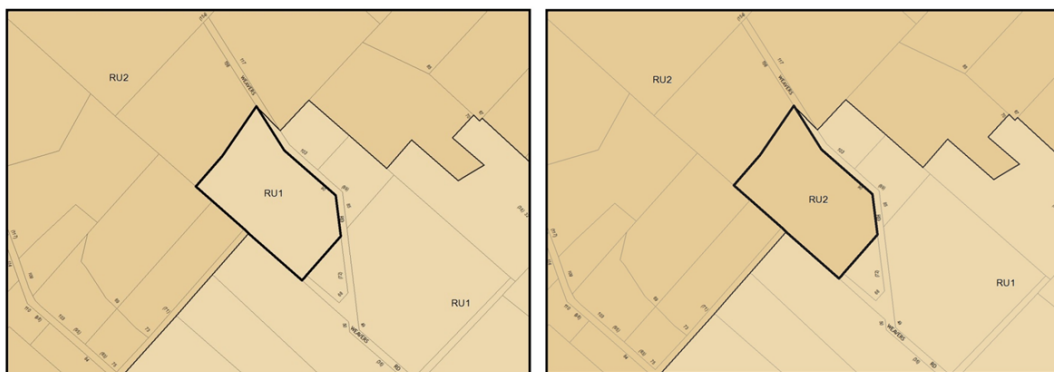


Figure 2
Subject site and surrounds

2. PLANNING PROPOSAL

The planning proposal seeks to rezone the site from RU1 Primary Production to RU2 Rural Landscape to allow application to be made for a rural cluster subdivision. Amendment of minimum lot size or height of building standards is not proposed.



Existing Zoning - RU1 Primary Production

Proposed Zoning - RU2 Rural Landscape

Figure 3
Existing and proposed zones

In support of the planning proposal the applicant has submitted a subdivision concept illustrating the intended future development outcomes for the site. Rural cluster subdivision of the subject site would provide for up to five development lots between

4,000m² and 1 hectare in area and a single community lot where biodiversity values would be protected. In support of the planning proposal the applicant has also submitted a Soil Chemistry Profile Assessment, Flora and Fauna Assessment and Bushfire Assessment Report.

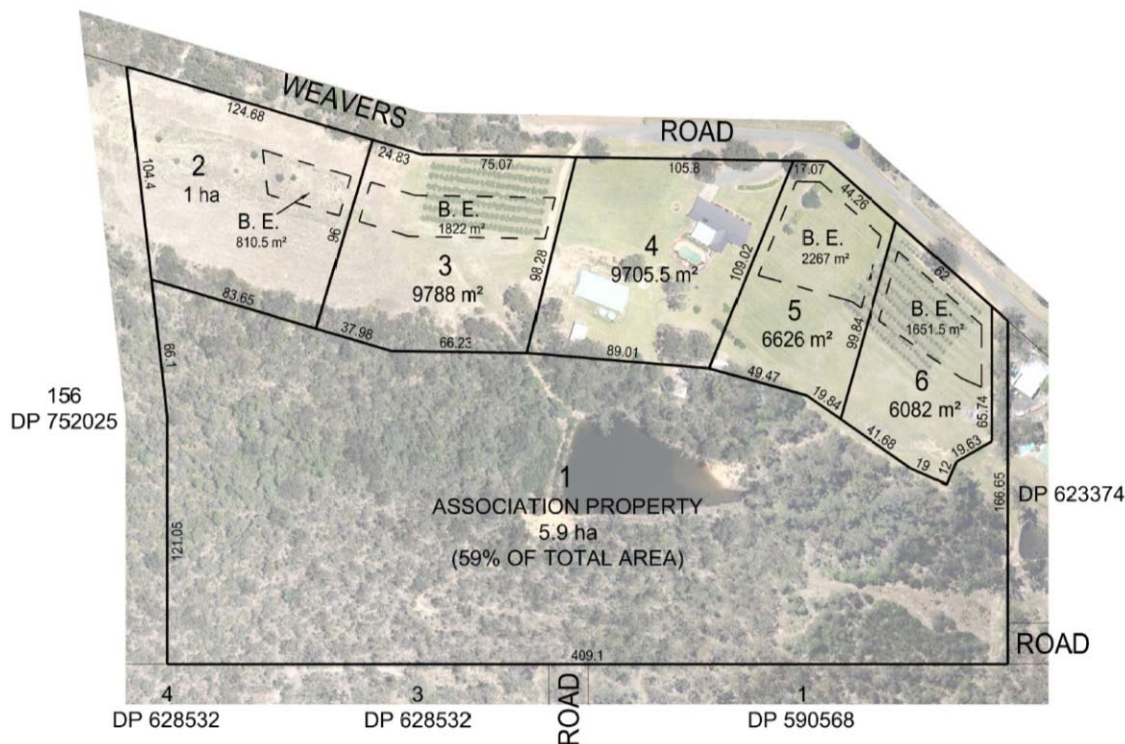


Figure 4
Proposed Subdivision Concept

3. STRATEGIC CONTEXT

A Plan for Growing Sydney

On 14 December 2014, the NSW Minister for Planning released 'A Plan for Growing Sydney'. The Plan is intended to guide land use planning decisions for the next 20 years and presents a strategy for accommodating Sydney's forecast population growth over this time. To achieve the Government's vision for Sydney as a "strong global City and a great place to live", the Plan sets out four (4) main goals, for Sydney to be:

- A competitive economy with world-class services and transport,
- A City of housing choice with homes that meet our needs and lifestyles,
- A great place to live with strong, healthy and well-connected communities, and
- A sustainable and resilient City that protects the natural environment and has a balanced approach to the use of land and resources.

The metropolitan strategic plan aims to create a sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources. The plan recognises that Sydney's metropolitan rural area contains most of Sydney's conservation reserves and significant agriculture and extractive industry. It includes actions related to protection of biodiversity, protection of resources such as mineral, energy and construction material needs and protection of productive agricultural land to keep fresh food available locally. Action 4.1.2 highlights the need for a strategic framework to enhance and protect the broad range of environmental, economic and social assets for the metropolitan rural area. The plan identifies 'agricultural clusters'

throughout the metropolitan rural area which includes the locality along Old Northern Road and Wisemans Ferry Road (refer Figure 5).

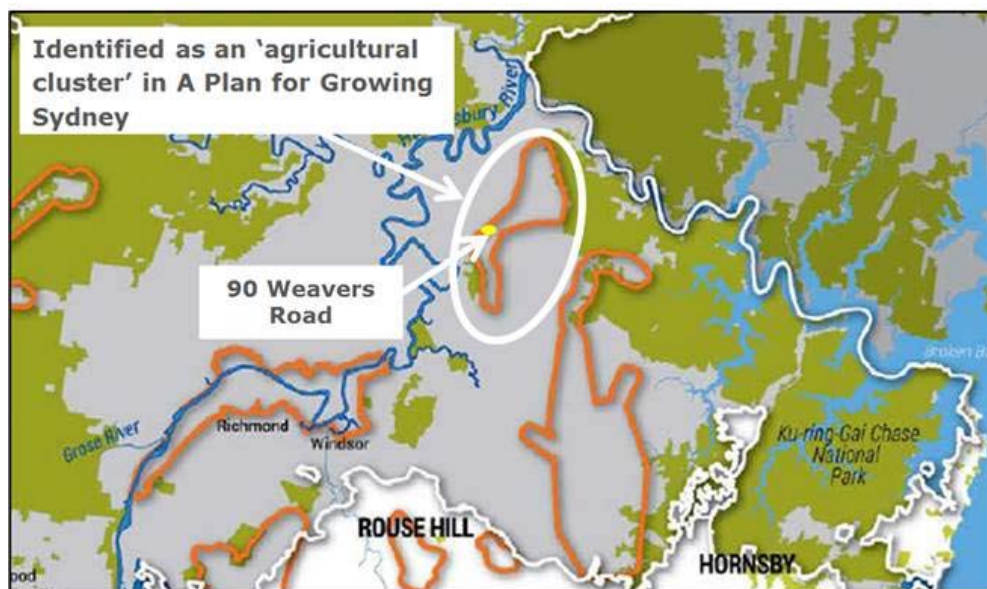


Figure 5
Extract - A Plan for Growing Sydney

Whilst the land, the subject of the planning proposal, is identified as part of the 'agricultural cluster', it currently does not accommodate any productive agricultural use. As part of the planning proposal submitted to Council, the land owner has indicated that viability for farming is limited due to site constraints including soil quality and the extent of native vegetation on the site. The capacity of the site to contribute to agricultural outcomes is addressed further in matters for consideration.

Section 117 Directions

Section 117(2) of the Environmental Planning and Assessment Act 1979 enables the Minister for Planning and Infrastructure to issue directions which planning authorities must address when preparing Local Environmental Plans and planning proposals. The following Section 117 Directions are relevant to this planning proposal:

- Direction 1.2 Rural Zones;
- Direction 2.1 Environmental Protection Zones; and
- Direction 4.4 Planning for Bushfire Protection.

Direction 1.2 Rural Zones seeks to protect the agricultural production value of rural land. The direction requires that a planning proposal must not contain provisions that will increase the permissible density of land within a rural zone. The planning proposal seeks to rezone the subject site from RU1 Primary Production to RU2 Rural Landscape which would uplift the density and enable an application to be made for rural cluster subdivision, which is inconsistent with this direction.

The inconsistency is considered to be minor as the planning proposal includes a single site that has low capacity for agricultural uses and is limited by soil quality and vegetation and slope constraints.

Accordingly, should Council resolve to proceed and forward the planning proposal to the Department of Planning and Environment for Gateway Determination, Council must

further satisfy the Secretary of the Department of Planning and Environment that inconsistency with Section 117 Direction 1.2 is justified.

Direction 2.1 Environmental Protection Zones requires that a planning proposal protects and conserves environmentally sensitive areas. The proposal is consistent with this direction as it facilitates the protection of a significant area of vegetation (5.9ha of Shale Sandstone Transition Forest), as it will be within a separate community association lot that continues the biodiversity corridor in this area.

Direction 4.4 Planning for Bushfire Protection requires a planning proposal to encourage the sound management of land mapped as bushfire prone. The direction seeks to protect life, property and environment from bushfire hazards. The planning proposal is consistent with this direction, is detailed further section in 4(e) of this report.

Local Strategy

Council's Draft Local Strategy was adopted in 2008, it is the principal document for communicating the future planning of the Shire and includes the objectives of longer term planning projects of the State Government as well as responding to, and planning for, local needs such as employment, housing and transport.

Key components of the Local Strategy related to the subject proposal are Rural Lands Study, Employment Lands Direction and Environment and Leisure Direction.

- Rural Lands Strategy

The Rural Lands Strategy was adopted in 2003 and acknowledges the importance of a consistent approach to the management of rural lands to ensure their suitability for agricultural use and to minimise the occurrence of incompatible surrounding uses. It reflects the value of rural areas for the Shire, and the challenge of sustainable land use in the long term management of rural lands. Whilst the Strategy sought to provide for economic development opportunities, it recognised that some existing agricultural uses were marginal from an economic sustainability point of view. A specific land use designation (or zone) for agriculture was not suggested at the time the Strategy was prepared, due to the scattered nature of high class agricultural land and the lack of any large and contiguous areas of agricultural production. The proposal for a specific zone related to primary production was explored further in 2009 in the preparation of Council's Employment Lands Direction, following the opportunity offered by the Standard Instrument LEP.

The Rural Lands Strategy also includes an objective to ensure the ecological integrity of the rural lands are enhanced and maintained. It included an action to identify and protect significant linkages of native vegetation in a draft LEP for the Shires rural lands. The draft rural lands LEP reported to Council in June 2005 included an overlay designating environmentally sensitive lands, which included the rear portion of the subject site (refer Figure 6). The overlay formed the basis of the terrestrial biodiversity mapping contained in LEP 2012, since adjusted to exclude land zoned RU1 Primary Production.

Given the foregoing, the planning proposal is not considered to be inconsistent with the objectives and strategies contained within the Rural Lands Strategy. Development of the site for rural cluster subdivision, as proposed, will allow for retention of significant vegetation and will contribute to biodiversity in the area consistent with the objective of maintain and enhancing the ecological integrity of the rural area.

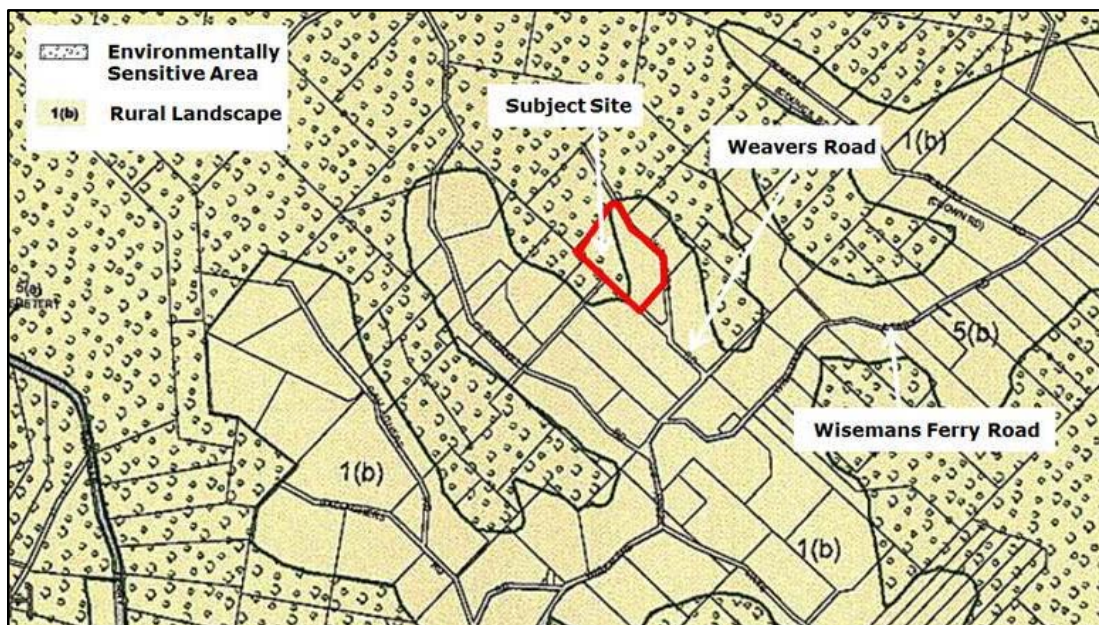


Figure 6
Extract Draft 2005 Rural Lands LEP
Part of subject site identified as environmentally sensitive area

- *Employment Lands Direction*

The Employment Lands Direction seeks to facilitate sustainable economic development that promotes growth in local business and employment opportunities. It outlines the historic contribution of the Shires rural area to the local economy including sand mining in the northern part of Maroota, where SREP 9 identifies land with extractive potential of regional significance. The Direction also identifies a cluster of horticultural use in the form of market gardens, orchards and roadside stalls selling fresh produce along the nearby Old Northern Road and Wisemans Ferry Road and recommends the creation of a new RU1 Primary Production zone to reflect the significant land uses.

The boundaries of the zone whilst not specified in the Direction were informed by the activities allowed under SREP 9 as well as the site opportunities and constraints such as slope, bushland and sensitive vegetation. In preparing draft LEP 2012, the subject site was included within the boundaries of the primary production zone albeit was not in production at the time of inspection in 2009.

The current planning proposal is inconsistent with the objectives of the Employment Lands Direction, however closer examination of the suitability of the RU1 Primary Production zone for the subject site is warranted given the site immediately adjoins the RU2 Rural Landscape zone and the capacity for agricultural uses is potentially limited by soil quality and the area of land free of vegetation and slope constraints.

- *Environment and Leisure Direction*

The Environment and Leisure Direction seeks to provide for the protection of flora and fauna in land use planning and provide for ongoing effective management of environmentally significant lands.

The planning proposal is consistent with this Direction. If supported, the concept will deliver the retention of a significant area of vegetation (Shale Sandstone Transition Forest), which critically endangered ecological community, within a separate community

association as well as continuation of the biodiversity corridor in this area within the Local Environmental Plan 2012.

4. MATTERS OF CONSIDERATION

a) Loss of agricultural land

The Rural Lands Strategy completed in 2003 identified that, whilst the Shire did not have a great deal of high class agricultural land (Classes 1 to 3), it did have some significant pockets located at Box Hill, Maraylya, Cattai, Maroota and South Maroota and along the banks of the Hawkesbury River in Sackville North and Lower Portland. Much of the agriculture practiced in these areas comprised of intensive plant growing activities such as nurseries, cut flowers, hydroponics and market gardening.

Over the last 10 years there has been a gradual decline in total output (gross revenue) and jobs associated with the agriculture, forestry and fishing industry in the Shire. Currently this industry sector contributes approximately \$163.8m (or 0.9%) to the Shire's \$18.9b economic output. In 2007 it contributed approximately \$171.5m (or 1.74%) to the Shire's \$9.8b output. This represents a decline of \$7.7m despite the Shire's output almost doubling over a 9 year period. Likewise, total jobs for the industry sector have reduced from 899 jobs in 2007 to 486 jobs in 2016 (Source: Remplan data, April 2016).

Desktop analysis of aerial imagery from 2005 to 2014 identifies that there has been a reduction in land area within the Shire used for horticultural activities (329.7 ha in 2005 and 317.8 ha in 2014). Part of the loss of agricultural land has been a result of urban development in the release areas. However, there has also been a -7.3% decrease in the area of land used for horticulture in the RU1 Primary Production zone in Maroota since 2008 (refer Table 1).

	2008	2014	% change
Horticultural activities (market gardens, orchards, crops)	161.7ha	149.74ha	-7.3%
Extractive industries	102.9ha	120.9ha	+17.4%

Table 1
Changes to horticultural activities and extractive industry operations
RU1 Primary Production zone 2008 to 2014

The Maroota area is characterised by dispersed agricultural lots used predominately for intensive horticultural purposes such as market garden cultivation, orchard vines and large crops. Extractive industry operations within the SREP 9 boundary have increased in land area by 17.4% since 2008 (refer Table 1) and partly account for the reduction in horticultural activities in the locality. Figure 7 shows the changes to horticultural activities and extractive industry operations in the RU1 Primary Production zone between 2008 and 2014.

Given that the RU1 Primary Production zone was only introduced in October 2012 and the analysis is based on 2014 aerial imagery, it is considered too soon to gauge whether the use of the zone will deliver on the objective of encouraging primary industry production in the locality. However, it is observed that the ongoing horticultural activities are generally on larger unconstrained sites with land areas in the order of 12ha.

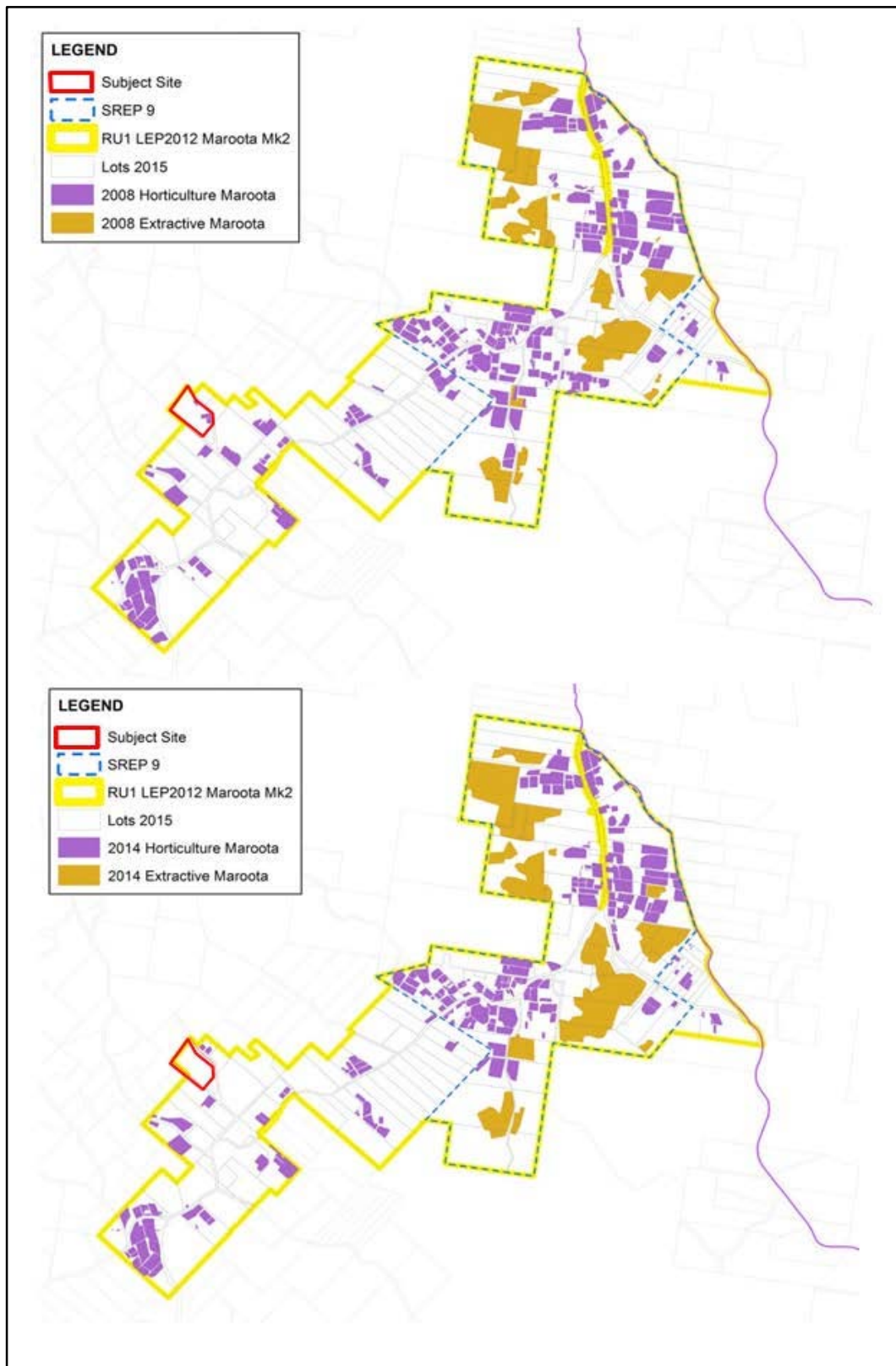


Figure 7
Changes to horticultural activities and extractive industry operations
RU1 zone Primary Production zone 2008 to 2014

The Department of Trade and Investment, Regional Infrastructure and Services, Primary Industries focuses on the intent of the rural zones for agricultural purposes. In the past, they have raised that issues such as loss of agricultural land and conflict between agricultural uses and nearby dwellings reduces the ability of agriculture to operate. On receipt of the planning proposal, preliminary advice was sought from the Department who provided information on the agricultural land classes in the locality and comments on the possible horticultural outcomes for the subject site.

A five class system used by NSW Agriculture classifies land in terms of its suitability for general agricultural use. Agricultural land is classified by evaluating biophysical, social and economic factors that may constrain the use of land for agricultural purposes. The subject site is identified as a mix of two classes being Class 4 (approximately 6ha) and Class 3 (approximately 4ha).

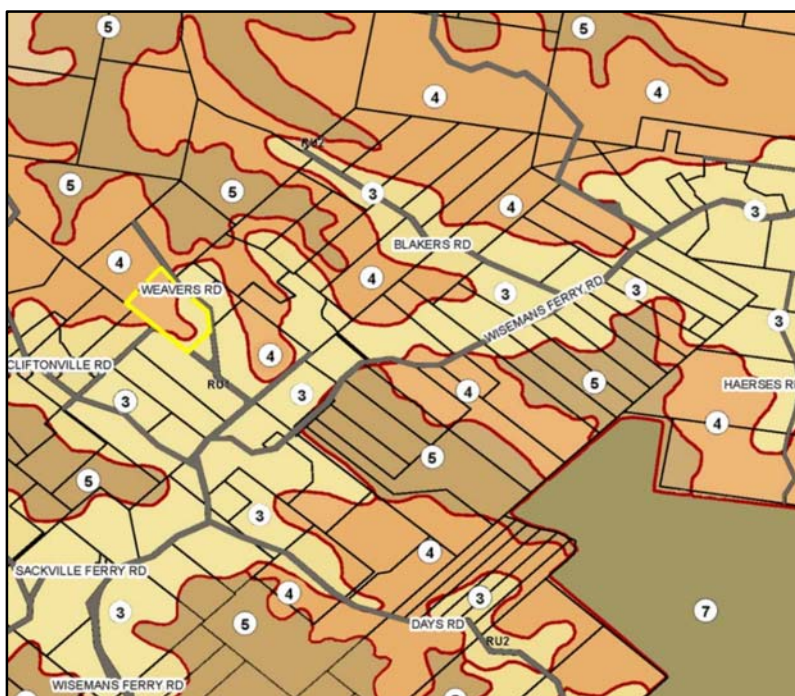


Figure 8
Agricultural land classifications in the Maroota locality

Class 3 lands are suited to cropping but not continuous cultivation with production risks managed through cropping in rotation with pastures. The land is well suited to grazing with limitation to production including shallow, stony or eroded soils. Soil conservation or drainage works may be required to improve the cultivation capacity. Class 4 land is generally suitable for grazing but not for cultivation. Overall level of production is comparatively low due to major environmental constraints.

The preliminary NSW Primary Industry advice suggests that the site could accommodate greenhouse development and typically in the Sydney Region commercial intensive horticulture has greenhouses occupying 4,000m² to 1 hectare with most entrants looking for a site with a minimum 2 hectares to also accommodate packing sheds, pump house, dam and roadways. An example of a nearby site in Wisemans Ferry Road is provided where land has approximately 2.5ha biodiversity, 1ha greenhouses, 2.5ha outdoor production and 2,000m² dam (refer Figure 9).

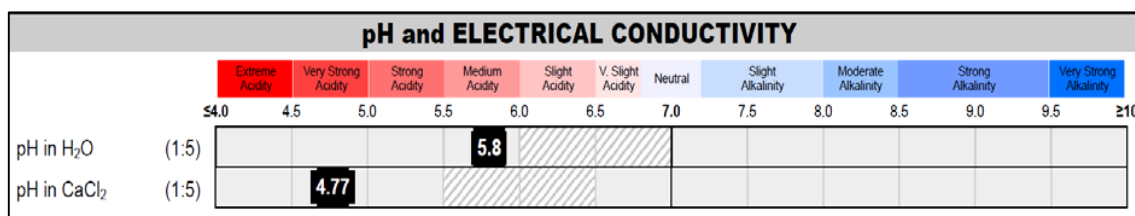
**Figure 9**

Example of productive farm on Wisemans Ferry Road in proximity to the subject site

It should be noted that the example site contains more Class 3 agricultural land than the subject site and the majority of the vegetation, based on Council's mapping, is Cattai Shale Cap Forest as distinct from the subject site which contains Shale Sandstone Transition Forest which is listed as a critically endangered ecological community under the Threatened Species Conservation Act (1995).

The subject site at 90 Weavers Road has a total site area of 10.12 hectares, of which approximately 5.9ha or 59% contains significant vegetation. This leaves approximately 3.66ha for agricultural activities, excluding the area currently occupied by existing buildings and paved areas. Of this 40% or 1.46ha is Class 4 agricultural land with limited cultivation capacity. An area of approximately 0.66ha in the Class 3 agricultural lands has been previously cleared for orchards however the land owner indicates that this is not viable as the two main retail outlets prefer to deal with large volume growers.

A Soil Chemistry Profile Assessment submitted with the planning proposal concludes that the soil from the subject site is strongly acidic with a high portion of exchangeable hydrogen. As the soil is sandy based material, the soil has a poor ability to retain plant nutrients. The assessment also notes that the ability of the soil to hold water is low and, in its current state, is not an ideal agricultural soil.

**Figure 10**

pH testing of soil from subject site

Given the number of constraints to undertaking agriculture on the subject site, it is not considered that the proposal will result in the loss of productive agricultural land. Allowing opportunity for rural cluster subdivision will facilitate conservation and ongoing management of the land affected by significant biodiversity. In this instance, this outcome is preferred. Proceeding with the proposal would require further consultation with the Department of Trade and Investment, Regional Infrastructure and Services,

Primary Industries but, given the analysis indicated in this report, the proposed change can be justified.

b) Land use conflict of agriculture and rural-residential

As with any land use, there is the potential for conflict between uses that needs to be managed. In this instance, the planning proposal will have to appropriately address the interface between the proposed rural cluster, the surrounding rural lots fronting Weavers Road and the existing agricultural land within the wider vicinity.

Land adjacent to the subject site was noted previously by aerial imagery to have had land cleared for horticultural purposes. However, a field analysis of the area in March 2016 concluded that the land was not being used for horticultural activities. Lots north east further from the site (approximately 1.2km away), consist of larger active agricultural sites with the majority of them operating as horticultural businesses practicing in market gardens, orchard vines and large crops. These areas do not consist of intensive agricultural activities such as livestock and poultry farms.

Horticulture is the predominant agricultural industry in this vicinity and is defined under the group terms of 'Intensive Plant Agriculture', and more broadly 'Agriculture', under Local Environmental Plan 2012. Impacts from this land use can be managed by controls applicable under The Hills DCP Part B Section. These existing controls consist of:

- A minimum side setback control of 40m for all new residential dwellings adjacent to a lot where intensive plant agriculture (in which horticulture falls under), intensive livestock agriculture, rural industry, plant nursery or other approved rural activity;
- Acoustic/noise impacts require proposals that are to demonstrate how they will not give rise to offensive noise as defined in the Protection of the Environment Operations Act and complies with the NSW Industrial Noise Policy; and
- Landscape screening control to all boundaries of the property to ensure dense landscaping screening is incorporated into all boundary setbacks to effectively screen the development from adjoining property boundaries.

Council has recently undertaken a review of RU6 Transition zone objectives and permissible land uses under LEP 2012 in response to Council's resolution of 15 December 2015. In order to mitigate the impacts associated with a number of permissible uses and ensure these uses can continue to occur in a manner which is consistent with the zone objectives with minimal impact on the lifestyle of residents in the rural area, amendments have been proposed within The Hills Development Control Plan 2012 ('DCP') Part B Section 1 – Rural. These proposed amendments are the subject of a concurrent report to Council and, among other changes, recommend additional controls for 'Intensive Plant Agriculture' (including 'horticulture') within all rural areas (including the RU1 Primary Production Zone) which seek to minimise the impact of dust and air pollution on adjoining properties, reduce acoustic and visual disturbance on adjoining properties (through increased setback distances) and minimise potential for the impacts of lighting.

Given the location and nature of existing agricultural businesses and existing and proposed controls to mitigate potential acoustic/noise, odour, dust, visual and lighting impacts which may be associated with the use, it is considered that any potential conflict can be adequately managed.

c) Precedent for other sites within the vicinity

It is acknowledged that proceeding with the subject planning proposal could result in other applications seeking a similar outcome with implications for the fragmentation of rural resource land and increased potential for land use conflict. It is important that the

implications are contained to minimise potential impacts on productive agricultural land and to encourage the preservation of land suitable for agriculture in the locality.

The subject site is distinguished from the majority of sites in the RU1 Primary Production zone by its reduced capacity to sustain agricultural activities, the peripheral location at the interface with the RU2 Rural Landscape zone and the extent of significant biodiversity on the site. Only a limited number of sites within the vicinity may have similar characteristics, prompting landowners to submit planning proposal for consideration. In such cases detailed individual site analysis will be needed to determine if the potential biodiversity outcome is of sufficient significance to outweigh the retention of productive agricultural land. The referral of the current proposal to the Gateway Process will allow for such issues to be further considered in consultation with the NSW Government, including the Department of Primary Industries.

d) Protection of native vegetation

The introduction of the rural cluster subdivision option would enable the retention of additional areas of native vegetation and contribute to the biodiversity outcome. This vegetation was previously not identified on the terrestrial biodiversity mapping as it would have inhibited the development of the land for agricultural purposes. However, as this development has not taken place, the biodiversity values on the site are still present.

Based on a desktop review of available data the high biodiversity values have been previously identified on the site or in the locality.

- Large areas of native vegetation occur on the site and Council vegetation mapping includes Shale Sandstone Transition Forest which is listed as a critically endangered ecological community under the Threatened Species Conservation Act (1995).
- A 10 kilometre search of Bionet (Atlas of NSW Wildlife) returns over 2,000 records from over 100 threatened species from the locality. Therefore there is a high likelihood of threatened species and/or their habitats occurring on the site.
- The site has good connectivity, with two large vegetated corridors within the site connected to large areas of bushland in the surrounding area, especially to the north and north-west of the site.
- Presence of creek lines and large dams occur on the site, associated predominately with the above corridors.

There is a clear distinction within the site of cleared land and the areas of retained native bushland where the majority of the biodiversity values identified above would occur. The north western boundary directly adjoins land zoned as RU2 Rural Landscape. This zoning in the surrounding area includes land mapped as "Biodiversity" on the Terrestrial Biodiversity Map that would generally support rural cluster subdivision development subject to satisfaction of the applicable Local Environmental Plan 2012 and Development Control Plan requirements. Under the mapping criteria used for the preparation of LEP 2012 the biodiversity values identified above would have resulted in the Terrestrial Biodiversity mapping extending onto the subject site, and only the RU1 Primary Production zoning precluded this from occurring.

The Development Control Plan 2012 provides controls related to minimum lot sizes for community title schemes and includes guiding principles to ensure the protection of the landscape, biodiversity and rural setting of the land. The DCP also requires that a minimum 60% of the site is to be provided as the association property. The management of this area would be governed by a Vegetation Management Plan to assure that the biodiversity on the site is protected, maintained and enhanced.

Should the planning proposal be supported it is recommended that amendments also occur to the Terrestrial Biodiversity map as show in Figure 11.

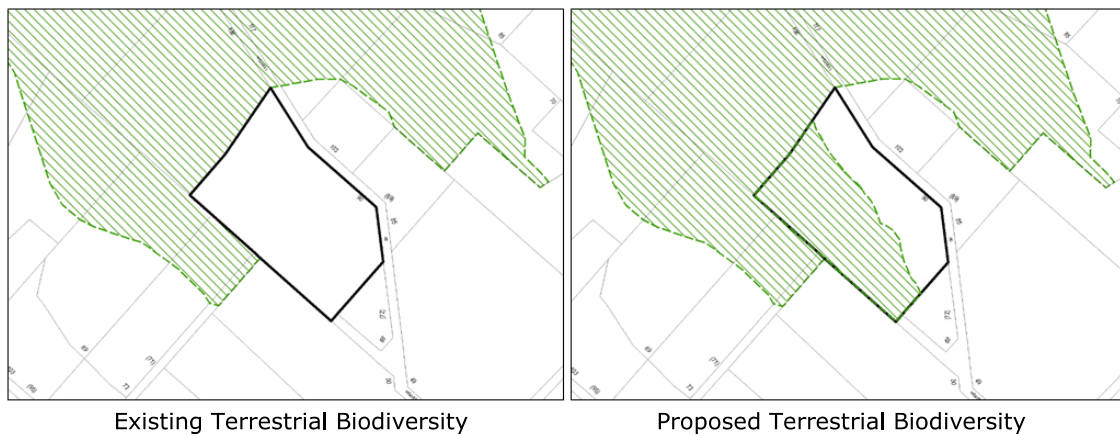


Figure 11
Existing and proposed biodiversity mapping

e) Bushfire Affection

A significant portion of the site is identified as bushfire prone land (indicated below), either as Category 1 or Buffer Zone on Council's Bush Fire Prone Land Map. Any development proposal must comply with the provisions of "Planning for Bushfire Protection" 2006 and take into consideration entry and exit from the area, construction methods and other matters relating to fire impact. Proposed building envelopes should be located on previously cleared land and any bushfire asset protection zones or 10/50 vegetation clearing entitlement must not extend into the community association lot or existing bushland areas.

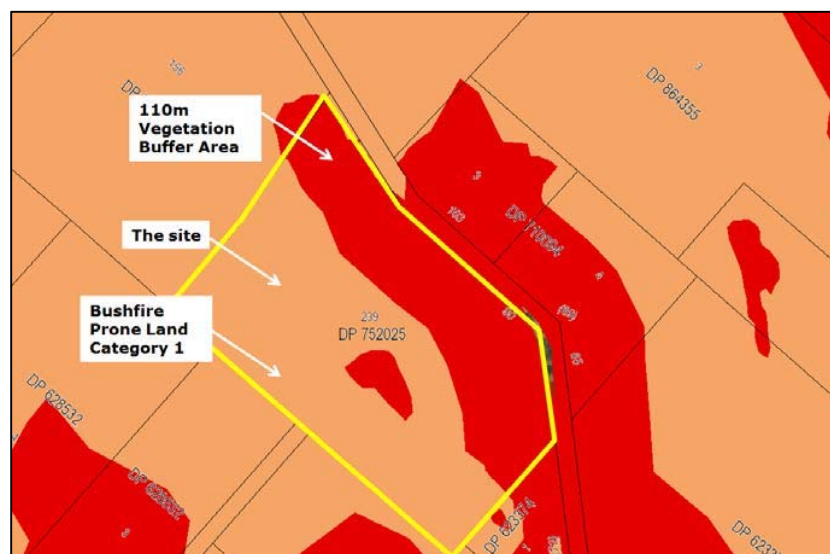


Figure 12
Bushfire Map showing red 110m buffer area within subject site

The applicant has submitted a Bushfire Report with the planning proposal, which states that, proposed building envelopes within the proposed new allotments have the capacity to meet the minimum requirements of "Planning for Bushfire Protection" 2006. Should the planning proposal proceed the implications for the future development of a rural

cluster in relation to bushfire affectation will be further addressed as part of the Gateway Determination through referral to the NSW Rural Fire Service.

f) Flora and Fauna Assessment

An ecological assessment prepared by Fraser Ecological Consulting evaluates the impacts of the proposed cluster subdivision on the terrestrial ecology located at the subject site. The assessment report applies considerations under Section 5A of the Environmental Planning and Assessment Act, 1979 and evaluates whether a significant impact is likely to occur and corresponding, whether a Species Impact Statement is required.

Figure 13 shows Council's vegetation mapping for the subject site.

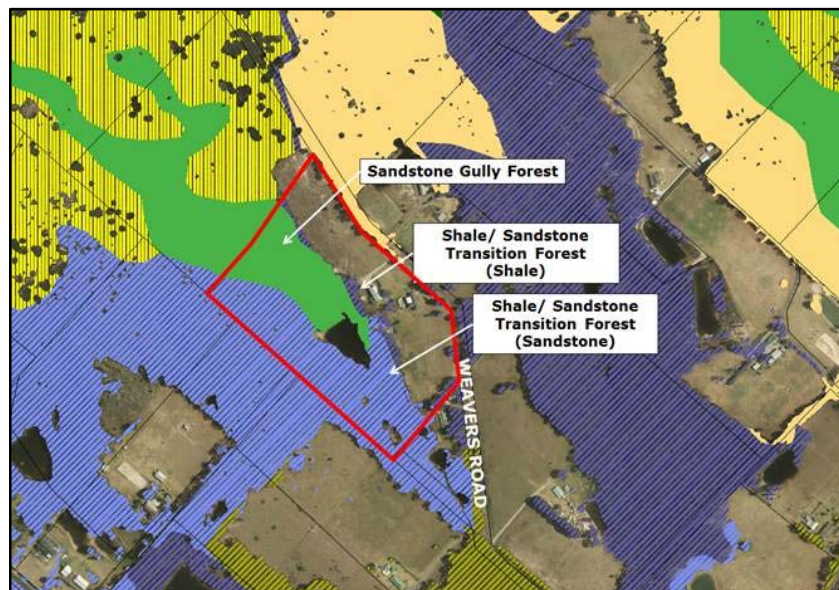


Figure 13
Vegetation Species at 90 Weavers Road, Maroota

The report confirms that native bushland occurring within the gully and hillside is consistent with Sydney Sandstone Gully Forest and Shale Sandstone Transition Forest which is a critically endangered ecological community under the Threatened Species Conservation Act (1995). The location of the proposed cluster lots comprises of land predominately absent of native vegetation, with the proposed community lot down slope of the rural cluster lots. It is concluded that future development would be unlikely to have a significant impact upon the health of surrounding good quality bushland and will not interfere with local wildlife corridor functions.

A site inspection has confirmed that where the rural cluster dwellings will be located on largely cleared land without any significant stands of vegetation. The conclusion of the submitted flora and fauna report is therefore considered appropriate.

CONCLUSION

The planning proposal seeks to rezone the subject site from RU1 Primary Production to RU2 Rural Landscape to enable application to be made for rural cluster subdivision.

The use of the RU1 Primary Production zone to specifically encourage primary industries recognises the economic significance of sand extraction and intensive horticultural activities in the Maroota locality. The role of this zone is important given the identified decline in the contribution of agriculture to the local economy. Notwithstanding, based

on site specific consideration, it is considered that a reasonable case is made for rezoning of the subject site to RU2 Rural Landscape.

The suitability of the subject site for productive agricultural activities is limited due to the poor quality of the soil and the site constraints including significant vegetation and slope which restrict the area of land available. The location at the periphery of the identified primary production area and the presence of a large area of critically endangered ecological community, Shale Sandstone Transition Forest, warrant consideration of a rural cluster outcome and the opportunity to secure the conservation and management of biodiversity land. It is considered that the potential for land use conflict can be appropriately managed through existing and proposed DCP controls and the precedent for other sites to seek similar outcomes is limited, requiring detailed justification that environmental benefits would outweigh the loss of land identified for agricultural production.

Given the foregoing it is recommended that the planning proposal for 90 Weavers Road be forwarded to the Department of Planning and Environment for Gateway Determination. The Gateway process will allow for issues to be further considered in consultation with the NSW Government, including the Department of Primary Industries.

IMPACTS

Financial

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

The Hills Future - Community Strategic Plan

The planning proposal is consistent with the Community Strategic Plan in that it will facilitate ongoing protection of the natural environment.

RECOMMENDATION

A planning proposal to rezone 90 Weavers Road, Maroota from RU1 Primary Production to RU2 Rural Landscape and to identify part of the site on the Terrestrial Biodiversity Map, to facilitate a rural cluster subdivision, be forwarded to the Department of Planning and Environment for Gateway Determination.

ATTACHMENTS

Nil.