

Planning Services

Gateway Determination Report

LGA	Blacktown
PPA	Blacktown Council
NAME	Rezoning of SP2 (Infrastructure) to R2 Low Density Residential of existing overland drainage (17 dwellings)
NUMBER	PP_2017_BLACK_008_00
LEP TO BE AMENDED	Draft Blacktown LEP – Amendment to SEPP (Sydney Region Growth Centres)
ADDRESS	Parts of 93 – 98 Hambledon Road, Schofields
DESCRIPTION	Parts of Lot 1 DP 1240158 (formerly Lot 72 DP 28833), Lot 2 DP 1193235 and Lot 30 DP 1209414, known as 93 and 98 Hambledon Road, and part of Beauchamp Road, Schofields
RECEIVED	18 December 2017
FILE NO.	EF17/14247
QA NUMBER	IRF17/674
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

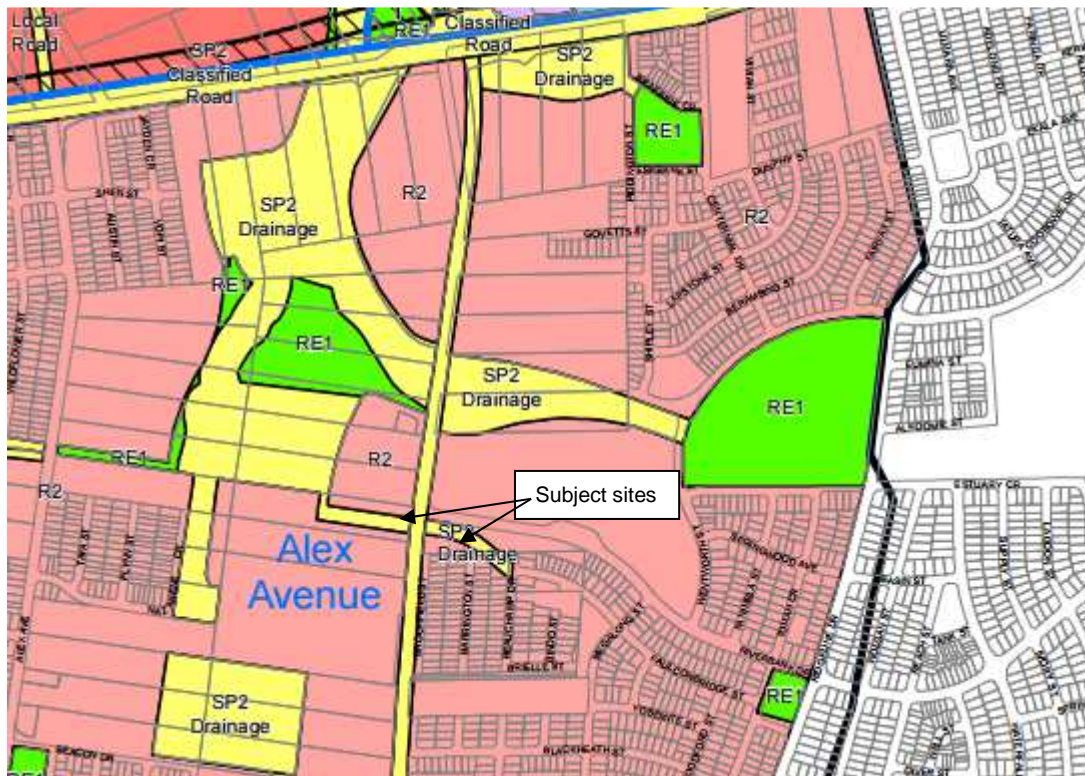
The planning proposal seeks to rezone an existing overland drainage channel, currently zoned SP2 (Infrastructure) under SEPP (Sydney Region Growth Centres) 2006 (Growth Centres SEPP) to R2 Low Density Residential on parts of land at 93 and 98 Hambledon Road, and part of Beauchamp Road, Schofields. The proposal is to facilitate the proposed undergrounding of the drainage channel. The proposal will also make corresponding changes to development controls consistent with the surrounding residential zones. The proposal has potential to facilitate a total of 17 dwellings.

On 25 May 2017, Council's Director, Design and Development, as delegated authority, has resolved to prepare the planning proposal and be the planning proposal authority.

Site Description

The site is located within Alex Avenue Precinct of the North West Priority Growth Area. The subject four lots [Parts of Lot 1 DP 1240158 (formerly Lot 72 DP 28833), Lot 2 DP 1193235 and Lot 30 DP 1209414, known as 93 and 98 Hambledon Road, and part of Beauchamp Road, Schofields] have approximately 9,408sqm in area. The sites are located at the intersection of Hambledon Road and Riverbank Drive, Schofields. The overland drainage channel is identified by the Department of Industries - Water as a second order stream, however, not identified on Alex Avenue Release Area Indicative Layout Plan. A map identifying the sites is at **Attachment E**.

The two land parcels (Lots 2 and 30) to the east of Hambledon Road currently drains into the open land drainage channel and a dam on Lot 1 DP 1240158 through existing culvert under Hambledon Road. Council advises that once the area is developed the drainage channel will be connected to the proposed regional detention basin to the north of the western site, Lot 1 DP 1240158.



Zoning of subject sites

Surrounding Area

The surrounding area is undergoing significant development, predominantly residential subdivisions. A new school and a college are proposed on land to the north across Riverbank Drive.

There are two development applications, DA-17-01202 by Mecone for 98 Hambledon Road (parts of Lot 2 DP 1193235 and Lot 30 DP 1209414) and DA-17-00632 by Bathla Group for 93 Hambledon Road (part of Lot 1 DP 1240158 (formerly Lot 72 DP 28833)) before Council. Mecone's proposal is for residential subdivision on Lot 2 and the two adjacent lots, including on SP2 land, using the existing Clause 5.3 Development near zone boundaries in Appendix 4 Alex Avenue and Riverstone Precinct Plan 2010. This clause allows proposed development to be carried out on adjoining land, if consistent with the objectives of both SP2 Drainage and R2 Low Density Residential zone. The second DA by Bathla Group on Lot 1 DP 1240158 is for excising the SP2 zoned land and construction of residential development. Both DAs are with the Land Environment Court on appeal against Council for deemed refusal.

Consultation with Department of Industries – Water

The Department consulted the Department of Industries – Water (DoI – Water) on 12 January 2018. The DoI – Water advised on 1 February 2018 that the watercourse is a second order stream (**Attachment F**) and that the proposal is inconsistent with the Alex Avenue Indicative Layout Plan.

The Alex Avenue Precinct Indicative Layout Plan (**Attachment G**) does not identify the stream and it should also be noted that the ILP also removed the second order stream to the south of the subject site. The DoI - Land and Water's letter to Council dated 24 January 2018 (**Attachment F**) confirmed that the stream is not identified on Alex Avenue Release Area and therefore the Indicative Layout Plan should take preference. DoI - Water verbally advised the Department on 6 March 2018 and confirmed that consistent with the DoI's letter to Council, the DoI - Water does not object to the piping of the drainage and removal of SP2 zoned land on the subject land.

Council report

Council report dated 17 October 2017 (**Attachment A**) to prepare the planning proposal was signed by the Director, Design and Development pursuant to delegation on 2 November 2017. The report raises the need to satisfactorily address the loss of future amenity and open space demand to be further addressed as part of Council's consideration of the planning proposal and recommended the proposal not be finalised until arrangements are made to address the provision of additional open space generated by increase residential yield. Council report also stated that additional open space requirement can be met through s94 contributions, as embellishment of open space in existing and planned areas to meet the needs of the Precinct.

Summary of Recommendation

The planning proposal will have potential to facilitate additional 17 dwellings (10 dwellings on the western site and 7 dwellings on the eastern site) on existing SP2 land and is consistent with the objectives of North West Priority Growth Area Land Use and Infrastructure Implementation Plan, A Plan for Growing Sydney and the Draft Central City District Plan in terms of increase housing opportunities. The proposal will remove a small area of open space drainage land and land that is identified as a second order stream, and is not consistent with the Planning Priorities of Greater Sydney Region Plan and Draft Central City District Plan which identifies the waterways as natural assets and are to be carefully managed and protected.

On balance, the planning proposal is supported because:

- the proposal have potential to facilitate 17 additional dwellings;
- there is adequate open space land in the surrounding area for future residential development; and
- consistent with Alex Avenue Indicative Layout Plan, the Department of Industries – Water has no objection to piping of the drainage and removal of SP2 zoned land on the subject land.

It is recommended that the proposal proceed with conditions but prior to community consultation the planning proposal is to be updated to address the following issues:

- address consistency with the Planning Priorities of Draft Greater Sydney Region Plan and Draft Central City District Plan regarding waterways; and
- clearly demonstrate how the loss of drainage/open space land is to be addressed.

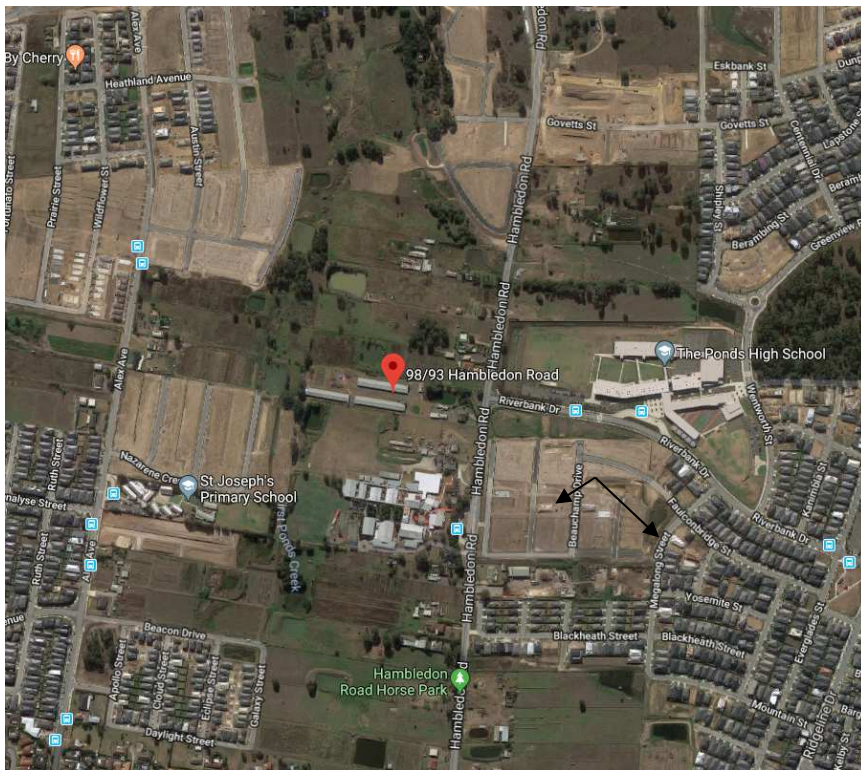
PROPOSAL

Intended Outcomes

The purpose of this proposal is to facilitate the amendment of the Growth Centres SEPP to rezone and reconfigure four land parcels (overland drainage channel) zoned SP2 (Infrastructure) to R2 Low Density Residential in accordance with the proposed stormwater and drainage concept plan to reconfigure and underground the drainage channel. The

overland drainage channel on the site and remove Council's responsibility to acquire the SP2 land for drainage purposes.

The planning proposal is accompanied by Storm Water Engineering Summary Report (Arup), Engineering Concept Plans (Arup), a Traffic Impact Assessment report and Preliminary Construction Cost Estimate, all of which supported the proposal. Arup's Engineering report recommended that the overland drainage channel can be satisfactorily replaced by an alternative below ground trunk drainage system to facilitate the proposed residential development.



Subject sites



Subject sites

Explanation of Provisions

The proposal relates to four parcels of land. Mecone, on behalf of Signature Projects, and Bathla Group has requested Blacktown Council to rezone the land from SP2 (Infrastructure) to R2 Low Density Residential to enable subdivision for residential development and make corresponding changes to development controls applying to the land (height of building, residential density and land acquisition). The subject sites are surrounded by R2 Low Density Residential land.

Council also advises that relevant sections of Blacktown City Council Priority Growth Area Precincts Development Control Plan No 20 (Alex Avenue Indicative Layout Plan, Schedule 4) will also to be amended to reflect the changes made by this proposal.

Mapping

The amendments will necessitate corresponding amendments to the Land Zoning, Dwelling Density, Height of Buildings and Land Reservation Acquisition Maps (Sheets 009) under the Growth Centres SEPP.

NEED FOR THE PLANNING PROPOSAL

The proposed changes to the zoning and corresponding changes to development controls can only be achieved via amendments to the Growth Centres SEPP Maps.

STRATEGIC ASSESSMENT

State

A Plan for Growing Sydney identifies new land release areas as an important component of Sydney's overall housing supply. The proposal will have potential to facilitate 17 additional dwellings on the site. At the same time, the proposal is not consistent with the directions in the strategy where it advocates to create a network of interlinked, multipurpose open and green spaces across Sydney and to protect natural environment. The planning proposal will remove an overland drainage channel and a second order stream, as well as create additional demand for open space.

Regional/District

Alex Avenue is located within the draft Central City District Plan area. The Planning Proposal is consistent with the objectives outlined for the draft Central City District in that it will support to accelerate housing supply, choice and affordability and build great places to live.

The planning proposal is not consistent with the Planning Priority C13 Protecting and improving the health and enjoyment of the District's waterways (Objective 25 and actions) to protect, reinstate and manage natural waterways as natural assets. The proposal will remove the natural waterway on the site as well as create additional demand for open space. However, the second order stream is not identified on North West Priority Growth Area - Alex Avenue Precinct Indicative Layout Plan (**Attachment G**).

It is recommended the planning proposal be referred to the Department of Industries (Water) on the waterway issue and Council is to justify the loss of open space generated by the additional residential yield, prior to community consultation.

Local

Council advises the Planning Proposal is consistent with Blacktown Planning Strategy 2036. The proposal will result in minor increase in the amount of serviced land zoned for residential development. Council advises 2,130sqm open space land will be required for the additional residential dwellings. This is less than the amount of 3,000sqm which is Council's threshold for a standalone pocket park. Council considers that the loss of open space on the site can be addressed through amendment to S94 contributions for open space embellishments in existing planned areas to meet the needs of the Precinct. Council advises the proposal not to be finalised until satisfactory arrangements are made for the provision of additional open space generated by the additional residential yield.

Section 9.1 Ministerial Directions

3.1 Residential Zones

The planning proposal is considered consistent with the Direction. The planning proposal seeks to increase 9,408sqm of R2 zoned land capable to accommodate approximately 17 residential dwellings within the North West Priority Growth Area.

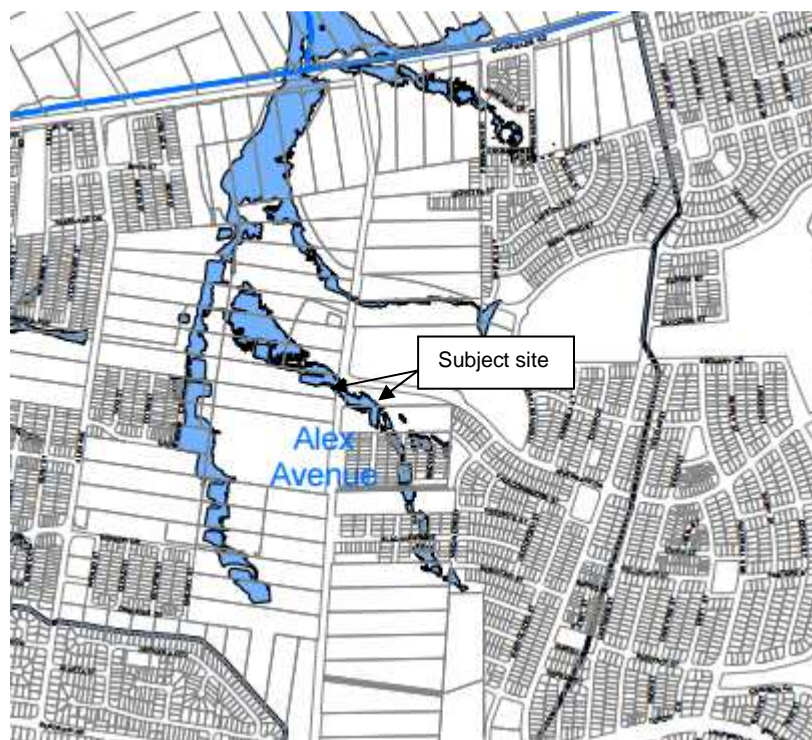
3.4 Integrating Land Use and Transport

The land is along Hambledon Road and Riverbank Drive which are identified in the Alex Avenue Indicative Layout Plan (ILP) to service the expected future traffic growth resulting from housing and employment opportunities in the area.

The proposal is of a minor nature. It will not significantly impact on the existing planned road improvements and is consistent with this direction.

4.3 Flood Prone Land

Council advises parts of the site is identified as flood prone land in the Growth Centres Development Control Plan map (DVC 009). The proposal is inconsistent with the Direction.



**North West Growth Centre Development Control Map 009
(Flood Prone and Major Creek Land)**

The Stormwater Engineering Summary prepared by Arup advises the concept solution for the underground piped drainage system is designed taking into account the 1 in 100-year storm flows with allowance for pipe blockage and climate change, and considers surface water runoff, infrastructure capacity and flood risk mitigation. Council advises its flood engineers are satisfied that the proposed underground drainage capable of meeting the drainage requirements of the subject sites. The proposed drainage concept will be further assessed at DA stage to ensure the drainage infrastructure is capable of accommodating required flows and contingencies and meets water sensitive urban design principles.

It is considered that the proposal's inconsistency with the Direction is of a minor significance. The Secretary's delegate approval is recommended.

6.2 Reserving Land for Public Purposes

The planning proposal seeks to remove the requirement for Council to acquire part of the subject land for drainage purposes, and will amend the land reservation acquisition map accordingly.

This Direction requires, amongst other things, that a planning proposal must not reduce reservations of land for public purposes without the approval of the relevant public authority and the Secretary (or Secretary's delegate) of the Department. Council has requested for the removal of this land from its acquisition responsibility and is no longer required for the public purpose for which it is required.

It is considered that the decrease of drainage land to increase residential land of 9,408sqm in area for future residents is a positive public benefit. However, removal of the open space/drainage corridor and the local stream, may not contribute to positive public benefit. Council's planning proposal has not comprehensively addressed this Direction. Removal of the drainage corridor and the watercourse on the land will not have significant impact considering the availability of associated open space within the surrounding area that would serve future residential communities in the area. It is considered the proposal is justifiably inconsistent with the direction. The Secretary's delegate approval is recommended.

7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan

The planning proposal is consistent with the relevant key action to provide more land supply for new homes. Further, the subject land is identified on the Infrastructure Implementation Plan for Alex Avenue as drainage land (**Attachment D**). The Department's Land Release Team has not objected to the drainage being piped for safety reasons because of the proximity of the open drainage channel to the future K-12 school to the north of the site across Riverbank Drive.

State Environmental Planning Policies

The planning proposal is not inconsistent with any applicable SEPPs or deemed SEPPs, however seeks to amend the Growth Centres SEPP.

SITE SPECIFIC ASSESSMENT

Social

The proposed amendment is not considered to have any adverse social effects.



NW Priority Growth Area Land Use and Infrastructure Implementation Plan

Environmental

There are no likely significant environmental effects anticipated because of the rezoning.

Stormwater management

As previously discussed, the proponent's Stormwater Engineering report provides a concept solution to manage stormwater. The Department is satisfied the proposed drainage concept will be further assessed at DA stage to ensure the proposal does not have any adverse impact on the broader Hawkesbury River catchment.

Open space

The removal of the open channel drainage will reduce open space provision for the planned residential development in the area and is of concern to the Department. It is recommended that Council further update the planning proposal and address the loss of open space prior to community consultation. Council is also recommended to consult with the Department of Industries – Water regarding the removal of the second order stream on the land.

Blacktown Council has commenced masterplanning of 23ha of open space to the north of the site and it is considered the proposal will not impact on the associated open space land that would serve future residential communities in the area.

Economic

The planning proposal will remove land to be acquired by Council.

The Department has previously received a few rezoning planning proposals to remove open drainage channels (i.e. Elara Estate, Marsden Park and Altrove Estate, Schofields), to make way for residential development in the North West Priority Growth Area. In both cases Gateway determinations were issued. However, the Department has since advised Blacktown Council that it does not support the ongoing rezoning of drainage land to residential purposes in the release areas.

CONSULTATION

Community

The planning proposal is of a minor nature. Community consultation is proposed by Council for 28 days. This is considered appropriate.

Agencies

Consultation with Department of Industries (Water and WaterNSW), RMS and Sydney Water are proposed.

TIMEFRAME

The timeframe to finalise the planning proposal is 12 months

DELEGATION

Council has not asked for delegation. The planning proposal is to amend State Environmental Planning Policy (Sydney Region Growth Centres) 2006. It is recommended that Council not be issued plan making delegation.

CONCLUSION

The Department has recently advised Blacktown Council on 7 August 2017 that, in general it does not support the ongoing rezoning of drainage land to residential purposes in the release areas. However, Council's resolution to prepare this planning proposal, on 25 May 2017, predates this advice. The Department has no objection to the drainage being piped at this location and considered that an open drainage channel near the future school will pose safety issues. It is noted that Blacktown Council has commenced masterplanning of 23ha of open space to the north of the site. It is considered that the proposed removal of the SP2 land for additional residential development will not impact on the associated open space land that would serve future residential communities in the area.

The planning proposal is supported to proceed with conditions including a request to further address how the loss of drainage/open space land is to be addressed.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Agree with Section 9.1 Directions 4.3 Flood Prone Land and 6.2 Reserving Land for Public Purposes are of minor significance.

It is recommended that the delegate of the Greater Sydney Commission, determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, Council is required to update the planning proposal to:
 - a) address any need for open space for the proposed additional residential yield; and
 - b) address the consistency, or justify any inconsistency of the planning proposal with the Planning Priorities of the Draft Greater Sydney Region Plan and the revised Draft Central City District Plan regarding protection of waterways.

2. Consultation is also required with the following public authorities and organisations under section 3.34(d) of the Act and/or to comply with the requirements of relevant Section 9.1 Directions:

- (a) Sydney Water;
- (b) Office of Environment and Heritage; and
- (c) Department of Industries (Water and WaterNSW).

Each 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.

3. Community consultation is required under sections 3.34(2)(c) and schedule 1, clause 4 of the Act as follows:
 - (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016) and must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning 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 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
4. 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).
5. The timeframe for completing the LEP is to be **12 months** following the date of the Gateway determination.
6. Given the nature of the planning proposal, Council should not be authorised to exercise delegation to make this plan.



12/3/18

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