



LOWER BATHURST STREET PLANNING PROPOSAL

Forbes Shire Council

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INTRODUCTION

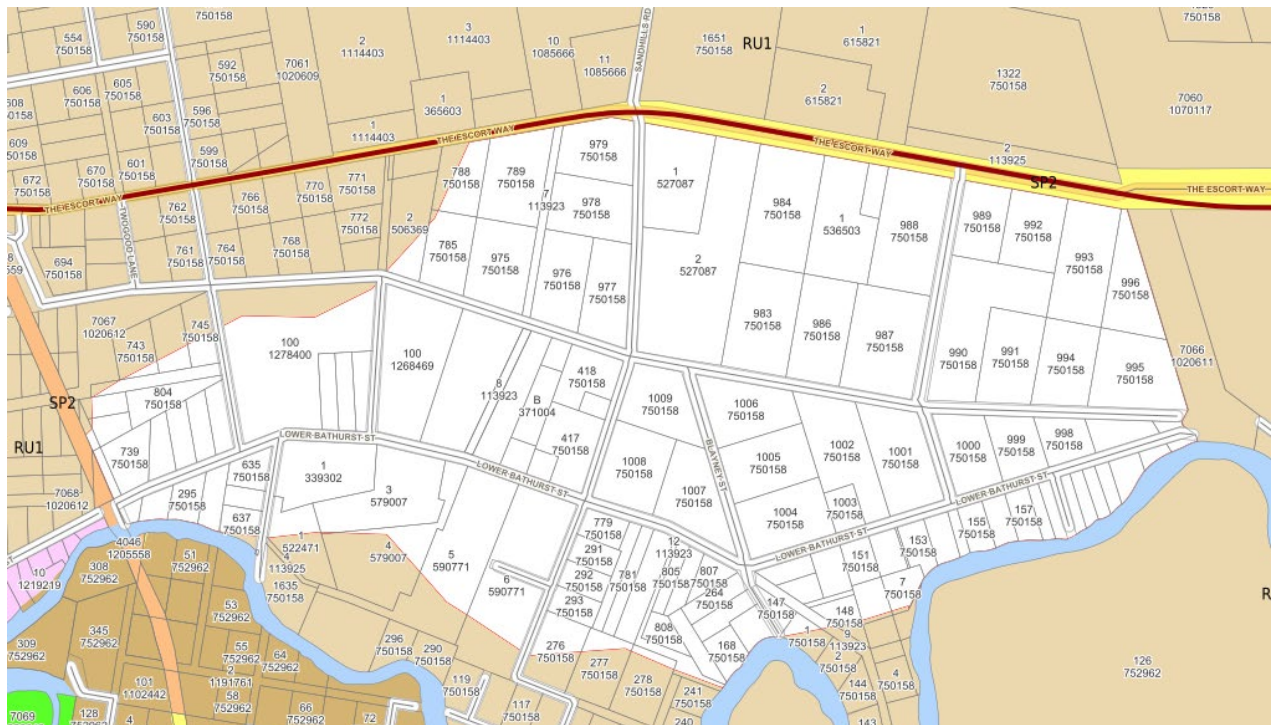
Background

The “Lower Bathurst Street” Area is a deferred area of the *Forbes Local Environmental Plan 2013*. This means that it was never brought into the new “Standard Instrument” of the 2013 LEP, and instead is still governed by the *Forbes Local Environmental Plan 1986*. This is a significantly outdated instrument as it is approaching over 40 years old. Council is concerned about the inconsistency of having two separate LEPs apply to the Forbes Local Government Area and this proposal aims to bring the deferred area under the Standard Instrument LEP.

The area was not brought into the 2013 LEP due to concerns from the Department of Planning and Environment regarding flooding. In 2020 Council adopted the *Forbes Flood Study 2020* which showed that much of this area is designated as high hazard flood storage. In November 2022, the area experienced major flood levels close to the 1 in 100-year flood event which saw much of the land inundated by flood waters.

Council now proposes to bring this land into the *Forbes Local Environmental Plan 2013*. The proposal does not propose any changes to the development controls that apply to the land, and simply proposes to change the land zoning from 1a Rural to RU1 Primary Production, and repeal the *Forbes Local Environmental Plan 1986*.

White area shows the area subject to the planning proposal.



THE PROPOSAL

Objectives and intended outcomes

The objective of the proposal is to allow for the logical use of land whilst avoiding the densification of flood liable land. This will protect life and property while ensuring the land can operate in line with the Standard Instrument.

It also seeks to achieve consistency in the Forbes Local Government Area by ensuring only one Local Environmental Plan applies to the Shire.

Explanation of provisions

The planning proposal proposes to bring the land into the *Forbes Local Environmental Plan 2013 (FLEP 2013)*, with a zoning of RU1 Primary Production, a minimum lot size of 40ha and a height of building of 10m. This in effect results in no change to development controls, and simply changes the land zoning from 1a Rural to its equivalent, RU1 Primary Production in the current Local Environmental Plan.

This does not create any more possibilities for dwellings as the current minimum lot size of the land is 40ha in accordance with the *Forbes Local Environmental Plan 1986 (FLEP 1986)*.

This Planning Proposal will repeal the FLEP 1986.

Justification

The need for the planning proposal

Is the planning proposal a result of an endorsed LSPS, strategic study or report?

Yes. Page 110 of the Draft Forbes Housing Strategy states that this area should be rezoned to RU1 Primary Production.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. This is the only mechanism to allow the proposal to be brought in line with the *FLEP 2013* and repeal the *FLEP 1986*.

There are some areas within the precinct which are *Low Hazard Flood Fringe*. However, these areas are to the western portion of the precinct, further away from the urban area of Forbes. Should it be proposed that these low hazard areas have different zones, it would create disjointed development controls that would be difficult to manage and not allow the logical growth of Forbes' urban area.

Secondly, Council has previously undertaken consultation of this area as part of the *Forbes Flood Study 2020* which showed general opposition to more dwellings being built in the area. It would therefore not be in the public interest to support further intensification in this area.

Relationship to the strategic planning framework

Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy?

The applicable regional plan is the Central West and Orana Regional Plan 2041. The proposal is considered to give effect to Objective 7: Plan for resilient places and communities. This objective reads the following key clauses:

“Building resilience into the planning system builds understanding and successful responses. New development must avoid areas affected by relevant hazards or mitigate the effects of hazards within affected areas.”

“Take a risk-based-approach that uses best available science in consultation with the NSW Government, emergency service providers, local emergency management committees and bush fire risk management committees. Locate development away from areas of known high bushfire, salinity and flooding risk”

As this proposal brings the area into the FLEP 2013 while preventing an increase of density in high hazard flood liable land, it is considered that it achieves the objectives of the CWORP 2041.

Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Strategy or GSC, or another endorsed local strategy or strategic plan?

Yes, the proposal is consistent with Councils LSPS as it allows for the logical and straightforward zoning of land in the Shire by preventing a situation of having two LEPs in effect. This ensures consistency across the Shire. Further, the LSPS is clear that flooding must be considered in rezoning new properties.

Page 110 of the Draft Forbes Housing Strategy states that this area should be rezoned to RU1 Primary Production.

Is the planning proposal consistent with any other applicable state and regional studies or strategies?
No other applicable state or regional studies or strategies apply to the proposal.

Is the planning proposal consistent with applicable State Environmental Planning Policies?

State Environmental Planning Policy	Consistency	Comment
Primary Production 2021	Yes	The proposal seeks to rezone land that is 1a Rural under the FLEP 1986 to RU1 Primary Production under the FLEP 2013. These are consistent zones and all other development controls will stay the same.
Resources and Energy 2021	NA	
Resilience and Hazards 2021	Yes	There are risks of contamination associated with agricultural uses. However, as the proposal does not propose any change of land uses it generally complies with this SEPP.
Industry and Employment 2021	NA	
Transport and Infrastructure 2021	Yes	The proposal will not impact the operation of this SEPP.
Biodiversity and Conservation 2021	Yes	No land clearing is proposed as part of the Planning proposal. The Proposal will

		not cause a change in land uses that will likely result in land clearing. Any land clearing will be dealt with as part of typical development assessment processes.
Planning Systems 2021	Yes	The proposal will not impact the operation of this SEPP.
Housing 2021	Yes	The proposal will not impact the operation of this SEPP.
Exempt and Complying Development Codes 2008	Yes	The proposal will not impact the operation of this SEPP.

Is the planning proposal consistent with applicable Ministerial Directions?

State Environmental Planning Policy	Consistency	Comment
Implementation of Regional Plans	Yes	The proposal is not inconsistent with the Central West and Orana Regional Plan 2041 and gives effect to Objective 7.
Development of Aboriginal Land Council Land	NA	
Approval and Referral Requirements	Yes	Nothing in this plan requires the concurrence of a public authority, nor does it identify designated development. Orange Road is a state road, though it is not proposed to create any new accesses as the proposal will not immediately give rise to any new developments.
Site specific provisions	NA	The planning proposal does not propose to make a specific use permissible.
Focus area 1 – Planning Systems – Place-based	NA	The planning proposal is not relevant to any of the areas subject to these directions.
Conservation Zones	NA	The planning proposal does not apply to a conservation zone, or land otherwise identified for environmental conservation or protection.
Heritage Conservation	NA	There are no heritage items on the land subject to this proposal.
Sydney Drinking Water Catchment	NA	
Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	NA	
Recreation Vehicle Areas	NA	
Strategic Conservation Planning	Yes	No land clearing is proposed as part of the Planning proposal. The Proposal will not cause a change in land uses that will likely result in land clearing. Any land clearing will be dealt with as part of typical development assessment processes.

Flooding	Yes	The site is flood liable, ranging from low hazard flood fringe through to high hazard floodway. As the proposal is not increasing density of the site and simply proposes to repeal the 1986 LEP and zone the land RU1 Primary Production in line with the FLEP 2013, the proposal complies with this direction.
Coastal management	NA	
Planning for bushfire protection	NA	
Remediation of Contaminated Land	Yes	There are risks of contamination associated with agricultural uses. However, as the proposal does not propose any change of land uses it generally complies with this direction.
Acid sulfate soils	NA	
Mine Subsidence and Unstable Land	NA	
Integrated Land Use and Transport	NA	
Reserving Land for Public Purposes	Yes	No community land is proposed to be reclassified as part of this proposal.
Development Near Regulated Airports and Defence Fields	NA	
Shooting Ranges	NA	
Residential Zones	NA	
Caravan Parks and Manufactured Home Estates	NA	
Focus Area 7: Industry and Employment	NA	
Focus Area 8: Resources and Energy	NA	
Rural Zones	Yes	The land is zoned 1a Rural. The proposal does not propose to increase density or change any development controls that apply to the land, except to bring it into the standard instrument by zoning it RU1 Primary Production instead of 1a Rural.
Rural Lands	Yes	The land is rural land. The proposal does not propose to increase density or change any development controls that apply to the land, except to bring it into the standard instrument by zoning it RU1 Primary Production instead of 1a Rural.

Environmental, Social and Economic Impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitat will be adversely affected?

No. The proposal does not change any development controls or immediately give rise to a new development. It simply proposes to bring the proposal inline with the standard instrument by zoning the land RU1 Primary Production and repealing the 1986 LEP.

Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

There are no other likely environmental effects anticipated as part of the planning proposal as it is not proposed to change the use of any portion of the land.

Has the planning proposal adequately addressed any social and economic effects?

An AHIMS search has been conducted, and no Aboriginal heritage items have been identified on any of the land subject to the planning proposal. No development is proposed, and therefore the proposal does not meet the thresholds for a due diligence assessment.

No biodiversity is proposed to be removed, and therefore the *Biodiversity Conservation Act 2017* does not apply to the proposal.

There is significant community benefit in streamlining development assessment processes by only having one LEP applying to the Forbes Shire. This will ensure that the controls of the land meet the objectives of the *Environmental Planning and Assessment Act 1979*.

Is there adequate public infrastructure for the planning proposal?

Some of the area is serviced by town water. However, the land is rural agricultural land with a minimum lot size of 40 ha, and therefore water and sewer is not considered necessary.

As the proposal does not change any development controls, it will not give immediate rise to any land uses that would require these services.

Mapping

Yes, the land zone maps are required to be changed to reflect the proposal. Council will engage Department of Planning and Environment to make this change.

Community Consultation

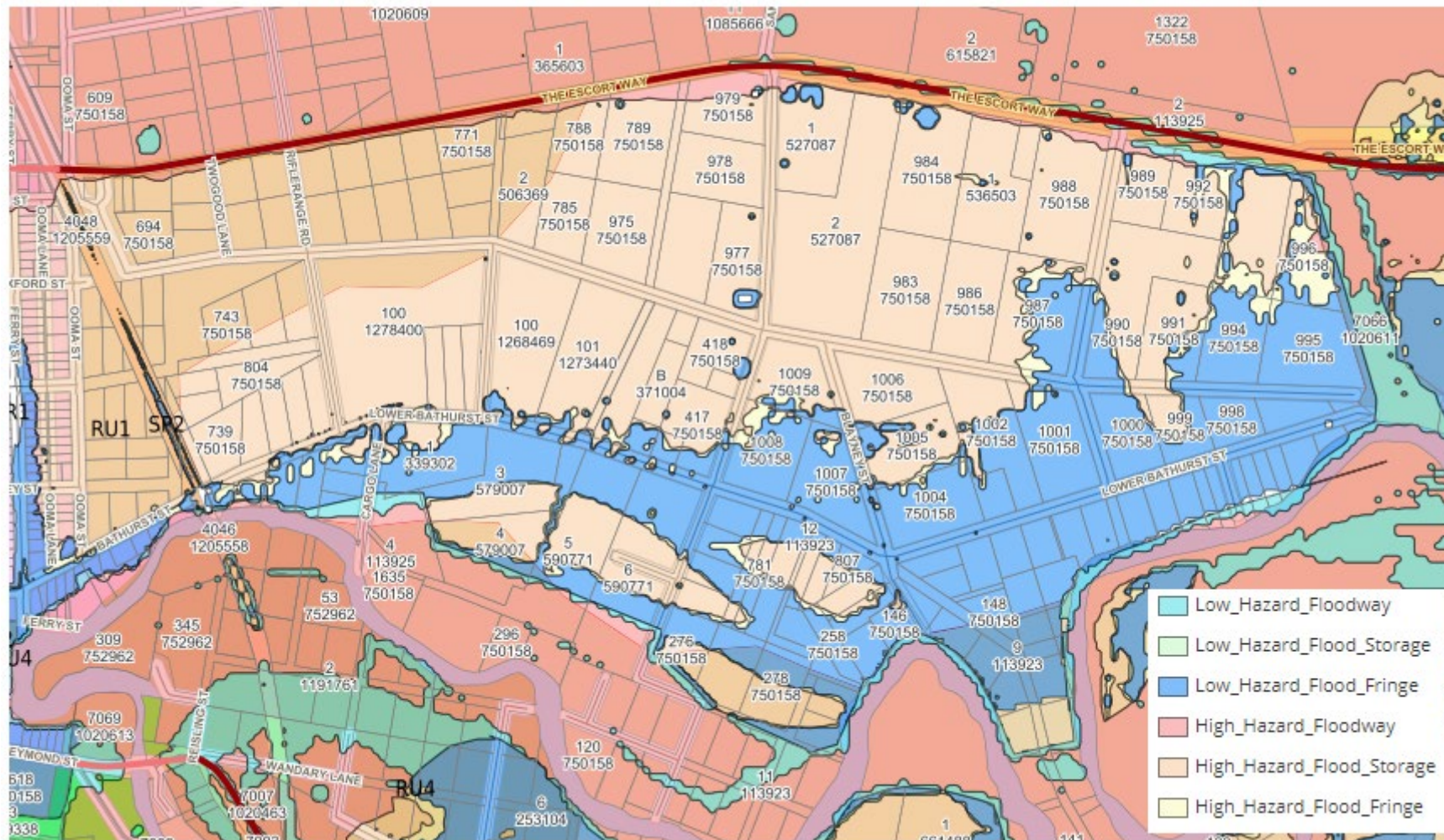
Council has undertaken consultation on this area as part of the *Forbes Flood Study 2020*. During the Public Exhibition of the Flood Study, Council received a number of 14 submissions. 12 of these submissions were from residents of Lower Bathurst Street writing in support of the designation of this land as High Hazard.

It is anticipated that the proposal will be publicly exhibited for 28 days, and all land owners will be written to during the public exhibition period inviting feedback.

Project Timeline

Consideration by Council & Council Decision	April 2023
Gateway Determination	June 2023
Public Exhibition	July – August 2023
Public Hearing	NA
Consideration of submissions	August 2023
Post-exhibition review by Council	September 2023
Finalisation	September 2023
Gazettal of LEP amendment	September 2023

Schedule 1



Flood Categorisation



Deferred Area during Flood Peak



Looking east, Lower Bathurst Street to the left



Looking east from the Lower Bathurst Street railway crossing