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Contact: Bryce Weedon

21 August 2023

Mr Caleb Jackson
Director - Apollo Fabrications Group
10-12 Telegraph Road
YOUNG NSW 2594

Uploaded to NSW Planning Portal

**Request for further information and justification
Planning Proposal (PP-2023-1336) at 2-20 TELEGRAPH ROAD, YOUNG, NSW
to amend Hilltops Local Environmental Plan 2022**

Dear Caleb,

Hilltops Council has undertaken a preliminary assessment of the submitted Planning Proposal (PP-2023-1336) 2-20 Telegraph Road, Young NSW and is requesting further information and justification for the proposed land use zoning and minimum lot size amendments to the in force Hilltops Local Environmental Plan 2022.

Further information or justification is requested relating to the following areas of the Planning Proposal:

- Funding for Public Infrastructure and draft Planning Agreement
- Clarify the explanation of the provisions for the use of the E4 General Industrial Zone in comparison to land uses and objectives of the E3 Productivity Support Zone.
- Riparian Corridor and Terrestrial Biodiversity Mapping and controls to remain across the proposal area.
- Crown Land Ownership and lease details for Lot 11 DP1138027, Lot 12 DP1138027 and Lot 101 DP1274790 and any previous correspondence with Crown Lands on Planning Proposal.
- Further details relating to the above matters addressing the relevant State Environmental Planning Policies and Section 9.1 Ministerial Directions.

Full details of request are provided in Attachment 1 for your information. A resubmitted Planning Proposal addressing the above points is required before the Planning Proposal is to progress to a future Hilltops Council Meeting for consideration.



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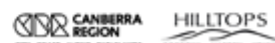
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Please contact Council's Senior Strategic Land Use Planner, Mr Bryce Weedon on 02 6384 2539 or bryce.weedon@hilltops.nsw.gov.au if you have any questions or require further clarification on this planning proposal.

Yours sincerely,



Jaime Dyhrberg
Director Planning

Attachment 1





ABN: 33 984 256 429

Attachment 1: Planning Proposal Request: 2-20 Telegraph Road, Young

1. Summary

Further information and justification are requested relating to the current Planning Proposal is:

1. Funding for public infrastructure and Planning Agreement

- a. Further discussion under Section: 4.1.1. Is there adequate public infrastructure for the Planning Proposal? More than: "Apollo will have separate discussions with Council in relation to an appropriate".
- b. Planning Agreement that will achieve net public benefit as a consequence of the proposal.
- c. Council note received offer on 30 June 2023, however offer does not include a contribution amount or works provided .
- d. Apollo noted in email to Council on 11 July 2023 that they are "working on confirming the contribution number and supporting documentation in the background".
- e. Council requests a draft Planning Agreement to be provided alongside any proposed contribution amount.

2. Clarify the explanation of the provisions for the use of the E4 Zone

- a. Comparison and justification of Land Use Zone Objectives and permissible Land Uses between E4 and E3 zones given the amenity and surrounding land uses conflict considerations in surround context.
- b. Outline the "long-term evolution and innovation" (of both Apollo Fabrications and the land) that is further accommodated by E4 General Industry rather than the E3 Productivity Support zone.

3. Riparian Corridor and Terrestrial Biodiversity Map and Controls remain?

- a. Submitted Planning Proposal does not propose to revise the Riparian Corridor layer or Terrestrial Biodiversity layer that applies across parts of the subject land under the Hilltops LEP 2022.
- b. Therefore any future development application would be required to address these controls.
- c. As per consultants report Revise the Riparian Corridor and Terrestrial Biodiversity Mapping that applies across parts of the subject land.
 - i. LEP Riparian and Sensitive Lands layers are significantly poor and require ground truthing as the areas do not include the waterway centre;
 - ii. LEP Biodiversity mapping indicates the development site is 95% outside of these zones;

4. Crown Land Ownership / Lease and Purposes

- a. Council note that Lot 11 DP1138027, Lot 12 DP1138027 and Lot 101 DP1274790 are Crown Land held under lease or license.
- b. Council request details of any leases and licenses across those lots and any correspondence with Crown Land about the Planning Proposal as per Direction 5.2 Reserving Land for Public Purposes:

- i. *A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary).*

5. Address inconsistencies with State Environmental Planning Policies and Ministerial Directions

- a. State Environmental Planning Policy (Biodiversity and Conservation) 2021 and Direction 3.6 Strategic Conservation Planning
 - i. Address areas across lots are identified on Biodiversity Values Map
- b. Direction 1.4 - Site Specific Provisions
 - i. *(2) A planning proposal must not contain or refer to drawings that show details of the proposed development*
 - ii. Removal drawings that show details of the proposed development such as Figure 9, Figure 14 and 15 from Planning Proposal.
- c. Direction 3.1 - Conservation Zones
 - i. Flood Prone Land and RE1 Zone
 - ii. Riparian Corridor and Terrestrial Biodiversity
- d. Direction 4.1 – Flooding
 - i. *(2) A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Employment, Mixed Use, W4 Working Waterfront or Special Purpose Zones.*
 - ii. Flood prone land that is zoned RE1 is unable to be rezoned.
 - iii. Proposal to note 1:100 and Probable Maximum Flood area as per the updates Flood Planning Manual and Guidelines.
- e. Direction 5.2 Reserving Land for Public Purposes
 - i. *A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary).*
 - ii. Lot 11 DP1138027, Lot 12 DP1138027 and Lot 101 DP1274790 are identified as Crown Land.
 - iii. Proposal to note and include details of any lease or license, public purpose of crown land and any previous correspondence with Crown Lands on Planning Proposal.

2. The Scope of the Proposal

The Planning Proposal for 2-20 Telegraph Road, Young was lodged on the NSW Planning Portal on 30 June 2023 and Council accepted payment on 24 July 2023. The Proposal seeks to amend the land zoning control and minimum lot sizes of the site in the Local Environmental Plan as follows:

- *Amend the Land Zoning Map that applies to the land by changing the zoning from R1 General Residential, RU4 Primary Production Small Lots and RE1 Public Recreation to E4 General Industrial.*
- *Amend the Lot Size map that applies to the land by removing all minimum lot size provisions.*

Salvestro Planning wrote in their Planning Proposal the objective and outcomes of the Planning Proposal are:

To amend the Hilltops Local Environmental Plan 2022 (the LEP) provisions applicable to the site to allow the use of the subject land for industrial purposes, specifically steel manufacturing and associated/ancillary activities.

- *To permit industrial uses, specifically steel manufacturing and associated ancillary activities, on the site.*
- *Contribute to economic development and employment generation in Young township and surrounding Hilltop Council area.*
- *Facilitate the improvement to local infrastructure, streetscape and environmental management of the public domain.*

The subject site is identified as in the new Hilltops Local Environmental 2022 and is zoned a mixture of R1 General Residential, RE1 Public Recreation and RU4 Primary Production Small Lots with a minimum lot size standard of 700m² to 2 hectares.

Council has reviewed the submitted Planning Proposal against the LEP Making Guidelines, , Section 9.1 Directions, State Environmental Planning Policies, South East and Tablelands Regional Plan 2036, and Hilltops Local Strategic Planning Statement 2040. Council will also take into consideration the Proposal's site-specific merit, and also studies and documentation included in the Proposal. The result of the assessment will be outlined in this Response.

3. Requests for further information and justification

3.1 Infrastructure Contributions

Further detail and discussion is required to be provided under *Section: 4.1.1. Is there adequate public infrastructure for the Planning Proposal?* More detail is needed than: "Apollo will have separate discussions with Council in relation to an appropriate Planning Agreement that will achieve net public benefit as a consequence of the proposal."

Council notes the Voluntary Planning Agreement Offer letter dated 30 June 2023. However this was not included within the Planning Proposal. Apollo noted in email to Council on 11 July 2023 that they are "working on confirming the contribution number and supporting documentation in the background".

Council requests:

- Figure of the proposed contribution amount:
 - This is to assist with Council Reporting that the Planning Agreement that will achieve a net public benefit as a consequence of the proposal.
- Submission of a draft Voluntary Planning Agreement.

3.2 Employment Zones – E4 General Industrial and E3 Productivity Support

Council requests further justification regarding the land use zoning consideration behind the change to an E4 General Industrial zone rather than the previously proposed E3 land use zone.

The Planning Proposal notes:

"The introduction of revised employment zones by NSW Planning has identified that E4 General Industrial is the most appropriate zoning for the land to achieve the proposal's objectives. The E4 zone will provide for a range of permissible land uses, including general industrial uses and ancillary activities, that will realise the intended outcomes of this proposal.

It will also further control land uses that would potentially generate land use conflict such as heavy industrial activities. Heavy industry is considered permissible as an innominate use, however, must demonstrate consistency with the zone objectives to minimise any adverse effects on adjoining land uses.

"The proposal also intends to assist in achieving the objectives of the zone by providing fully serviced allotments linked to town water and sewer networks." Page (5)

The current LEP 2022 came into effect on 01 February 2023 and consolidates three LEPs that existed across the LGA due to the 2016 amalgamation of Young, Harden and Boorowa Shires.

*The LEP 2022 does not assist the achievement of this planning proposal however, provides an opportunity to include the rezoning of the subject land to E4 General Industrial. The land use zone E3 Productivity Support was first considered for the subject land although, the appropriate zone should include **long term strategic considerations of the land. While the steel fabrication business can currently be characterised under E3 Productivity Support, the long-term evolution and innovation (of both Apollo Fabrications and the land) is further accommodated by E4 General Industry.** (Page 7)*

Council requests further detail relating to what further land uses consist with the "long term evolution and innovation" as stated in the Planning Proposal which can be met through the use of the E4 zone and not the E3 zone.

The Planning Proposal notes that "the steel fabrication business can currently be characterised under E3 Productivity Support". The Planning Proposal rightfully notes that the Heavy industry is considered permissible as an innominate use and therefore from Councils perspective given the context of the Proposal, seeking to minimise any potential amenity impacts from more amenity impacting permissible uses is paramount.

As the Hilltops LSPS notes – Telegraph Road precinct has been noted to consider light industrial uses rather than more amenity impacting industrial uses.:

*"The Telegraph Road precinct benefits from its ready access to the regional road network and proximity to the town centre. **However, its proximity to established residential development and intersections with Murringo Road will need to be addressed if further economic development is to occur.**" Page 95*

*Additional areas such as the northern entrance to Young on Olympic Highway and Telegraph Road are to be further investigated as **alternate locations for larger footprint light and commercial industries** and logistic centres that can benefit from easy access to the regional road network. Page 96*

Increase capacity to accommodate further light industrial and commercial industry development in Young through adequate servicing and land use controls. Page 107

Providing a comparison and analysis between the land use zones objectives and permissible land uses would assist in any justification as below.

Table 1: Comparison Objectives and Land Uses Zones of Zone E3 and E4

	E3 Productivity Support	E4 – General Industrial
Objectives	<ul style="list-style-type: none"> To provide a range of facilities and services, light industries, warehouses and offices. To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres. 	<ul style="list-style-type: none"> To provide a range of industrial, warehouse, logistics and related land uses. To ensure the efficient and viable use of land for industrial uses. To minimise any adverse effect of industry on other land uses.

	<ul style="list-style-type: none"> • To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity. • To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones. • To provide opportunities for new and emerging light industries. • To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site. • To provide fully serviced light industrial lots linked to town water and sewer networks. 	<ul style="list-style-type: none"> • To encourage employment opportunities. • To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers. • To provide fully serviced industrial lots linked to town water and sewer networks.
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2.3 Riparian Corridor and Terrestrial Biodiversity

The Planning Proposal does not seek to remove the Riparian Corridor or Terrestrial Biodiversity layers across the proposal sites. The Previous Gateway determination Condition 1 notes:

(d) Ground truth/update the natural resource sensitivity – biodiversity, sensitive land and riparian corridor maps that apply to the site.

The Riparian Corridor or Terrestrial Biodiversity layers and controls would still remain on any future development application if planning proposal was to occur.

Riparian Corridor

The proponents' consultant Ecological Consultants Australia notes under the Natural Environment Assessment – Victoria Creek ground truthing of the site in relation to the Riparian Corridor notes:

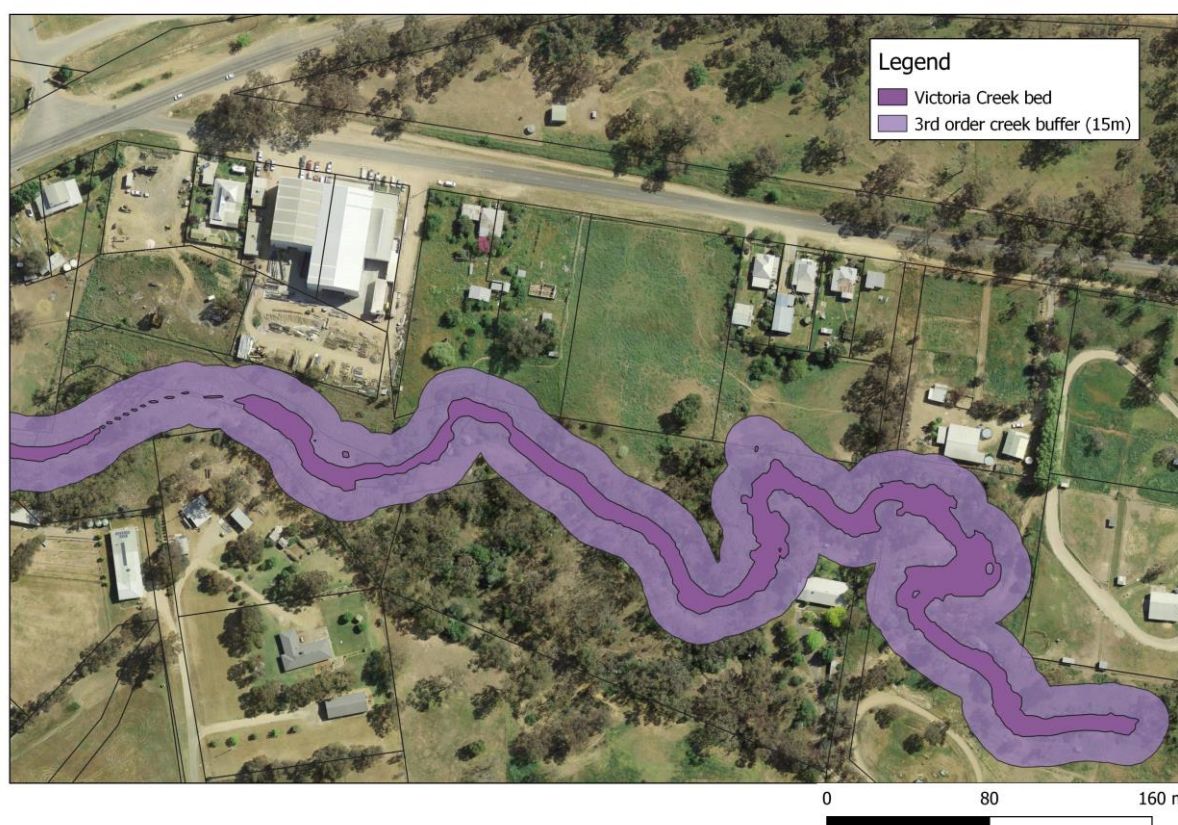
Comparing this map layer to on-ground experience suggests that the riparian mapping is significantly poor in places and has the zones lower edge on, or close to, the water-way centre rather than having the waterway in the centre of the riparian zone. An accurate topographic map will show the waterway bed location.

The Ecological Consultants Australia Report recommends that an amended Riparian Zone map corresponds to the Victoria Creek bed line with a buffer for the 3rd order creek (15 meters).





Existing Riparian Corridor layer under Hilltops LEP 2022



Potential proposed Terrestrial Biodiversity Layer under Hilltops LEP 2022

Terrestrial Biodiversity

The proponents' consultant Ecological Consultants Australia notes under the Natural Environment Assessment – Victoria Creek ground truthing of the site in relation to Terrestrial Biodiversity:

The biodiversity mapping is closely accurate and the development is 95% outside of these zones. Where it does overlap with pink mapped areas it can be seen that these

are cleared paddocks and from ground truthing these are exotic grass areas. Biodiversity will be enhanced with the planting recommend for the riparian area where there is no/low change of natural regeneration as well as removal of weed shrubs and their replacement with natives of a similar structure to retain and increase bird habitat.

The following observations were made:

- The development (as conceptually proposed for the purposes of the Planning Proposal) is outside all core riparian areas;
- The riparian zone has a high weed abundance;
- The LEP Riparian and Sensitive Lands layers are significantly poor and require ground truthing as the areas do not include the waterway centre;
- LEP Biodiversity mapping indicates the development site is 95% outside of these zones; and
- Biodiversity will be enhanced with additional planting along the riparian area.



Existing Terrestrial Biodiversity Layer under Hilltops LEP 2022





Potential proposed Terrestrial Biodiversity Layer under Hilltops LEP 2022

Therefore, clarification is sought if the Planning Proposal seeks to amend the Riparian Corridor and Terrestrial Biodiversity Layer across the lots as recommended by the Planning Proposal supporting consultant reports.

a. Section 9.1 Directions

The Planning Proposal is also expected to provide more justification for its inconsistencies toward Section 9.1 Directions as follows:

1. Direction 1.4 - Site Specific Provisions

(2) A planning proposal must not contain or refer to drawings that show details of the proposed development

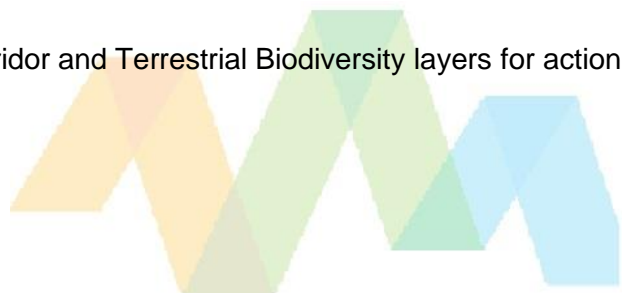
The Planning Proposal contains and refer to drawings that show details of a proposed development. To satisfy this Direction, Council requests the removal of these references including: Figure 9, Figure 14 and 15.

2. Direction 3.1 - Conservation Zones

Ministerial Direction states:

(2) A planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation standards that apply to the land (including by modifying development standards that apply to the land).

Additionally, see discussion on Riparian Corridor and Terrestrial Biodiversity layers for action required.



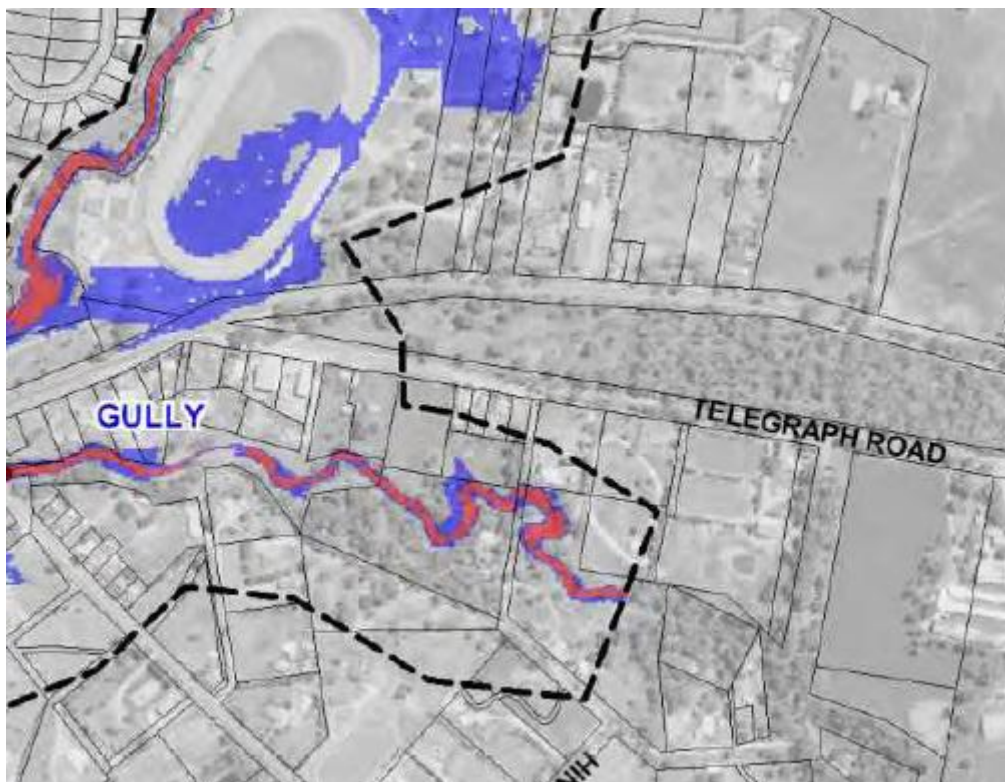
3. Direction 4.1 – Flooding

Part of the proposal seeks to rezone RE1 Public Recreation land. Below ministerial direction notes:

*(2) A planning proposal must not rezone land within the flood planning area from **Recreation**, Rural, Special Purpose or Conservation Zones to a Residential, **Employment**, Mixed Use, W4 Working Waterfront or Special Purpose Zones.*

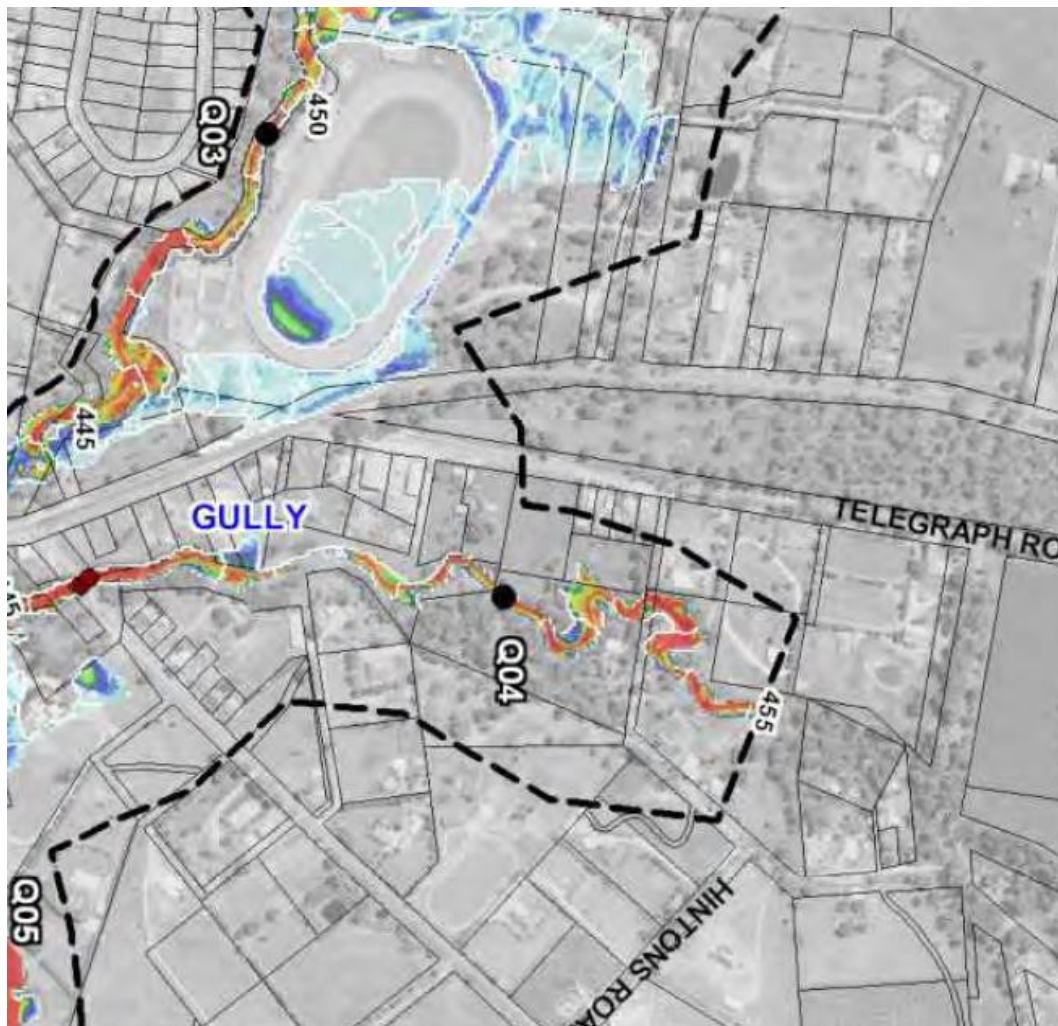
Planning Proposal notes in Section 4.3.2 - *In relation to environmental impact from or to the riparian corridor, flooding is largely confined to Victoria Gully and does not inundate any of the land that is proposed to be developed or redeveloped.*

Although minor in area, the 1:100 year flood does extend into the proposal area which contradicts the Consultants Assessment Cardno 'does not inundate any of the land that it is subject to this proposal' p37 Planning Proposal. As shown in the Young Flood Study Map in blue and red below:



Young Flood Study Map – 100 year ARI



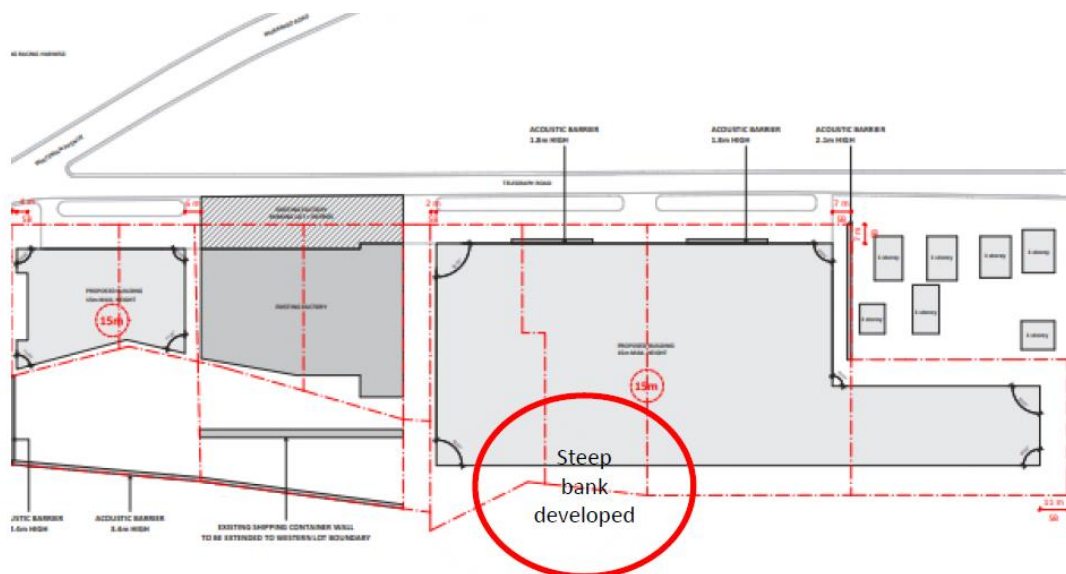


Young Flood Study Map – 100 year ARI

These areas would unlikely be supported to be rezoned as an employment zone and to remain RE1 Public recreation as they are flood prone and an existing RE1 zone.

Additionally, the development concept used to inform the flood advice differs to that provided in the urban design assessment (see below for assessment of urban design). The development concept included in the flood advice assumes the steep bank on Lots 1171 and 1154 DP 754611 will not be filled. The flood advice states that the presence of this steep bank indicates Victoria Gully extends into these lots, and presumably accommodates flood waters. The concept plan provided in the Urban Design Report shows this steep land being developed. This is shown in Figures below:





Urban Design Report Extract



Consultant Flood Advice Plans - flood advice differs

4. Direction 5.2 Reserving Land for Public Purposes

Council requests amendment to Direction 5.2 assessment as part of the proposed area is Crown Land, leased or licensed. Therefore Crown Land is required to be consulted as a part of the Planning Proposal process.

The previous Planning Proposal (April 2021) on Page 2 notes: “Undeveloped crown land containing a riparian corridor (Victoria Creek) adjoins land to the south that Apollo have a long term lease over for storage purposes.”

Council notes that there are four Crown Land lots across the proposal area as below:

License Number	Lot	DP	Public Purpose
450858	11	1138027	TBC
536824	12	1138027	TBC
NIL?	1	1277936	TBC

NIL?	101	1274790	TBC
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Crown Land Leases or Licenses across Proposal Area – NSW EPlanning Spatial Viewer

At present the Planning Proposal notes:

Consistent. The direction applies as a planning proposal is being prepared by a relevant planning authority that involves land zoned RE1 Public Recreation. The proposal will not alter land for public purposes without the approval of the relevant public authority. (Page 24)

However Clause 1 of Direction 5.2 notes:

(1) A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary).

Therefore, details of Crown Land, leases and licenses, and consultations with Crown land are to be noted in the Planning Proposal.

