

8174 - planning proposal post exh response (january 2022)

**1 June 2022**

The General Manager  
Clarence Valley Council  
Locked Bag 23  
**GRAFTON NSW 2460**

**Attn: Tony McAteer**

**Dear Tony**

**re: Planning Proposal – Public Exhibition  
Lot 100 DP 1201719, Hills Road, Rileys Hill**

I refer to recent communications in respect of the subject matter and in particular to:

- Your emails dated 11 January 2022 and 16 December 2021
- Public Authority Submissions from
  - BCD
  - TFNSW
  - Geoscience NSW
  - Heritage NSW
  - Rous Water
  - Rural Fire Service
- Submissions from the public as a result of the exhibition period

The following responses are provided

- BCD – Additional reporting by Blackwood Ecology has been undertaken in response to matters raised by the BCD. A supplementary report prepared by Blackwood Ecology is attached for review. This additional reporting provided that no hairy joint grass or scrub turpentine was recorded on site. This report also tracked core wallum froglet habitat as being centered around the lower lying forested area along the eastern boundary of the site. The habitat closely corresponds with the proposed E2 zone with a small area located within the proposed RU1 zone. It is considered that the proposed E2 boundary is satisfactory given the additional reporting generally corresponds with the proposed boundary. A minor amendment to the southeastern boundary for wallum froglet habitat could be made if Council considers this appropriate prior to finalisation.

BCD have requested Council give due consideration to the application of a E3 (C3) – Environmental Management zone or a RE1 – Public recreation or RE2 – Private recreation zone. It is considered that the application of these zones rather than the RU1 zone is not appropriate for the following reasons:

- The objectives of the C3 – Environmental Management zone 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*

The portion of the land identified as RU1 has not been mapped as containing items of ecological, scientific, cultural or aesthetic values. It is noted that the *Northern Councils E Zone Review - Final Recommendations Report* provided criteria for the application of E3 (now C3) zones as follows.

Criteria	Description
Riparian and estuarine vegetation and wetlands.	Land comprising riparian and estuarine vegetation on <i>waterfront land</i> , defined under the <i>NSW Water Management Act 2000</i> , or wetland areas other than those mapped as SEPP 14 Coastal Wetlands.  Waterfront land is defined under the <i>NSW Water Management Act 2000</i> as the bed of any river, lake or estuary and any land within 40 metres of the river banks, lake shore or estuary mean high water mark.
Rare, Endangered and Vulnerable Forest Ecosystems.	Land comprising areas of rare, endangered and vulnerable forest ecosystems as defined by the <i>Joint ANZEC/MCFFA National Forest Policy Statement Implementation sub-committee (JANIS)</i> (Commonwealth of Australia 1997) <sup>1</sup> .
Native vegetation on coastal foreshores.	Native vegetation on land with frontage, or adjoining or adjacent to, a beach, estuary, coastal lake, headland, cliff or rock platform.

This portion of the land does not contain any of the above-mentioned lands. Accordingly, the application of a E3 (C3) zone is not considered appropriate in this instance.

Similarly, the application of private or public recreation zones to this rural portion of land is not considered appropriate given the likely future uses of the site. The site will not be in public ownership; accordingly, a public recreation zone is not appropriate. While the lot will likely be in private ownership, any restrictions associated with the application of a recreation zoning would not provide appropriate opportunities for a range of compatible rural uses in conjunction with any future development applications.

In regard to the inclusion of the RU1/E2 zone with a portion of the RU5 zone, this lot configuration would be part of any future development application for subdivision, post gazettal of the Planning Proposal.

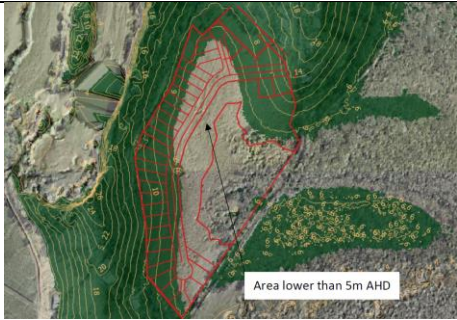
The preparation, approval and application of a Biodiversity Management Plan (BMP) in conjunction with any future development application would be appropriate and supported.

- Traffic NSW – This authority advised that works would need to be undertaken to road infrastructure in conjunction with any future residential land release. It was also advised that public transport options will need to be considered to reduce private car travel from the future land release.
- Geoscience NSW – Council is to be confident that the existing dormant extractive industry known as Riley’s Hill Quarry will not be reactivated.
- Heritage – No issues were raised by this authority that require additional reporting in conjunction with this Planning Proposal, post exhibition.
- Rous Water – This authority has reviewed the Planning Proposal and given the number of lots and lead times, are confident that the development can be serviced with reticulated water.
- Rural Fire Service – Conditional support of the Planning Proposal has been granted by the RFS subject to design aspects during the development application phase.

## Submissions Summary

Issue	Response
Adverse Impact on Koalas in regard to habitat, disturbance of colonies, restriction of overland passages	<p>The Planning Proposal was accompanied by a Flora and Fauna Assessment undertaken in accordance with State and Federal Legislation. This assessment has been reviewed by the Biodiversity and Conservation Division of the Dept. of Planning, Industry and Environment. This review supported the assessment subject to some supplementary reporting in regard to Hairy Joint Grass, Scrub Turpentine, and wallum froglet habitat. This response infers the Dept were satisfied with the reporting in regard to Koalas and the conclusion made that the Planning Proposal will not have a detrimental impact on koalas nor their habitat.</p> <p>To provide additional evidence to satisfy submitters concerns regarding potential impacts on koalas, please find attached an addendum from the consulting ecologist, specifically discussing koalas onsite.</p>
Adverse Impact on Broadwater National Park as a result of the development from various factors	<p>The Planning Proposal was accompanied by a Flora and Fauna Assessment undertaken in accordance with State and Federal Legislation. The assessment included direct and indirect potential impacts on the Broadwater National Park This has been reviewed by the Biodiversity and Conservation Division of the Dept. of Planning Industry and Environment. The assessment concluded that the Planning Proposal, with the inclusion of an E2 – Environmental Conservation</p>

including stormwater, increased flood risk, pollutants	Zone and reduced RU5 footprint will ensure the Broadwater National Park is protected from future adverse impacts from the Planning Proposal outcomes.
Hills Road is not suitable for increased traffic	The Traffic Impact Assessment that accompanied the Planning Proposal has been endorsed by Transport for NSW. This TIA provided that Hills Road, post any residential subdivision would remain as a 'local street'. The TIA further recommended that <i>"Hills Road be upgraded to a minimum 7m wide carriageway with mountable kerb both side in conjunction with any further subdivision of the land"</i> . These works would ensure that Hill Road would be suitable for any future development.
Reticulated Sewer does not have sufficient capacity to cater for this residential development	<p>Infrastructure reporting was included with the Planning Proposal, including an updated report in May 2021 to address RVC advice.</p> <p>This updated report concluded:</p> <p><i>The site sewerage can be gravity discharged to a small SPS located close to the site's eastern boundary. The collected sewer at the SPS can be pumped to the existing Riley's Hill STP. The STP has sufficient capacity to meet the development additional loads.</i></p> <p><i>Additional treatment capacity can be provided for future developments by upgrading or replacement of the existing STP. However, RVC notes that the (future) development bring the future upgrades forward.</i></p> <p>Upgrades would be made in conjunction with any future subdivision and at the developer's expense.</p>
Infrastructure in the locality not adequate to cater for the increased demand for services	<p>Sewer infrastructure has been discussed above and it is considered the Planning Proposal has satisfactorily addressed this matter.</p> <p>Reticulated Water infrastructure to service any future subdivision has also been addressed within the provided serving report. Rous water advised council via email dated 22 December 2021 that planned augmentation works will ensure any future subdivision can be satisfactorily serviced with reticulated water.</p>
The property is not suitable for residential development due to the flood prone nature of the site	See below.
The flood prone nature of the site will trigger the need for large volumes of fill to be imported to raise dwellings above this flood	<p>The Planning Proposal was accompanied by a Flood Study Report. This report provided the following.</p> <p>The subject site elevations vary mainly between 4.5m AHD and 14m AHD. Approximately 82% of the site is located above 5m AHD with more than 50% being located above the 5.5m AHD. Any approved lots and public roads within the proposed RU5 zone will be required to be filled to 5m AHD. Based on existing ground levels, this would require the importation of fill to increase the areas shaded grey below by a maximum of 500mm.</p>

level. This fill has the potential to adversely impact surrounding properties though modified flood flows	 <p>The site is not located in a floodway corridor or flood storage area. As such, no adverse impact in relation to the proposed development and site fill is anticipated.</p>
Insufficient safety measures are in place to protect future residents from the adjoining abandoned quarry site	Measures to protect any future residents of this subdivision or others in the locality from the abandoned quarry are the concern of the quarry owners.
Insufficient options for resident evacuation in the event of a bushfire	<p>The RFS have reviewed the Planning Proposal. Conditional consent has been granted to the Planning Proposal subject to further design considerations for bushfire protection during the development application process for a residential subdivision.</p> <p>These conditions will ensure residents of any future residential development will have satisfactory options for evacuation in the event of a bushfire emergency.</p>
Insufficient safety for joggers and cyclists along Hills Road and Riley's Hill Road	<p>The TIA provided and endorsed by Transport NSW provided that pedestrian volumes in the area of the subject land are generally low and typical of residential areas. There are no existing footpaths in the vicinity.</p> <p>It is noted that further assessment of pedestrian and cyclists will occur during the development application stage. It is noted that Hills Road will be widened to 7m, and verges will be retained.</p> <p>Any requirement for footpaths will be further assessed during the DA stage.</p>
Concerns regarding -who is undertaking the construction works (local business) -timeframe for construction	This matter is not considered to be a relevant issue within the scope of the Planning Proposal.
No environmental social or financial impact assessment	An ecological assessment including additional reporting as requested by the Dept of Planning, Industry and Environment.

	<p>Socially, the provision of additional flood free residential lots in the current context would be a positive social and economic outcome for the Richmond Valley Council and Rileys Hill.</p> <p>The Planning Proposal is consistent with the provisions of the North Coast Regional Plan, the Richmond Valley Council Local Strategic Planning Statement and the NCRP 2036.</p>
Domestic Pets adversely impacting wildlife	Any future development application for a residential subdivision including domestic pets would require an assessment of the development on local wildlife. It is noted this matter has not been deemed an issue with the Planning Proposal by the Dept of Planning, Industry and Environment.
Proposed number of Lots are excessive due to site constraints	The site constraints have been addressed at length to provide an indicative residential lot layout. The final lot layout, including the number of Lots will be subject to any future development application.
Ongoing noise concerns for adjoining properties during protracted construction period	Any future construction of an approved residential subdivision would be subject to noise amelioration measures. Any noise levels would also be subject to the relevant EPA regulations.
Landscape will be detrimentally impacted by development	Any development for subdivision would include satisfactory street beautification and retention of existing vegetation within the proposed E2 zone.
Potential for the development to adversely impact the existing community due to increased density and lack of knowledge of new landowners	<p>Any future development would be subject to minimum lot sizes as prescribed by the RVLEP.</p> <p>Landownership is irrelevant. RVC will assess any future development application for subdivision having regard to minimum lot areas and will assess the application against Clause 4.15 of the EPA Act 1979. This will include an assessment of any new subdivision in regard to local amenity.</p>
The development will expose acid sulfate soils	<p>The Dept of Planning Industry and Environment – Biodiversity and Conservation advised by correspondence dated 1 December 2021 as follows:</p> <p><i>'Acid Sulfate soils are not a constraint to the proposed rezoning and a management plan is not required.'</i></p>
Stormwater will be discharged into the National Park	The site has an average slope of 3.0% generally toward the south-east draining the site run-off to the Broadwater National Park located on the opposite side of Hills Road. The stormwater collection and treatment will be required onsite

	<p>prior to discharge under the adjoining Council Road reserve through a possibly upgraded culvert. The natural drainage route will continue offsite toward the adjoining National Park opposite the site.</p> <p>Further clarification of anticipated stormwater management will be undertaken in conjunction with any future development application to ensure the Broadwater National Park does not receive additional or contaminated stormwater.</p>
The site supports the wallum froglet	The habitat of the wallum froglet will be protected within the E2 Environmental Conservation Zone, as provided within additional reporting attached.
Any new roads should join Echidna Place rather than Hills Road due to traffic and bushfire issues	Any future design for the RU5 zone would be subject to a development application. The site does not have frontage to Echidna Place.
A 20km speed limit should be imposed through the village for safety	This issue is not a matter for the planning proposal.
A walking/bike path should be provided from Rileys Hill to Broadwater and also from new estate to community centre	Facilities for the broader community are financed by Section 7.11 Contributions Plans. These facilities if included within Contribution Plans for the Rileys Hill/Broadwater locality, any future subdivision upon the site will be required to contribute financially to these community facilities.

In regard to the most recent flood event and photos provided by an adjoining landowner, I have requested Ardill Payne and Partners flood engineer provide additional advice as follows:

*The impact of the 2022 flood on the proposal is considered to be minor, notwithstanding the photo images provided. As you stated (Tony McAteer – email 22 March 2022) the 2022 event was extreme. (This event was considered) much greater than the thresholds adopted by the NSW Floodplain Development Manual to minimise harm while avoiding unnecessarily sterilising land.*

*The (most recent) floods main influence (in future residential planning) will be ensuring that flood evacuation arrangements are appropriate. Fortunately, the development site has a long period of warning, measured in days rather than hours, prior to floods peaking and has areas, or backs onto areas, that are well above the Maximum Probable Flood Level of around 8.95m (according to March 2010 Richmond River Flood Mapping Study).*

*Therefore, we do not anticipate any change to the requirements resulting from the recent flooding.*

It is considered that the provision of additional information and commentary on all submissions received from public authorities and private submissions should now satisfy Council to a satisfactory standard to enable the Planning Proposal to be reported back to Council for support and forwarding to the dept of Planning Industry and Environment for final review and gazettal.

Should you have any questions in respect of this matter, please contact me on 6686 3280 or [joannek@ardillpayne.com.au](mailto:joannek@ardillpayne.com.au).

**Yours faithfully**



**Joanne Kay**

**Town Planner**

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