STAGE 3

PLAN MAKING BACKGROUND REPORT

RURAL LANDS STUDY

PREPARED BY

BAULKHAM HILLS SHIRE COUNCIL

AUGUST 2004
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EXECUTIVE SUMMARY

Planning for the rural area of the Shire presents many challenges. The rural area is a dynamic physical landscape containing significant bushland, threatened species, river foreshore, riparian corridors, significant ridgeline lines and scenic landscapes. There are also many competing pressures on our rural lands for agriculture, tourism, industry and rural residential development.

An initiative of Council, the Rural Lands Study was to respond to these competing pressures and provide a comprehensive and sustainable land use strategy for the long term management of the rural area.

This Plan Making Background Report represents a summary of all work undertaken as part of Stage 3 of the Rural Lands Study. The aims of Stage 3 are:

(i) to implement the strategies that relate to environmental planning instruments as identified in the Stage 2 - Rural Strategy;

(ii) to review of all statutory provisions in the current LEP and all development control provisions that relate to the rural area;

(iii) to ensure provisions, which relate to rural land are sustainable, and able to manage the changing needs of the rural area;

The resulting draft LEP and draft DCP has been prepared by Council Officers based on the strategies recommended in the Rural Strategy 2003, consultation with government authorities and Council staff, and input from other Council documents, studies and projects. A review of all existing provisions in Baulkham Hills LEP 2004, and current rural DCPs was also undertaken.

The draft LEP will amend the Baulkham Hills LEP 2004. A key component of the draft LEP is a range of specific zones to reflect the unique character and use of the land to which they relate. In this regard the existing rural zones have been redefined and a new village business zone introduced. There is no change proposed for the minimum allotment size of rural zones. The draft LEP also introduces a new form of rural-residential development known as ‘rural cluster development’. This will require a minimum of 20 hectares and allow community title subdivision at a density of 1 dwelling per 4 hectares of land, where the minimum allotment size for a residential allotment is 0.4 hectares and the maximum allotment size for a residential allotment is 1 hectare. The remaining area of land is to be incorporated into the community property. Rural cluster development will be permissible in the Rural 1(b) and Environmental Protection zone.

The conservation initiatives contained in the draft LEP and DCP includes the expansion of Environmental Protection 7(a)(Wetland) zones to identify additional wetlands, a new Environmental Protection 7(b)(Bushland) zone to protect significant bushland and a new Environmental Protection 7(c)(Riparian Corridor) zone. The LEP and DCP also contain provisions to protect the visual catchment and riparian environment of the Hawkesbury River.
Provisions to protect and enhance the natural environment such as biodiversity, clearing of bushland and development in bush fire prone land have also been included in the draft DCP.

Agriculture remains a key focus of the Shire’s rural area. There are new DCP controls for intensive horticultural establishments, intensive animal establishments, farm dams and new controls for rural-residential development to address potential for land use conflict.

Another key component of the draft plans is the focus on tourism and economic development in the rural area. A new zone for rural business centres is included, as well as new provisions for tourist facilities and farm gates sales to encourage the development of locally based tourism enterprises that promote agriculture.

Overall the plan aims to protect and maintain the scenic qualities and unique character that attracts residents, businesses and visitors to the rural area. The draft LEP and DCP aims to provide a balanced approach that reflects the diverse landscape and the wide range of activities in the rural lands. The draft plans seek to protect and preserve the natural assets of the Shire including the river foreshore, native bushland and riparian corridors, whilst maintaining opportunity for rural-residential development, tourist orientated activities and agriculture to contribute to the economic wellbeing of the community.
1. INTRODUCTION

1.1. CONTEXT

The rural area of Baulkham Hills Shire is a unique place, containing rural villages, productive agricultural land, significant native bushland and prominent landscapes including the Hawkesbury River, and comprises approximately 300 square kilometres or 80% of the land area of the Shire.

In recognition of this diverse landscape, Council has carried out a comprehensive Rural Lands Study. The broad aim of the Rural Lands Study is to investigate and determine a sustainable land use strategy for the rural areas of Baulkham Hills. The study was carried out in three stages as follows:

- Stage 1 - Background Research and Strategy Framework
- Stage 2 - Strategy
- Stage 3 - Plan Making (current stage)

This Plan Making Background Report accompanies the draft Rural Lands Local Environmental Plan and the draft Development Control Plan No. 1 - Rural Lands. The report provides a comprehensive history of the Rural Lands Study, outlining the aims and objectives of Stage 3 and the plan making process. The report also describes the proposed changes and new provisions in the draft LEP and DCP, provides a justification for these changes and explains how the strategies identified in the Stage 2 Rural Strategy have been implemented through the draft plans.

1.2. AIMS AND OBJECTIVES

Stage 3 of the RLS represents the culmination of the work in the previous two stages. The overall aim of Stage 3 is to prepare a draft Local Environmental Plan and draft Development Control Plan in accordance Council's resolution of 19 August 2003, taking into account the growth management, development principals and objectives of the Rural Strategy, prepared as part of Stage 2.

This aim shall be achieved through the realisation of the following objectives. The objectives of Stage 3 - Plan Making are:

(i) to implement the strategies that relate to environmental planning instruments as identified in the Stage 2 - Rural Strategy;
(ii) to review of all statutory provisions in the current LEP and all development control provisions that relate to the rural area; and
(iii) to ensure provisions, which relate to rural land are sustainable, and able to manage the changing needs of the rural area.
2. RURAL LANDS STUDY

The aims of the entire Rural Lands Study project are:

- to protect and enhance a sustainable future for the rural lands;
- to involve the community and other stakeholders in the Study process, to ensure acceptance and ownership; and
- to generate a sustainable land use strategy and environmental planning instruments for the study area.

The objectives to be achieved via the Rural Lands Study are:

- Formulation of a robust strategic framework which allows Council to:
  - Maintain long-term sustainable agricultural lands;
  - Protect and enhance the existing and future rural economy - including tourism, agriculture, extractive industries, transport, employment and future investment opportunities;
  - Maintain and preserve the natural environment and resources;
  - Maintain and protect a healthy biodiversity within the natural environment of the Shire's rural lands;
  - Avoid and manage land use conflict;
  - Respond to social needs and preserve social values of the rural community;
  - Maintain and enhance the existing character of rural villages;
  - Conserve items of heritage value;
  - Manage the demand for future rural subdivision; and
  - Maintain and provide infrastructure where appropriate.

- Formulation of a series of sustainable strategies to incorporate ESD principles and are consistent with the objectives of the Baulkham Hills Shire Plan, Environmental Management Plan and the Environmental Planning and Assessment Act 1979.

- Preparation of rural LEPs, DCPs, Section 94 Contribution Plans and Rural Incentives (where and if required) which will act as implementation mechanisms for the strategies; and

- Provision of a methodology to monitor and review the medium to long-term performance of the policies resulting from the Rural Lands Study.

2.1. STUDY AREA

The study area comprises approximately 300 square kilometres of the land, which represents the majority of the land in the North Ward of the Shire. The study area consists of the rural land zoned Rural 1(a), 1(b) 1(c) and 1(d) including the former Maroota State Forest and extractive industries, rural villages, Cattai National Park zoned National Parks and Nature Reserves 8(a), and wetlands located in and along Little Cattai Creek zoned Environmental Protection 7(a)(Wetlands).
The suburbs, towns and localities contained within the rural area include Annangrove, Box Hill, Cattai, Dural, Glenhaven, Glenorie, Hillside, Kellyville, Kenthurst, Leetsvale, Lower Portland, Maraylya, Maroota, Middle Dural, Nelson, Round Corner, Rouse Hill, Sackville, and Wisemans Ferry. Figure 1 indicates the extent of the study area.

There are a number of other sites within the Shire which are currently zoned Rural 1(a) including the Balmoral Road Release Area, land along Old Northern Road at Castle Hill, land adjacent to the Castle Hill Sewage Treatment Plan and land adjacent to the M2 Freeway at Bella Vista. Although zoned for rural purposes these areas were not included in the Study. In the case of Balmoral Road, a separate LEP will rezone this land for urban purposes.
Figure 1 – Study Area
2.2. HISTORY

The following history indicates the timetable of events that have occurred in the preparation of the Rural Lands Study over the past four years.

10/02/2000  Advice sought from the Department of Urban Affairs and Planning regarding its position on further rural residential land subdivisions in the Shire

27/03/2000  The Department of Urban Affairs and Planning advised that "if the Council is concerned that rural land zonings within Baulkham Hills Shire are no longer appropriate it may wish to consider the preparation of a Rural Lands Study to identify opportunities for agricultural production, rural residential living and other land uses appropriate to the rural area of Baulkham Hills."

11/04/2000  Council resolved to consider a draft rural planning strategy in the event that the necessary funds are allocated for this purpose in the 2000/2001 budget.

15/04/2000 - 16/04/2000  Council considered the draft Rural Strategy as contained in Initiatives 4.01 and 4.02 at the Councillors Workshop. The cost of preparing a Rural Lands Strategy in accordance with the draft outline would be in the order of $300,000 over three years.


12/12/2000  Council resolved to appoint a Community Liaison Group for the Rural Lands Study, which was divided into precinct groups.

13/02/2001  Council resolved that EDGE Land Planning Consultant Team be appointed to undertake Stage 1 of the Rural Lands Study.

March - October 2001  Stage 1 of the study undertaken and the Draft Background and Issues Paper, and Consultation Paper prepared.

09/04/2002  Stage 1 of the Rural Lands Study completed.

28/05/2002  Council resolved to appoint the EDGE Land Planning Consultant Team to undertake Stage 2 of the Rural Lands Study.

29/06/2002 – 14/10/2002  Twenty (20) community focus workshops held in relation to Stage 2 of the Rural Lands Study. The study area was divided into ten (10) precincts and two (2) workshops were held in each of the precincts.

16/12/2002  Sustainability Indicator Workshop held.
20/01/2003  Biodiversity Incentives Workshop held.
10/02/2003  Community Workshop held focusing on public transport, communication and social issues.
February – March 2003  Draft Rural Strategy prepared.
07/04/2003  Councillor briefing on the Draft Rural Lands Strategy held.
06/05/2003 – 03/06/2003  Public Exhibition of the Draft Rural Strategy
19/08/2003  Council considered a report on the submissions received in response to the Rural Strategy and resolved, “to prepare a draft Local Environmental Plan, draft Development Control Plan and Section 94 Contribution Plan in accordance with Stage 3 of the Rural Lands Study taking into account the growth management, development principals and objectives of the Draft Rural Strategy”.
26/08/2003  Section 34(A) Consultation with National Parks and Wildlife Services.
27/08/2003  Section 54 submission referred to DIPNR.
February – March  Preparation of draft Rural Lands LEP and draft Rural Lands DCP.
10/06/2004  Councillor Briefing on status of Stage 3 of the Rural Lands Study held.
06/07/2004  Correspondence received from DIPNR regarding Council’s Section 54 submission. See Appendix 4.

2.3. STAGE 1 - BACKGROUND RESEARCH AND STRATEGY FRAMEWORK
The Background and Issues Report was prepared as result of research undertaken in Stage 1. The report outlined the broad existing characteristics of the rural part of the Shire and identified the issues to be addressed in considering the future of the rural lands. It also included a detailed literature review of all previous rural lands studies and relevant planning reports.
A land use survey and lot size analysis was undertaken utilising aerial photographs and on-ground survey work. Additional data was gathered from secondary sources including ABS census data, Agricultural Census data, and discussions with the community and government departments. Additional information and analysis was provided as follows:

- Demographic Review and Community Services - Heather Nesbitt Planning
- Agriculture and Economic Issues - Jawin Associates
- Landscape Character Analysis - Andrews Neil Architecture, Planning, Landscape, Environment and Urban Design Consultants

Formal and informal discussions were held with the community and government departments through the Community and Statutory Liaison Groups established by Council. The outcomes of these discussions are documented in the Community Consultation Report.

Two other documents were prepared in conjunction with the Background Research and Strategy Framework Report as part of Stage 1. These included the Community Consultation Report and the Strategic Environmental Assessment and Strategy Framework Report. The Strategy Framework document provided an analysis of the issues and options to be considered in Stage 2.

The key findings of Stage 1 are as follows:

- “There are a number of physical constraints related to the natural environment which include:
  - The topography;
  - The presence of significant native vegetation and biodiversity area;
  - Bush fire risk; and
  - The quality of water in the catchments.

- The constraints relating to the built environments include:
  - Lack of reticulated water and sewerage;
  - The dominance of rural-residential development and the resultant rural land use conflict with existing intensive agricultural uses; and
  - A lack of social facilities and services to the rural lands.

- Considerable desire for subdivision in the rural community, despite the presence of the above constraints;

- There is pressure for urban growth in the area and there is a need to adhere to the wider metropolitan policy framework and growth management philosophy of a compact and sustainable city.

- There is a need to implement this philosophy in a local context and find the balance between the often competing desires of maintaining agriculture, preserving biodiversity and providing a place for people to live.”
2.4. STAGE 2 - STRATEGY

Stage 2 involved a comprehensive community consultation program including 20 locality based community focus workshops and two issue specific workshops on accessibility and information / communication.

The 20 community focus workshops were held in 10 localities throughout the rural areas of the Shire. Each locality had two workshops, the first aimed at identifying issues of importance in the locality and the second aimed at identifying constraints to achieving matters raised at the first workshop. The outcomes of the consultation sessions were outlined in the Community Communication Report, prepared as part of Stage 2. An additional workshop regarding biodiversity conservation with a range of government authorities, surrounding Councils and relevant experts, was also held as part of Stage 2.

The Strategy Report prepared as a result of the work undertaken in Stage 2 builds on the ‘Background and Issues Report’ and the ‘Strategic Environmental Analysis and Strategy Framework’ prepared as part of Stage 1. The Strategy Report provided analysis of the issues and a list of strategies for implementation into Council’s policy framework. Each strategy area identified objectives, implementation strategies, policy actions, responsibility and a timeframe. The strategies and objectives are outlined below:

Figure 2 – Table of Strategies identified in Stage 2

<table>
<thead>
<tr>
<th>SOCIAL &amp; ECONOMIC FACTORS</th>
<th>OBJECTIVES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Growth Management Philosophy</td>
<td>Provide for co-ordinated and effective growth in the Shire's rural areas.</td>
</tr>
<tr>
<td>Land Use Planning</td>
<td>Develop a land use framework that will give a level of certainty to the people who live in the rural areas of the Shire.</td>
</tr>
<tr>
<td>Quality of Life</td>
<td>Ensure that residents have adequate access to appropriate services and facilities.</td>
</tr>
<tr>
<td>Economic &amp; Employment</td>
<td>To provide for economic development opportunities that is in keeping with the rural character of the Shire.</td>
</tr>
<tr>
<td>Infrastructure Requirements</td>
<td>Provide an adequate level of infrastructure for the people who live and work in rural parts of the Shire.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ENVIRONMENTAL OPPORTUNITIES &amp; CONSTRAINTS</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Catchments</td>
<td>To ensure that the quality of surrounding waterways is not adversely affected by development.</td>
</tr>
<tr>
<td>Ecological Management</td>
<td>To ensure that the quality of surrounding waterways</td>
</tr>
</tbody>
</table>

August 2004
is not adversely affected by development.

<table>
<thead>
<tr>
<th>Scenic Landscapes</th>
<th>Ensure that development has a minimal impact on the scenic and cultural landscape of the Shire.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heritage &amp; Culture</td>
<td>Ensure that urban growth is managed to retain the rural character of the Shire.</td>
</tr>
<tr>
<td>Natural Hazards</td>
<td>To preserve the rural heritage and culture of the Shire.</td>
</tr>
<tr>
<td></td>
<td>Recognise the impact of natural hazards on future land use and settlement.</td>
</tr>
</tbody>
</table>

In accordance with Council’s resolution, the above strategies and objectives are to inform and guide the drafting of a draft LEP and DCP. The table of strategies and policy actions together with a comment on how these are addressed in Stage 3 is included at Appendix 1.
3. STAGE 3 - PLAN MAKING

It is anticipated that a preliminary outcome of Stage 3 will be a package of information for public exhibition including the Plan Making Background Report, draft Rural Lands LEP, draft Rural Lands DCP and draft Rural Lands Zoning Map. This section sets out the plan making process. In particular, the methodology used and the information relied upon to produce the draft LEP and DCP. The relationship between current and draft plans is also described in order to clearly understand how the draft plans will affect existing instruments. This section also comments on the need for a Section 94 Contribution Plan in light of the findings of the Rural Strategy and the subsequent draft LEP.

3.1. METHODOLOGY

The draft LEP and DCP has been prepared by Council Officers based on the strategies recommended in the Rural Strategy, consultation with government authorities and Council staff, and input from other Council documents, studies and projects. A review of all existing provisions in Baulkham Hills LEP 2004, and current rural DCPs was also undertaken. The diagram at Figure 3 identifies the process used to inform the drafting and mapping of the draft plans.

3.1.1. Section 62 Consultation

In the preparation of a draft local environmental plan, Section 62 of the Environmental Planning and Assessment Act 1979 requires Council to consult with public authorities or bodies that may be affected by that draft local environmental plan, as well as any adjoining Council. Accordingly, Council consulted the following authorities or organisations:

- Sydney Water
- Roads and Traffic Authority
- NSW Fisheries (now Department of Primary Industries)
- Tourism NSW
- NSW Agriculture (now Department of Primary Industries)
- Environment Protection Authority (now Department of Environment and Conservation)
- Department of Infrastructure, Planning and Natural Resources (formerly Department of Land and Water Conservation)
- Department of Mineral Resources (now Department of Primary Industries)
- NSW Rural Fire Service
- Bushfire Services – Baulkham Hills Shire Council
- Integral Energy
- Transgrid
- State Forests NSW (now Department of Primary Industries)
- NSW Heritage Office
- NSW Police Department
- Western Sydney Area Health Service
- Department of Sport and Recreation
- Department of Education and Training
- State Emergency Services
- Waterways Authority
- Waste Service NSW
- Telstra
- AGL
- Deerubbin Local Aboriginal Land Council
- Hornsby Shire Council
- Hawkesbury City Council

Figure 3 - Methodology

STAGE 3 PACKAGE
- Plan Making Background Report
- Draft LEP
- Draft DCP
- Draft Zoning Map

UNDERTAKE SECTION 54 SUBMISSION, SECTION 62 CONSULTATION AND SECTION 34A CONSULTATION

Consultation within Council

Review existing provisions in LEP 2004, DCP 1, DCP 96 & DCP 22

Undertake Field Work

Input findings from Natural Assets Project

PREPARE DRAFT ZONING MAPS AND DRAFT WRITTEN INSTRUMENTS

Responses to the Section 62 consultation were received from NSW Fisheries, NSW Agriculture, Sydney Water, Integral Energy, Hornsby Shire Council, Transgrid, NSW Department of Mineral Resources, Chalk & Fitzgerald Lawyers and Consultants, and Design Collaborative Pty Ltd on behalf of the Deerubbin Local Aboriginal Land Council, and Western Sydney Area Health Service. A summary of the issues raised in response to the Section 62 consultation together with a comment addressing the issues is provided at Appendix 2.

Additional advice was sought from Department of Infrastructure, Planning and Natural Resources (formerly Planning NSW) regarding the North West Sector. In particular, the
inclusion of the North Kellyville, Box Hill and Nelson within the MDP and consideration
given to that part of Maraylya north of Old Pitt Town Road.

3.1.2. Section 34(A) Consultation
Section 34A of the Environmental Planning and Assessment Act 1979 requires that Council consult with the Director-General of National Parks and Wildlife Services before preparing a draft local environmental plan, if critical habitat or threatened species, populations or ecological communities, or their habitats, will or may be affected by the draft plan. As the area affected by the draft LEP covers a large area of native bushland, which includes critical habitat and threatened species, consultation with National Parks was carried out.

The response received from DEC (formerly National Parks), supported the incorporation of biodiversity conservation measures, bushfire and threatened species into the LEP, particularly the implementation of environmental protection zones. DEC recommended that the draft LEP seek to achieve the following broad objectives:

- Identification, protection and management of areas of high and moderate ecological value, including potential linkages;
- Identification, protection and management of areas of moderated ecological value (not adjoining areas of high ecological value) and areas of low ecological value;
- Identification, protection and management of Aboriginal heritage values; and
- Application of incentive provisions and schemes.

DEC also recommended that those areas identified as being of high, moderate and low ecological value through Council’s Vegetation Mapping should be zoned accordingly, and protected and managed for conservation purposes under a single conservation or environmental protection zone.

Further consultation was held with DEC on 4 August 2004 in relation to the outcomes of the Natural Assets Assessment program and the proposed 7(b)(Bushland) zone.

3.1.3. Consultation within Council
The involvement of other sections of Council in the drafting of the LEP and DCP was undertaken to ensure usability, relevance, and practicality. In this regard, further consultation was sought with those sections of Council with expertise in the application of various aspects of the draft LEP or DCP, including:

- Bushfire Control - Kenthurst
- Building Control - BHSC
- Subdivision Control - BHSC
- Development Control - BHSC
- Health and Environment Protection - BHSC
- Parks and Waterways – BHSC

3.1.4. Field Work
A series of fieldwork exercises were undertaken in February and March 2004, to support the draft LEP and DCP. This fieldwork involved observation of existing development within the
rural areas and evaluation of existing controls. Special areas of focus included development along the Hawkesbury River, the rural villages, heritage items, significant natural features such as prominent ridgelines, rural fencing and building materials. A comparative study of rural cluster subdivision in Wollondilly Shire was also undertaken.

3.1.5. Natural Assets Assessment Project

The strategy for Ecological Management outlined in the Rural Strategy was to ensure that the integrity of the rural lands are enhanced and maintained, with the specific policy action being to:

“Identify and protect significant linkages of native vegetation as outlined in the Natural Assets Mapping Report and incorporate in the draft LEP for the Shire’s Rural Lands.”

Since 1997 Council has been developing a strategic approach to the assessment of its natural assets. Following an initial bushland mapping project, it was determined that Council should undertake further investigations to accurately map the distribution of vegetation communities in the Shire. In 2000 the first stage of the Natural Assets Assessment Project was completed with the completion of a map detailing the extent of bushland in the Shire.

The second phase of the Natural Assets Assessment Project was the identification and distribution of plant communities in the Shire, in particular endangered ecological communities as prescribed within the Threatened Species Conservation Act 1995. In addition, the study outcomes included an analysis of legislative constraints and broad-based ecological attributes to identify Council’s strategic planning protection, conservation and/or management priorities. Information gathered as part of the project was also to be used to inform Council’s Rural Lands Study.

The third stage of the project was an assessment of the ecological status of the vegetation communities identified in Stage 2.

3.2. RELATIONSHIP BETWEEN INSTRUMENTS

The draft Rural Lands LEP is an amendment to the Baulkham Hills LEP 2004. The provisions in the draft LEP will amend, replace or repeal those provisions in the existing LEP that relate to rural zoned land.

Figure 4 – Relationship between Local Environmental Plans

It is intended that the Rural Lands DCP will repeal and replace DCP No. 1 - Rural 1(a), 1(b) and 1(c), DCP No. 96 - Rural 1(d) and DCP No. 22 Corner Old Northern Road and Schwebel Lane as illustrated in Figure 5.
3.3. SECTION 94 CONTRIBUTION PLAN

The Rural Strategy, as adopted by Council, suggested that there is limited potential for subdivision of existing rural allotments in the rural area. As a result potential development in the rural area is limited to cluster subdivision and dual occupancy development.

Given the limited development potential, there is unlikely to be a growth in population of significant size to warrant additional or improved infrastructure, services or facilities. A Section 94 contribution can only be levied where a development will or is likely to require the provision of or increase the demand for public amenities and public services within the area. The low density of the population and the distance between developments in the rural area means that it is difficult to establish a sufficient nexus for facilities or services.

Should there be any major expansion to the area of the rural villages or subdivision of land around the villages in the future, resulting in an increased population and need for additional infrastructure, facilities and services, a Section 94 Contribution Plan could be developed for each village at this time.

Accordingly, the development of a Section 94 Contribution Plan for the rural area, in accompaniment to the draft Rural Lands LEP and DCP is unwarranted and at this stage will not be pursued.
4. RURAL LANDS LOCAL ENVIRONMENTAL PLAN

A draft Rural Lands LEP is one of the major outcomes anticipated from the entire Rural Lands Study process. The section provides a brief history of statutory provisions that relate to the rural lands, a description of the changes proposed in the draft LEP and reasons for these changes. Specific issues addressed by the LEP such as subdivision, dual occupancy, rural cluster development are also discussed.

4.1. HISTORY

This section provides a brief history of the statutory provisions that have related to the rural lands in the past, in order to provide a context for the draft Rural Lands LEP.

4.1.1. Interim Development Order No. 118

Interim Development Order No. 118 Shire of Baulkham Hills was gazetted on 17 May 1977 zoning land in the rural area Non-Urban 1(a), 1(b) and 1(c) and setting the minimum allotment size at 40, 10 and 2 hectares, respectively. The IDO also allowed the erection of a dwelling house on land less than 4000m² provided that the allotment was in existence prior to the date of gazettal.

IDO 118 was subsequently amended several times between its gazettal in 1977 and its repeal in 1991. Some of these amendments allowed for non-conforming uses, variation to the minimum allotment size or allowed dwellings on land less than 4000m². This accounts for a number of the undersized rural allotments that are in existence today.

4.1.2. Baulkham Hills LEP 1991

Baulkham Hills LEP 1991 was first gazetted on 1 March 1991 in Government Gazette No. 37 and applied to the entire local government area of Baulkham Hills Shire. This LEP repealed the Shire of Baulkham Hills Planning Scheme Ordinance and all local environmental plans and deemed environmental planning instruments in place at the time, including IDO 118.

The provisions relating to rural land in the LEP were subsequently amended over time to allow for new zonings, changes to the land use tables, introduced new definitions, special provisions, development for certain purposes and to reflect new legislation. For example the 7(a)(Environmental Protection (Wetlands) zone was added to the LEP on 29 October 1993, as Amendment No. 6.

Other examples of minor amendments include Amendment No. 12 gazetted on 12 December 1993 to delete reception establishments as a permissible use from the 1(c) zone and to require Council consent for mushroom growing. Amendment No. 24 gazetted on 11 March 1994 introduced new definitions for "agricultural products establishment" and "firewood establishments" in the Rural 1(a) and 1(b) zones. Clause 14 - Access to Classified Roads was also amended to reflect the insertion of new definitions.

Generally the land use provisions and zoning boundaries relating to the rural area have remained unchanged since the gazettal of LEP 1991, with the exception of minor amendments as indicated above.
4.1.3. Baulkham Hills LEP 2004
At the time of writing the draft Baulkham Hills LEP 2004 was still being finalised prior to gazettal. This plan will apply to the entire local government area of Baulkham Hills Shire. This LEP is the result of a comprehensive review process carried out over three years from 2000. During this review process issues relating to the rural area were deferred to be considered as part of the RLS, including riparian zones, minimum allotment size and development of rural land.

However, opportunity was taken at this time to insert new provisions relating to environmental protection with relevance to the rural area, including Special Provisions for Environmental Monitoring, Development of land identified on Acid Sulfate Soils Planning Maps and Clearing of Bushland.

4.2. DRAFT LOCAL ENVIRONMENTAL PLAN RURAL LANDS
The draft Rural Lands LEP consists of amendments to the following sections of the Baulkham Hills LEP 2004: -

- 5. Definitions
- 12. Zones indicated on the map
- 13. Zone objectives and zoning controls (Table)
- Part 3 Special Provisions.

The draft LEP also introduces new definitions, land use zones and controls and new special provisions. The major changes and additions are detailed in the following sections. A copy of the draft LEP with the changes highlighted by red and green text is included at Appendix 3.

4.3. DEFINITIONS
As part of the general review of provisions in the current LEP, a review the definitions, which relate specifically to rural land uses has been undertaken. The purpose of reviewing the definitions is to ensure that the definitions for rural land uses contained within the LEP continue to be relevant and appropriate for controlling land use in the rural area. New definitions are also included to address changes in land use due to technology or new activities and to define common environmental terms. The definitions proposed to be changed and the reasons for the change are outlined below.

<table>
<thead>
<tr>
<th>Definition</th>
<th>Comment</th>
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<tbody>
<tr>
<td>agricultural products establishment means a building or place used for the sale of goods, machinery or materials used in agricultural production, but does not include a building or place elsewhere specifically defined by this clause.</td>
<td>Includes the sale of machinery used in agricultural production</td>
</tr>
<tr>
<td>agriculture means horticulture and the use of land for any purpose of husbandry, including the keeping or</td>
<td>Amended to reflect inclusion of definition for aquaculture.</td>
</tr>
</tbody>
</table>
breeding of livestock, poultry or bees, and the growing of fruit, vegetables and the like but not for the purpose of aquaculture, intensive animal industries, or intensive horticulture establishments.

**ancillary rural development** means minor development that is ancillary to, but detached and separated from a dwelling-house lawfully erected in a rural area, and includes garages, swimming pools, and outbuildings or structures but does not include tennis courts, squash courts and the like.

New definition to distinguish between ancillary development that is detached from a dwelling-house such as outbuildings, garages and swimming pools, and alterations and additions to an existing dwelling-house.

**aquaculture** means a building or place used for the commercial breeding, hatching, rearing or cultivation of marine, estuarine or fresh water organisms, including aquatic plants or animals such as fin fish, crustaceans, molluscs or other aquatic invertebrates.

New definition based on definition in Schedule 3 of Environmental Planning and Assessment Regulations 2000.

**creek** means the path of a permanent or intermittent flow of water

(a) any watercourse, whether perennial or intermitted and whether comprising a natural channel or a natural channel artificially improved; and

(b) any tributary, branch or other watercourse into or from which a watercourse referred to in paragraph (a) flows.

Amended definition of creek to that suggested by Department of Infrastructure, Planning and Natural Resources (formerly DLWC) in review of LEP 1991.

**farm gate sales** means a buildings or place used for the selling of agricultural products grown on the land, and may include the selling of products made from agricultural products grown on the land on which the building or place is situated provided that:

(a) sales take place in a building, an area within a building or a defined area of land, and

(b) the area used for selling is not greater than 75 square metres, and

(c) the building or area is located more than 20 metres from the boundary between the land and the public road, and

(d) a defined car parking area is provided on the land.

New definition to allow for the development of farm gate sales areas to replace roadside stalls.

This definition allows for larger sized developments with additional criteria.
**intensive animal industry** means agricultural animal production where cattle, horses, goats, poultry or other livestock are held in buildings or in a confined area for feeding and, without limiting the generality of the above, may involve the use of where livestock are held in a building or place for the purposes of nurturing solely by a feeding method other than natural grazing and may involve the use of:

(a) a beef cattle feedlot; or
(b) a dairy farm; or
(c) a piggery, including a free-range piggery; or
(d) a poultry farm, including a free-range poultry farm; or
(e) a worm farm; or
(f) a building or place used for fish farming (that may consist of or include farming crustaceans).

but does not include use of a building or place for keeping livestock intended solely for personal household consumption or enjoyment by the owner or occupier of the building or place.

**intensive horticultural establishment** means a building or place used for the horticultural production at which plants or fungi are grown using an intensive agricultural system, or for where such as hydroponics, housing, climate control system, crop protection system structures or equipment are used, and may involve the following: without limiting the generality of the above:

(a) hydroponics;
(b) market gardening;
(c) orcharding;
(d) field flowers
(e) vineyards;
(f) turf farming; and
(g) mushroom farming

(h) may consist of or include a shed, greenhouse or poly housing; and
(i) may involve automated heating, irrigation or sprinkler systems, or the use of shade cloth, hail netting or animal scarin devices;

but does not include a place used to grow produce for personal household consumption or enjoyment.

**prescribed materials, in relation to a site or building,** means materials of low reflective quality, low

Amended definition to clarify the meaning of an ‘intensive animal industry’.

Reference to fish farming deleted as new definition for ‘aquaculture’ proposed.
Amended to ensure consistency in wording with ‘intensive horticultural establishment’.

Amended definition to clarify the meaning of ‘intensive horticultural establishment’.
The intensive nature of the use is defined by the use of crop protection structures and that the produce grown is not for personal consumption.
Crop protection structures or equipment would include shade houses, green houses, igloos and hail netting.
reflectivity that blend with the landscape of the site and its surroundings.

roadside stall means a building or place, not exceeding 20m$^2$ in floor areas or areas respectively, where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail.

Definition deleted in view of proposed definition for 'farm gate sales'.

riparian corridor means that component of land (including flood plains) adjacent to watercourses.

New definition recommended for insertion by DIPNR (formerly DLWC)

riparian vegetation means emergent aquatic and semi aquatic plants as well as the over and understorey vegetation in the zone immediately adjacent to, or verging watercourses.

New definition recommended for insertion by DIPNR (formerly DLWC)

rural cluster development means development that includes
(a) the subdivision of land into three or more residential allotments and the erection of a detached dwelling-house on each allotment; and
(b) in the subdivision a separate allotment of land for the preservation of any significant natural feature(s) on the site.

New definition to allow for new forms of rural-residential development in rural zones.

rural industry means handling, treating, processing, packing or transporting of primary products, whether or not the products are produced on the site and may include the servicing in a workshop of plant or equipment used for rural purposes in the locality, but does not include the repair of motor vehicles.

Amended definition allows for primary products not produced on the site to be processed and excludes the repair of motor vehicles.

rural workers dwelling means a dwelling-house which is situated on land on which there is already erected a dwelling-house and which is occupied by a person who is engaged in the an existing use of the land for the purposes of agriculture, aquaculture, intensive animal industries or intensive horticulture establishments.

Amended to ensure that rural workers dwellings are allowed where the land is already being used an agricultural use. Includes reference to aquaculture.

tourist facility means an establishment providing facilities for holiday tourist accommodation or recreation, and may include a boat sheds, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, houseboat marina, motel, playground, restaurant, water sport facilities or a club used in conjunction with any such activity, or any other

Amended to clarify the meaning of tourist facility. Reference to restaurants deleted, as they are separately defined. Inclusion of any other use that attracts tourists to allow for different types of tourist
similar uses that attract tourists to the area.

facilities in the future.

wetland means an area with characteristics of both terrestrial and aquatic environments that is flooded or waterlogged often enough to support aquatic or other plants typical of areas with those characteristics.

New definition from SREP 20 – Hawkesbury-Nepean River

4.4. LAND USE ZONES

One of the objectives of Stage 3 was to review all statutory provisions in the current LEP that relate to the rural area. The draft LEP includes changes to the boundary of the zones, changes to zone objectives and land use table in existing zones, as well as the introduction of three new zones.

4.4.1. Rural 1(a) Zone

Following a review of provisions, it is considered that the majority of the objectives for the 1(a) zone adequately reflect the purpose and intention of the zone, and therefore do not require significant amendment.

In their submission on the Shire-Wide LEP, DLWC commented that developments in rural zones such as intensive animal industries e.g. pig keeping establishments and poultry farming, and intensive horticulture may require, or have the potential, to affect the quality and quantity of surface and groundwater resources. Although, Baulkham Hills Shire is affected by the current embargo on surface water licenses, the insertion of an objective to protect water resources was recommended. Accordingly, an objective to protect and enhance the natural environment including surface and ground water resources has been added to each rural zone.

With regards to the land use table, aquaculture, ancillary rural development and farm gate sales to replace roadside stalls were added as development allowed only with consent.

Photograph 1 – Road Side Stall
The Rural 1(a) zone, currently zones land bounded by Annangrove Road, Windsor Road, Boundary Road and Cattai Creek. As one of the objectives of the zone is to ensure that development of land within the zone does not hinder the proper and orderly development of any future urban lands, it is proposed that the boundary of the 1(a) zone in the draft LEP be amended to match the area identified in Sydney Regional Environmental Plan No. 19 – Rouse Hill Development Area (SREP 19).

SREP 19 covers a large area in north west of Sydney and includes Kellyville, Rouse Hill, Nelson and parts of Box Hill in the Baulkham Hills LGA. The northern boundary of the area covered by the SREP is Boundary Road, Old Pitt Town Road, Nelson Street, Edwards Road and Annangrove Road.

**Figure 6 – Map of SREP 19 – Rouse Hill Release Area**

The Regional Structure Planning Workshop for the North West sector held in August 2003, explored the choices for transit orientated urban growth, primarily within the SREP 19 area. The workshop also considered the long term urban potential of adjacent areas on their merit where they could contribute to overall objectives. Given the synergy with Box Hill and the physical suitability of the lands for possible urban development, the area to the north of Old Pitt Town Road, was one of the adjacent areas also considered. Accordingly, the revised 1(a) zone boundary has been extended to include the area between Old Pitt Town Road and Maguires Road.
4.4.2. Rural 1(b) Zone

The current Rural 1(b) zone is characterised by the former Maroota State Forest, large lot rural-residential development with various ancillary uses such as home businesses and horse agistment, and pockets of intensive horticulture particularly in Maroota and along Wisemans Ferry Road.

Photograph 2 – Market Gardens

The zone will be known as the Rural 1(b)(Rural Landscape) zone in recognition of the area’s unique rural landscape. The objectives of the zone have been refined to more succinctly reflect the overall character of the area. A key objective is the preservation of the open rural landscape and provision for both intensive and extensive forms of agriculture. As there is significance proportion of the area devoted to intensive horticulture and other rural activities, management of land use conflict and the protection of amenity for existing residents is another key element. The protection, preservation and enhancement of water quality and native vegetation is also an important aspect to highlight as the area contains the major catchment areas for significant waterways such as Kellys Creek and Little Cattai Creek which are tributaries for Broadwater Swamp and the Hawkesbury River. The proposed objectives are as follows:

(a) to preserve and maintain the open rural landscape character of the locality and provide for intensive and extensive forms of agriculture; and

(b) to provide for a variety of rural-residential development and tourist facilities in appropriate locations; and

(c) to ensure that development is carried out in a manner that minimises risks from natural hazards, does not unreasonably increase demand for public services and public facilities and is within the servicing capacity of the area; and
(d) to protect and enhance the natural environment including biodiversity, native
vegetation, habitat linkages, surface water and groundwater resources, and areas of
scenic and environmental value; and

(e) to ensure that development is designed and carried out having regard to:

(i) the adjoining land uses;
(ii) the amenity of existing residents; and
(iii) the rural and heritage character of the surrounding area.

Photograph 3 - Little Cattai Creek

The land use table will remain unchanged with the exception of aquaculture, ancillary rural
development, farm gate sales and rural cluster development being added, and road side stalls
being deleted from the section Development only with consent.

The boundary of the 1(b) zone will remain unchanged with the exception of the area to the
north of Maguries Road, which will be rezoned from Rural 1(a) to Rural 1(b). Figure 7
identifies the existing lot sizes of rural lots in this area. Of the land to be rezoned Rural 1(b),
there is only one allotment in excess of 40 hectares, which is the minimum allotment size in
the 1(a) zone. The majority of allotments are 18 hectares or less in size and therefore have no
capacity for further subdivision. There are approximately 10 allotments of 18 hectares or
more, which may be of sufficient size to allow for subdivision into 10 hectare allotments. As a
result subdivision will be extremely limited, given the undersizing of existing allotments.
However rezoning this area to Rural 1(b) zoning will ensure that the rural character of the
area is maintained and that existing agricultural and rural activities can continue.
Overall the rezoning of land from Rural 1(a) to Rural 1(b) will simply reflect the existing pattern of allotment size and will not prevent the continuation of existing agricultural activities.

Figure 7 – Extract from Rural Lot Size Map

Source: Andrews Neil Environmental Pty Ltd
4.4.3. Rural 1(c) Zone

The 1(c) zone covers the suburbs of Annangrove, Glenhaven, Dural, Kenthurst, Middle Dural and parts of Glenorie and is characterised by 2 hectare rural-residential subdivision with a variety of ancillary rural uses, including home businesses, truck businesses and horse agistment. There is also a scattering of intensive horticultural activities, native vegetation and special uses such as private schools.

Photograph 4 – Typical Rural-Residential Development

As the majority of the area is used for rural-residential purposes, it is important that the open rural landscape is maintained and that any land use conflict is minimised. In this regard, buildings including dwelling-houses, should be unobtrusive and blend into the landscape. This may be achieved through consideration of their design, form, scale, the external colours and finishes, and the landscape in which they are located. Protection of water quality and the preservation and enhancement of native vegetation including habitat linkages is also important, particularly given the zones role as a buffer between the urban fringe and the rural land. The area also contains major catchment areas for O’Hara’s Creek and Blue Gum Creek, which join Cattai Creek.

This transition function is also reflected in the types of land uses found in the zone. For example there are fewer intensive animal industries or agriculture activities, but several urban support uses such as private schools and recreation facilities such as swim schools.

In order to adequately reflect the rural-residential nature of the zone, it will be known as the Rural 1(c)(Rural Living) zone. The objectives have been revised to emulate and maintain the existing qualities of the zone as follows: -

(a) to accommodate rural-residential development that is sympathetic to the environment and minimises risks from natural hazards; and
(b) to provide for a range of activities that are compatible with the rural residential character of the locality; and

(c) to ensure that development is carried out in a manner that minimises risks from natural hazards, does not unreasonably increase demand for public services and public facilities and is within the servicing capacity of the area; and

(d) to encourage the preservation of suitable areas for open space purposes; and

(e) to protect and enhance the natural environment including biodiversity, native vegetation, habitat linkages, surface water and groundwater resources, and areas of scenic and environmental value.

(f) to ensure that development is designed and carried out having regard to:

   (i) the adjoining land uses;
   (ii) the amenity of existing residents; and
   (iii) the rural and heritage character of the surrounding area.

In regards to the land use table ancillary rural development, aquaculture and farm gate sales were added to the land use table. Roadside stalls were deleted. The boundary of the Rural 1(c) will remain unchanged, except the minor adjustments discussed in Section 4.4.4.

4.4.4. Rural 1(d) Zone

Baulkham Hills LEP No. 98 was gazetted on 6th May 1988 amending IOD 118 to rezone land in the vicinity of Porters Road, Nyari Road and Cadwells Road, Kenthurst to allow for residential subdivision. LEP 98 was incorporated into Baulkham Hills LEP 1991 and was known as the Rural 1(d) zone. The main purpose of the zone was to facilitate the creation of a range of lot sizes to provide variety and choice for housing compatible with the environmental quality and rural character of the locality, and the protection of development from the hazards of bushfires.

The zone allows a wide range of uses compatible with rural-residential development, and provides a flexible density approach to determine the subdivision of the land. This approach has allowed a range of lots sizes to be created, bushfire protection for dwellings and the protection of environmentally sensitive land, such as escarpments, steep slopes and vegetation, as well as the prevention of soil erosion.

The density approach allowed the number of lots to be determined by dividing the existing holding by 2, creating an overall lot yield equivalent to that which could be achieved by conventional 2 hectare subdivision, but with a greater variety of lot sizes dependent of the various site constraints. The minimum area for each residential lot was set at 0.6 hectares.

The majority of the Rural 1(d) land was subdivided for rural-residential development between 1988 and the present, in accordance with the LEP provisions and DCP No. 96. A total of 55 residential lots have been created using the density provisions, with a large parcel of residue land dedicated to Council as Public Reserve. With the exception of two 10 hectare allotments in Nyari Road, all the land has been developed to its maximum potential.
Given that the majority of the Rural 1(d) land has been developed to its maximum potential, a separate and distinct zoning is no longer necessary and the land could be rezoned, the most appropriate zoning being Rural 1(c). The minimum allotment size for the Rural 1(c) zone is proposed to remain as 2 hectares. The remaining 10 hectare allotments could be subdivided into 5 two hectare allotments giving an equivalent yield as would have been achieved under the 1(d) zone. These lots were not required to dedicate any land for open space. The provisions of the draft Rural Land DCP including the minimum frontage of 60 metres, and relevant bushfire protection provisions, would apply to any future subdivision.

Accordingly, it is proposed that Rural 1(d) zone be deleted from the land use table in Baulkham Hills LEP 2004 and the land be rezoned Rural 1(c) via the draft Rural Lands LEP.

### 4.4.5. Residential Zones

The residential area of the rural villages of Kenthurst and Glenorie are zoned Residential 2(a) and Residential 2(d)(Protected). The objectives of the 2(a) zone include providing for medium-density housing forms (including apartment buildings, town houses, villas, cluster housing, semi-detached housing and the like), in locations close to the main activity centres of Baulkham Hills Shire.

A review of the land uses that are currently permissible with or without development consent in the 2(a) zone is warranted to ensure that permissible development is appropriate in the rural village area. In this regard, the majority of the rural area is not connected to a reticulated sewerage system and alternate systems of sewerage disposal are relied upon. In the residential areas of the rural villages the predominant form of sewerage disposal is pump-out, as there is generally insufficient land area for an on-site sewerage management system. Medium density development is considered inappropriate in such areas, as the logistics and scale of operating a pump-out system for multiple dwellings is complex and unsustainable. This position is reflected in Clause 45 – Adequacy of Services in the Baulkham Hills LEP 2004, which stipulates that Council shall not consent to the carrying out of development for apartments buildings, exhibition villages, shop-top housing, town house or villas unless the development is able to be connected to a Sydney Water sewerage system.

The 2(a) zone, which is essentially an urban zone, is considered to be inappropriate for the zoning of a rural village. It is therefore proposed to rezone the 2(a) part of the rural villages to Residential 2(b), to allow the development of housing forms that are suitable for a rural village and appropriate with regards to the capacity for servicing. The Residential 2(d)(Protected) zone at Kenthurst will remain unchanged.

In Baulkham Hills LEP 2004 the Residential 2(c)(Tourist Village) zone, zones land at Wisemans Ferry, Lower Portland and Rouse Hill, with the intent of encouraging residential development and tourist orientated activities. The land zoned 2(c) zone at Wisemans Ferry contains a post office, service station and convenience store, a gallery, residential development, marina development and tourist accommodation. Likewise, the 2(c) zone at Lower Portland contains residential development. In general the 2(c) appears to be functioning in accordance with the objectives of the zone, particularly in the rural area. However, this zone currently allows medium density housing in the form of apartment buildings, town houses and villa development. For the reason discussed above, this form of
development is also considered inappropriate for the villages of Wisemans Ferry and Lower Portland. Accordingly, apartment buildings, town houses and villas have been deleted from the Part 3 of the land use table, and are to be prohibited development in the Residential 2(c)(Tourist Village) zone.

It is also considered important to promote tourist development that is appropriate in the rural context. In this regard the objectives of the 2(c) zone have been tailored to better reflect the particular characteristics of the tourist villages as follows:

“(a) to provide for tourist-orientated activities and housing developments that are appropriately located in the village setting; and
(b) to provide for a range of uses (primarily support services) serving the needs of residents and complementary to the scale of neighbouring land uses; and
(c) to ensure the provision of water and sewerage infrastructure to service the needs of residents; and
(d) to allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the amenity of neighbours or the surrounding area; and
(e) to allow a range of developments, ancillary to residential uses, that:
   (i) is capable of visual integration with the surrounding environment; and
   (ii) serves the needs of the surrounding population without conflicting with the residential intent of the zone; and
   (iii) does not place excessive demands on services.”

4.4.6. Business 3(d)(Village Centre) Zone

There are several centres in the rural area zoned General Business 3(a) under the Baulkham Hills LEP 2004, including the retail centres at Glenorie and Kenthurst and the small-scale commercial development at Maraylya. The objectives of the 3(a) zone encourage development that meets the retail, commercial and social needs of the community, as well as the development and expansion of business activities that will contribute to the economic growth of the Shire. It permits a wide range of retail, commercial, community, leisure and entertainment facilities focused in the major business centres of the Shire. Another key objective is the provision of mixed-use development including housing in conjunction with retail, commercial and professional services.

Whilst some of the objectives of the 3(a) are desirable for the rural villages, others are not. The 3(a) zone is essentially targeted towards the major business centres within an urban context. It is recognised that the business centres in the rural area provide an important role in the economic activity of the rural area however, the 3(a) zone is not the most appropriate zone for the rural business centres.
It is therefore proposed to develop a new business zone specifically to reflect the unique role and rural character of the rural villages. The new zone will be known as the Business 3(d) (Village Centre) zone. The objectives of the zone are as follows:

(a) to encourage appropriate development to accommodate the retail, commercial and social needs of residents and the surrounding rural areas; and

(b) to encourage the development of tourist-orientated activities that are appropriately located in a village setting; and

(c) to ensure that new development is compatible with the heritage character of the rural village; and

(d) to allow a range of developments, that:

   (i) are visually integrated with development carried out on land in the surrounding area; and
   (ii) does not significantly impact upon the natural environment; and
   (iii) are within the servicing capacity, of the area.

The 3(d) zone will permit shops, commercial premises, tourist facilities, as well as all the associated uses that provide support services to a retail and commercial centre. Shop-top housing will be allowed in order to provide low cost accommodation, however, apartment buildings, town houses and villas, which are currently permitted in the 3(a) zone, will be prohibited. Appropriate development control provisions in the draft DCP to compliment the zone will also be developed.
4.4.7. **Special Uses 5(a) Zone**

The Special Uses 5(a)(Existing and Proposed) zone identifies land used by public authorities, private organisations and the Council to provide a range of community facilities and services, such as educational establishments.

**Photograph 6 - Annangrove Public School**

![Photograph of Annangrove Public School]

However, there are a number of sites in the rural area used for community facilities, cemeteries or schools that are currently zoned rural. Rezoning these sites to Special Uses 5(a) will identify these sites for their approved use and ensure a consistent approach in the assessment of similar uses. The land use table for the 5(a) zone still allows any land use relating to any other zone in which land adjacent to the 5(a) land concerned is situated to be developed with consent. This ensures that potential development of the land under the current zoning regime remains.

Accordingly, it is proposed to rezone the following sites:

- **Hills Grammar School**
  - No. s 35 – 37, 43-53
  - Kenthurst Road, Kenthurst
  - 5(a) Educational Establishment – Private

- **Marian College and St Madeline’s Primary School**
  - No. 24-28 Annangrove Road, Kenthurst
  - 5(a) Educational Establishment – Private

- **Dural Public School**
  - No. 620-624 Old Northern Road, Dural
  - 5(a) Educational Establishment

- **Maroota Public Primary School**
  - No. 4540 Old Northern Road, Maroota
  - 5(a) Educational Establishment

- **Annangrove Public School**
  - No. 185 Annangrove
  - 5(a) Educational
4.4.8. Open Space 6(a)(Existing and Proposed Public Recreation) Zone

One of the issues raised during the community consultation in Stage 2 of the RLS, was access to, and provision of infrastructure and community facilities. Consequently the Rural Strategy recommended that the provision of recreation facilities that are adequate to serve the needs of the residents of rural parts of the Shire be addressed.

Photograph 7- South Maroota Reserve

Whilst the draft LEP does not propose to create additional recreation facilities or rezone new land, there are a number of existing sites used for recreation or passive open space which are not identified as open space on the zoning map. Opportunity exists for the draft Rural Lands
LEP to rezone existing sites used for recreation to Open Space 6(a)(Existing and Proposed Recreation).

Rural land that is owned or maintained by Council as well as land identified for recreational purposes was inspected as part of the fieldwork for the draft LEP. The objectives of the 6(a) land were used to determine whether rezoning the sites to 6(a) was appropriate, mainly: -

1. if the land was owned by Council, whether it was being used for open space or public recreation; or

2. if the land was owned by the Crown, whether is was being used for public open space; and

3. whether the current use provided opportunities for formal and informal recreation and the development of tourist facilities on publicly owned land for use by the community.

Rezoning these sites identifies their specific use and ensures consistency in the assessment of land used for recreation or open space. Rezoning also identifies Council’s existing assets via the zoning map, highlighting the location, number and size of recreational facilities within the rural area. Accordingly, the following sites are to be rezoned: -

- **Old Northern Road Reserve No 516**
  - Old Northern Road, Maroota
  - Open space owned by the Crown and maintained by the Council.

- **Sackville North Memorial Park Reserve No 512**
  - No. 779 Sackville Ferry Road, Sackville North
  - Open space maintained by the Council. Contains a sports field and picnic facilities, toilets, and car parking.

- **South Maroota Reserve No 510**
  - No. 1 Paulls Road, South Maroota
  - Contains sports field and South Maroota Hall.

- **Dilkera Road Reserve No.538**
  - 3Z Dilkera Road, Glenorie
  - Used by Glenorie Pony Club and maintained by Council.

- **Former Rural 1(d) land**
  - Cadwells Road, Kenthurst
  - Dedicated to Council as public reserve. Public access from Nyari Road, Cadwells Road and Smerdon Place.

- **Kenthurst Park Reserve No.504**
  - No. 23 Park Road, Kenthurst

- **Turnbull Reserve No. 534**
  - 9Z Alan Street, Box Hill
4.4.9. Environmental Protection 7(a)(Wetlands) Zone

Amendment No. 6 to the Baulkham Hills LEP 1991 created the Environmental Protection 7(a) (Wetlands) zone on 19 October 1993. The objectives of the zone are to conserve and enhance the ecological, scenic and environmental attributes of wetland areas and allow development only where it will not have a significant detrimental effect on wetlands. The amendment rezoned Broadwater Swamp and Wheeny Swamp in Cattai from Rural 1(b) to Environmental Protection 7(a)(Wetlands).

As part of Stage 2 of Council’s Natural Assets Assessment Project an extensive program of vegetation mapping was undertaken, however the preliminary mapping did not include the wetland areas. As wetlands are environmentally sensitive areas and an important characteristic of the local area, the documentation and mapping of wetland boundaries was identified as a priority.

Photograph 8 - Wetlands

Accordingly, a survey and assessment of wetlands within the Shire was undertaken between February and May 2002 and the results documented in the Natural Assets Assessment Project Stage 2 Wetlands Study prepared by Teresa James dated May 2002. The study included identification of the boundary of wetland areas from existing maps and aerial photographs, inspection of the sites, recording vegetation community type and dominant species where appropriate, and an assessment of condition of the vegetation. The vegetation communities identified include:

- Open Freshwater Wetlands
- Tea-tree Scrub
- Melaleuca (Paperbark) Swamp Woodland
- Sydney Coastal Estuary Swamp Forest (listed as an endangered ecological community on Part 3 of Schedule 1 of the *Threatened Species Conservation Act (1995)*)

The above communities are dependent on periodic waterlogging of soils. The boundaries of the wetlands were therefore based on the extent of species dependent to some degree on the waterlogging of soils. The study identified the following wetlands: -

- Jackson Swamp, Leetsvale
- Unnamed wetland, Leetsvale
- Clarkes Swamp, Lower Portland
- Blundells Swamp, Lower Portland
- Doyles Swamp, North Sackville
- Unnamed wetland, Sackville
- Broadwater Swamp, Cattai
- Wheeny Lagoon, Cattai
- Halls Lagoon, Cattai
- Blue Gum Gully Swamp, Maroota
- Long Swamp, Maraylya
- Unnamed wetland near Long Swamp, Maraylya.

Figures 8 and 9 indicate the locality of the above wetlands.

The study found that the wetlands were predominately in private ownership and that, when determined floristically, the majority of wetlands were found to be larger than previously mapped. On-going degradation processes, particularly draining and the grazing of cattle, are causing many wetland boundaries to contract. For example, wetlands at Pacific Park are now completely drained and no longer exist.

The condition of wetland varied considerably and was closely related to the extent of agricultural activities, particularly grazing. Many of the wetlands directly adjoin pastureland with no buffer zones. However, the study also found that unsympathetic activities in the upper swamps such as Jackson Swamp, Blundells Swamp and upper parts of Broadwater Swamp appear to be declining as landowners actively promote regeneration and habitat restoration.
Figure 8 – Locality Map of Wetlands - North
Figure 9 – Locality Map of Wetlands - South
Of the wetlands identified by the study, Jackson Swamp, the unnamed wetland in Leetsvale, Broadwater Swamp, Wheeny Lagoon, Clarkes Swamp, Doyles Swamp, Blundells Swamp, Halls Lagoon, and an unnamed wetland near Sackville are already identified and protected in Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 – 1997). Although SREP 20 sets out specific provisions for development within wetlands identified by the SREP, in order to ensure adequate consideration of the impact of development on these areas, it is proposed to rezone all the wetlands identified by the study, Environmental Protection 7(a)(Wetlands) as well. This will highlight their location and ensure that the same zoning applies to all wetlands within the Shire.

Accordingly, it is proposed to rezone the following wetlands from rural to Environmental Protection 7(a)(Wetlands) in the draft LEP:

- Jackson Swamp  
  River Road, Leetsvale
- Unnamed wetland  
  Above Leetsvale Caravan Park - River Road, Leetsvale
- Clarkes Swamp  
  East of Lower Crescent Reach, near Pacific Park, Lower Portland
- Doyles Swamp  
  Dargle, North Sackville
- Blundells Swamp  
  Lower Portland
- Halls Lagoon  
  Near Riverside Oakes south of O’Briens Road, Cattai
- Unnamed wetland  
  South of Lambs Creek, east of Pages Wharf Road Sackville
- Blue Gum Gully Swamp  
  Above junction of Blue Gum Creek and Little Cattai Creek, Maroota
- Long Swamp  
  O’Haras Creek just below junction with Cattai Creek, Maraylya
- Unnamed wetland near Long Swamp  
  Cattai Ridge Road, Maraylya.

As discussed previously, the boundary of many of the wetlands, when determined floristically, was found to be larger than previously mapped. As Broadwater Swamp is the only wetland currently zoned, the boundary has been adjusted to reflect the boundary of the wetland within SREP 20. This will ensure consistency in the application of both SREP 20 and Baulkham Hills LEP provisions to the land.

It is also recommended that agriculture and dwelling houses be deleted from the section ‘Development allowed only with consent’, as agriculture especially grazing, draining of land for crops, and the erection of dwelling houses conflicts with the use and protection of the land as a wetland.
As the majority of land to be rezoned to Environmental Protection 7(a)(Wetland) is Rural 1(b) where agriculture is allowed without consent, grazing and cropping may already be occurring on this land. Agriculture includes horticulture and the use of land for any purpose of husbandry, including the keeping or breeding of livestock, poultry or bees, and the growing of fruit, vegetables and the like. Therefore, if at time of gazettal, agriculture is being carried out on the land, this may continue under the existing use provisions in the EP&A Act. A land use survey of all sites to be rezoned to 7(a)(Wetland) is to be carried out prior to gazetted to establish existing use rights on properties.

4.4.10. Environmental Protection 7(b)(Bushland)

One of the unique aspects of the rural area is the extent of natural bushland. The topography, together with the soils general unsuitability for agriculture has meant that large areas of pristine bushland containing a significant number of threatened flora, fauna, and endangered ecological communities remains intact.

Photograph 9 - Bushland

The Rural Strategy identified a number of environmental opportunities and constraints with regards to water catchments, ecological management, scenic landscape, heritage, and natural hazards. The policy actions recommended to address these opportunities and constraints include: -

“1.4 Incorporate significant bushland in future Local Environmental Plans.”

“1.6 Consider the implementation of environmental protection zones to protect significant biodiversity areas.”
2.1 Identify and protect significant linkages of native vegetation as outlined in the Natural Assets Mapping Report and incorporate into the draft LEP for the Shire’s Rural Lands” (Rural Strategy pp 115)

Accordingly, the findings of the Natural Assets Assessment Project have been used to develop a specific zone to protect significant bushland within the rural area.

AES Environmental Consultancy undertook Stage 2 of the Natural Assets Assessment Project in November 2002. The methodology derived for identifying vegetation type was based on the methodology adopted by the National Parks and Wildlife Service in the Cumberland Plain Vegetation Mapping Project. This involved reviewing previous reports and studies, and field surveys of 122 sites. The work undertaken in Stage 2 produced a Vegetation Map identifying 20 different vegetation communities, eight of which are listed as endangered ecological communities, and a report of findings.

The AES Plant Communities Report recommended that mechanisms to protect significant natural areas and wildlife corridors be included in a revised LEP, with reference to the sample provisions provided in the ‘Biodiversity Planning Guide for Local Government’. In particular, the draft plan should identify the following conservation priorities:

- Significant natural areas identified in this report and other areas;
- Wildlife corridors identified for the Shire and linkages to regional corridors identified by neighbouring Councils and other authorities;
- Protection of plant species identified as being of national, state or local conservation significance including threatened species listed in the Threatened Species Conservation Act; and
- Protection of relatively intact remnants of endangered ecological communities.

Following on from the work undertaken in Stage 2 to identify vegetation types, further work was undertaken to determine the ecological status of bushland. The Ecological Status of Remnant Bushland in Baulkham Hills Shire Report prepared by Ecograph in July 2004, documents the methodology used to allocate attributes to bushland. This process produced a Shire-wide assessment of the ecological status of remnant bushland.

Each vegetation type was assigned a status, either “listed under the TSC Act”, “of regional significance” or “of no significance”. Significant ecosystems such as wetlands and riparian vegetation were also recognised in the ecological assessment. Other attributes included connectivity or isolation, remnant size, remnant diversity and vegetation condition. Details of the attributes can be found in the Remnant Bushland in Baulkham Hills Shire Report.

The resulting maps identified areas of Very High ecological status in terms of value and function and High ecological status in terms of value and function. The ‘Very High (Values)’ ecological status included vegetation listed under the TSC Act as endangered ecological communities and significant ecosystems that were not highly disturbed. The ‘Very High (Function)’ ecological status included other vegetation communities that was in good condition and well connected, but not vegetation that was not highly disturbed. From this a zone boundary was derived based on the areas identified as of Very High ecological status.
Accordingly, the draft LEP proposes a new Environmental Protection zone specifically to protect areas of significant bushland. The Environmental Protection 7(b)(Bushland) zone will zone the land currently zoned Rural 1(b) and 1(c). Land identified as being of very high value or function in the Rural 1(a) zone was not zoned 7(b), as this land is subject a separate investigation regime as part of the North-west Structure Planning work being carried out by the NSW Government.

The objectives of the Environmental Protection 7(b)(Bushland) zone will focus on the conservation purposes of the zone. The objectives are:

“(a) to conserve and enhance the ecological, scenic and environmental attributes of areas of significant bushland in rural areas;

(b) to ensure the continued existence of threatened flora, fauna, and endangered ecological communities; and

(c) to allow development only where it will not have a detrimental effect on areas of significant bushland.”

Given the sensitive nature of the land, land uses in this zone are proposed to be restricted to single rural-residential development and ancillary development such as environmental protection works. Tourist facilities will be permissible but are subject to a special provision aimed at minimising the impact of such development on bushland.

The Rural Strategy recommended that a minimum allotment size of 40 hectares be implemented for such a zone. The majority of the land to be rezoned 7(b) is currently zoned Rural 1(b) which has a minimum allotment size of 10 hectares. The Rural Lot Size map prepared as part of Stage 2 of the RLS shown in Figure 10, indicates that there are a number of parcels in excess of 42 hectares in size. Accordingly, the subdivision potential of the land is reduced.

A minimum 40 hectare allotment size would allow for development of rural-residential developments without compromising the character of the area or impacting on the significant vegetation of the site. This also allows for a dispersal of population in order to further decrease the impact of any future development on the land.
Figure 10 – Rural Lot Size Map
4.4.11. Environmental Protection 7(c)(Riparian Corridor) Zone

The Rural Strategy identified the protection and preservation of riparian land and its management as a major issue to be considered by the study, especially with regards to the Hawkesbury River. Local waterways and tributaries contribute to the health of the Hawkesbury River, as well as to the scenic quality of the rural. Riparian vegetation performs a similar buffering role to wetland vegetation in addition to providing essential linkages to facilitate the movement of flora and fauna between larger areas of habitat.

Photograph 10 - Hawkesbury River, Clarence Reach

With regards to water catchments the Rural Strategy recommended that new development be located so it does not have a detrimental impact on nearby water bodies, the following policy action be implemented:

"3.1 All development is located an appropriate distance from waterways."
(Rural Strategy pp 114)

The strategies recommending the identification and protection of habitat linkages can also be achieved by restricting what development may occur in riparian land. The Natural Asset Mapping Report prepared by AES Consulting recommended that:

"The wildlife corridor provided by Cattai Creek and its larger tributaries, Blue Gum Creek and O’Hara’s Creek, should be recognised through zoning within a Local Environmental Plan. Downstream from the O’Hara’s Creek junction the zone should extend 500 metres on either side of Cattai Creek. Upstream and along O’Hara’s Creek and Blue Gum Creek, the zone should extend 250 metres either side of the creeks."

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It is therefore proposed to develop an environmental protection zone specifically for the protection of the riparian corridors. The new zone will be known as the Environmental Protection 7(c)(Riparian Corridor) zone. The objectives of the zone are as follows:

(a) to protect and conserve the ecological, scenic and environmental attributes of riparian corridors; and

(b) to create and maintain wildlife linkages along riparian corridors; and

(c) to allow a limited range of development only where it will not have a significant detrimental effect on riparian corridors.

Cattai Creek is one of the most significant creeks in the Shire, beginning in Glenhaven and continuing through the suburbs of Annangrove, Nelson, Box Hill, and Maraylya, forming the boundary between Baulkham Hills and Hawkesbury LGAs before joining the Hawkesbury River. Much of the land through which Cattai Creek flows is characterised by steep, heavily vegetated gullies, which are unlikely to be developed. However, there are other areas where the adjoining land is flatter with development potential in close proximity to the creek.

Photograph 11 - Cattai Creek at Annangrove
Due to their significance, the draft LEP will rezone the riparian corridor of Cattai Creek and Little Cattai Creek from Broadwater Swamp. The establishment of the zone will also allow other creeks to be identified and zoned with future draft LEPs.

The purpose of the zone is to restrict future development in areas adjoining the creek, so as encourage revegetation, promote bank stabilisation and protect habitat corridors for wildlife. Given that the average depth of a rural allotment, a 500 metre width on either side of the creek as recommended by the Natural Assets Mapping Report would encompass the majority of allotments, particular those in the Rural 1(c) zone. This has implications for those allotments in terms of the uses that could be carried out on those sites. Whereas, if the zone was narrower, the land uses provisions could be more stringent and offer improved protection.

In its submission to Council’s ‘Shire-Wide’ LEP, DLWC recommended the implementation of a riparian corridor zone to achieve a range of environmental objectives such as bed and bank stability, water quality enhancement, viability and wildlife corridors for land adjoining significant creeks. A width of 40 metres was recommended to achieve these objectives. This width will also assist to enhance a corridor for the movement of native fauna. Accordingly, a corridor 40 metres in width from the top of the bank on either side of Cattai Creek, giving a total width of at least 80 metres has been established and is indicated on the draft zoning map.

The ‘Shire-Wide’ LEP also introduced Clause 25 - Protection of riparian land near creeks as follows:

“The Council shall not consent to the carrying out of development within 200 metres of a creek, unless it is considered that such development will not have a detrimental impact on natural ecosystems, flora and fauna, water quality, natural drainage channels, visual amenity, flooding, soil erosion or topographical features.”

The implementation of a specific environmental protection zone for riparian land formalises the intent of this clause, by prohibiting development likely to have a detrimental affect on the natural ecosystem of the corridor. This clause will continue to apply to development outside of the 7(c) zone, which may still have an undesirable influence on the natural workings of the riparian corridor.

4.5. RURAL PLANNING ISSUES

There were a number of specific issues relating to the rural lands that were raised during the workshops held during Stage 2, which require further discussion. The submissions received in response to the exhibition of the Rural Strategy also focused on several specific rural planning issues including subdivision, cluster density subdivision, dual occupancy, expansion of the rural villages, conservation initiatives, and heritage and cultural values.

Some of these issues are addressed via special provisions within the draft LEP. The following section discusses the planning outcomes available to address these matters and outlines the amendments to existing special provisions or new special provisions to be incorporated into the draft LEP.
4.5.1. Subdivision

Most workshop participants prioritised the issue of subdivision as the most important issue to be addressed by the RLS. Subdivision was also the subject of a number of submissions received during the exhibition period to Stage 2. It is evident that there is a strong desire to allow further subdivision in the rural area via an amendment to the minimum allotment size. In particular, 2 hectare subdivision in the Rural 1(b) zone and 1 hectare subdivision in the Rural 1(c) zone.

The submissions received during the exhibition of the Stage 2 Rural Strategy highlighted some common reasons property owners desire subdivision. These include generating income, reducing the cost and hassle of maintaining a large allotment, or providing additional land for family members. Subdivision was seen as a way to assist older people who wish to continue living on a reduced part of their property. The cessation of agriculture on the land due to rising costs was also given as a reason to allow further subdivision.

Albeit traditional forms of agriculture may no longer be viable on land, it does not mean that the land it is only suitable for rural-residential development. There are many other uses for which rural land may be used. Its intrinsic value as rural land, and its contribution to the unique scenic beauty of the area is also important. The generation of income is not a valid planning reason to allow further subdivision to take place.

It is recognised that the rural area offers a highly attractive lifestyle and that the subsequent demand, especially for 2 hectare allotments, is high. However, “although there are clear short term benefits to be gained from subdivision for rural residential development, particularly for the existing landowners, such development must consider the longer term adverse impacts on
the local environment and future communities, as well as potential demands on local services and facilities that may not be available." (Rural Strategy pp 67)

The subdivision potential of land is based on a consideration of relevant opportunities and constraints including topography, vegetation, bushfire hazard and other environmental aspects. The availability of services and infrastructure such as water, sewer, electricity, gas, telecommunications, roads, transport and community facilities is also a consideration. It is not only the availability of such services but the extent or capacity at which these can be supplied. Figure 11 shows the extent of Sydney Water’s sewer system in the rural area. Figure 12 shows the extent of Sydney Waters reticulated water system in the rural area.

The reticulated sewage system does not extend into the rural area at all, only servicing the village area of Round Corner.

The system of water mains extends to Cattai Ridge Road in Glenorie, servicing the suburbs of Annangrove, Kenthurst, Middle Dural and Glenorie. This is a similar area to Council’s Rural 1(c) zone. The reticulated water system does not extend north of Maguires Road in Maraylya. The suburbs of Cattai, Maroota, South Maroota Sackville North, Leetsvale, Lower Portland and Wisemans Ferry are also not serviced by a reticulated potable water system.

Where there is no access to a reticulated water and sewerage system, subdivision should be restricted. Water tanks are not considered appropriate as the sole source of permanent water for small-scale rural-residential development. The area required for on-site sewerage management systems varies in accordance with the physical features of the site such as soil type, slope and vegetation. It is generally considered that reticulated water and sewerage services are essential for 2 hectare rural-residential development.
Figure 11 – Extent of Sydney Water Sewage System
Figure 12 – Extent of Sydney Water Potable Water System
Given the above, the Rural Strategy proposed that the following minimum allotment size for the corresponding land use designation be adopted:

- Rural Landscape 10 hectares
- Nature Conservation 40 hectares
- Mixed Rural 2 hectares

Adopting this strategy would essentially mean that there be no change to the current minimum allotment size contained in LEP 2004.

In their Section 62 consultation, Sydney Water gave their support for no change to the minimum allotment size and advised that there are no plans for the extension or amplification of existing services within the rural area. Existing water infrastructure cannot cater for additional population and any subdivision of rural land would require major amplification of the system to ensure existing pressure remains the same, stating that:

“... increased rural subdivision has the potential to hinder Sydney Water’s objective of reducing per capita potable water consumption. More potable water will be used for irrigation unless alternate sources of water (such as treated sewage effluent, rainwater etc) are used for non potable usage. The supply of water becomes a particular problem to rural areas in times of drought where there is an increased draw from the water systems by water carters for domestic use by non Sydney Water customers in remote areas. Further subdivision will exacerbate the problem.”

Sydney Water also advised subdivision within low-pressure areas should also be restricted, as further subdivision in these areas impacts on the maintenance of water pressure elsewhere.

In its 34A submission, DEC also supported the recommendation to not allow further subdivision in the majority of the rural area, noting that increasing the population and density of rural subdivision has environmental, social and economic impacts. Population and development pressure are also the most common cause of habitat degradation. A denser settlement pattern and increased population, creates more traffic, as well as potential loss of amenity for rural dwellers. It is in this circumstance that the attractability and scenic qualities of the rural area, the very reasons that the area is desirable, begin to be eroded by the additional population and development resulting from further subdivision.

Accordingly Clause 18 Subdivision in Zones Nos 1(a), 1(b), 1(c), 1(d) and 7(a) contained in Baulkham Hills LEP 2004, is to be amended to reflect the inclusion of new zones. It is proposed that the following minimum allotment sizes be incorporated into the special provision regarding subdivision in the rural zones, as follows:

- Zone No. 1(a) 40 hectares
- Zone No. 1(b) 10 hectares
- Zone No. 1(c) 2 hectares
- Zone No. 7(b) 40 hectares

Also, as previously discussed in Section 4.4.4, Clauses (2), (3) and (4) which relate to subdivision of land zoned Rural 1(d) are to be deleted. The minimum allotment size of 40 hectares for the Environmental Protection 7(a)(Wetlands) has been deleted and a minimum
allotment size for the Environmental Protection zone 7(c)(Riparian Corridor) is not proposed. The reason being that a minimum allotment size allows the creation of allotments for the purposes of development. As the 7(a) and (c) zones relate to environmental features which by their nature do not have development potential, a minimum allotment size is not necessary.

4.5.2. Rural Cluster Development

The concept of rural cluster subdivision was introduced in the Rural Strategy. The Strategy describes this form of development as "a form of subdivision which groups the dwelling lots together thereby retaining the open landscape character of the specific area by having a large residue lot which usually has environmental attributes such as native vegetation cover, creek lines etc" (Rural Strategy pp 67). The main purpose of allowing residential development clustered together within the context of a rural area is to allow for some additional dwellings to be constructed whilst still retaining the landscape and biodiversity quality of the area. A benefit of encouraging this form of development is the improved co-ordination and management of infrastructure required for rural-residential development such as asset protection zones, on-site sewerage management and water storage. By retaining natural features there may also be added incentive to care and manage natural features through a shared and common approach.

This form of development will be known as rural cluster development. The development objectives of providing for rural cluster development as outlined in the draft DCP No. 1 are: -

(i) to provide for a range of housing opportunities in the rural area;

(ii) to protect and preserve land containing significant bushland, endangered ecological communities, cultural heritage items or other natural features;

(iii) to encourage innovative design which integrates the dwellings and natural features of the site;

(iv) to ensure that rural cluster housing development does not adversely affect the environment of the rural area.

The draft definition for rural cluster development proposed in the Rural Lands LEP is as follows: -

"rural cluster development means development that includes:

(a) the subdivision of land into three or more residential allotments and the erection of a detached dwelling-house on each allotment; and

(b) in the same subdivision a separate community allotment of land for the preservation of any significant natural feature(s) on the site.

Rural cluster development is proposed to be permissible in the Rural 1(b) zone only. A Special Provision has also been drafted to control the minimum allotment size required for rural cluster development and the number of dwellings permitted.
The Special Provision will require that the total area of the land is equal to or greater than 20 hectares and a maximum of 1 dwelling-house for every 4 hectares of land. Rural cluster development also allows for subdivision under community title, but only where there is 1 dwelling-house on each residential allotment so created, and where each residential allotment is a minimum of 0.4 hectares in area and a maximum of 1 hectare in area. The third criterion is that Council must not consent to the development of land for the purposes of rural cluster development unless it is satisfied that the landscape, biodiversity and rural setting of the site shall be protected and enhanced through the implementation of appropriate management measures.

For example rural cluster development will only be considered on a parcel of land 20 hectares in size or greater. This may be the consolidation of two 10 hectare allotments. On a 20 hectare parcel, the maximum number of dwellings allowed would be 5 based on 1 per 4 hectares. If each subsequent residential lot is a maximum of 1 hectare, then the remaining 15 hectares will form part of the community property.

New development controls in DCP No. 1 have been drafted to reinforce the provisions in the draft LEP.

Figure 13 – Current Rural Subdivision
Figure 14 – Current Subdivision Pattern

Figure 15 – Rural Cluster Development
Where a property is dual zoned i.e. zoned both Rural 1(b) and Environmental Protection 7(b)(Bushland), rural cluster subdivision will only be permissible where the residential component of the development can be wholly contained within that part of the land zoned Rural 1(b). Likewise, any land zoned 7(a), 7(b) and 7(c) must be contained within a community allotment. The proposed Special Provision includes clauses to reflect this intent.

4.5.3. Dual Occupancies in Rural Zones

Dual occupancy development refers to the construction of an additional dwelling on a property and may also be referred to as a granny flat. The Baulkham Hills LEP 1991 permits detached and attached dual occupancy development in urban areas and attached dual occupancy development only in the rural areas. On 18 October 1996 Council amended LEP 1991 to prohibit the subdivision of dual occupancy development, ensuring that the original intention of providing additional accommodation was maintained without promoting a proliferation of development.

There is an extensive discussion regarding the issues associated with dual occupancy development in the Rural Strategy. These issues include the visual impact and the incompatibility with the rural character of some dual occupancy development due to their size, bulk and scale and the impact of dual occupancy development on the environment, especially with regards to disposal of sewerage.

The Rural Strategy recommended "if Council is of the opinion that dual occupancies should continue as a legitimate housing option for its rural areas, decisions must be made about how to regulate their form (attached or detached), size, design, location, and environmental impact to ensure that the desired rural character is maintained". The Strategy also surmised...
that an additional detached dwelling on a rural property may be acceptable provided that the second dwelling meets certain criteria such as being located behind and within the curtilage of the existing house and being significantly smaller.

4.5.4. Detached Dual Occupancy

Dual occupancy development has an important role in providing additional accommodation in the rural area, especially assisting in intergenerational wealth transfer for family members. In this regard, detached dual occupancy would be desired, as it would provide a greater degree of privacy and separation in comparison to a attached dual occupancy.

However, there are some disadvantages to allowing detached dual occupancy in the rural area. The most obvious is that this would increase the density of the rural area without the formalisation of subdivision. While this increase in density could occur as a result of attached dual occupancy development, detached dual occupancy is likely to be more desirable and more likely to impact on the rural areas. Associated impacts of increased density and population include increased pressure on services, infrastructure and facilities and adverse impacts on the natural environment due to increased clearing.

There is also likely to be a significant impact on the scenic landscape of the rural areas. The visual impact of two separate dwellings on a property increases, whereas, attached dual occupancy has the appearance of one building, albeit sometimes a very large one. It also could be argued that the presence of two separate dwellings on one property would increase pressure for formal subdivision to occur. Accordingly, it is recommended that only attached dual occupancy development be permissible in the Rural 1(a), 1(b) and 1(c) zones.
4.5.5. Attached Dual Occupancy

Observations of completed attached dual occupancy developments recorded during fieldwork indicate that these developments have a significant visual impact on the rural streetscape. The predominant built form of an attached dual occupancy is an elongated linear single storey building across the frontage of the site and set close to the street. As the majority of allotments have a narrow frontage and extensive depth, this built form has a disproportionate visual affect on the streetscape. Little variation in the front elevation and minimal side setbacks has also contributed to a rural streetscape with a very urban appearance.

Photograph 14 – Typical Attached Dual Occupancy Development

In order to maintain a rural landscape that is characterised by spaciousness between dwellings, additional development controls have been proposed. For example provisions to encourage the development of attached buildings that better reflect the dimensions of the site to assist in preserving the rural character. This will be discussed in further detail in Section 5.2.4.

4.5.6. Expansion of Rural Villages

Part of the growth management philosophy supported by the Rural Strategy was the proposal to investigate opportunities for village expansion in accordance with the hierarchy of settlements. The Strategy identified the following major issues in considering in the potential expansion of rural settlements:

- the provision of reticulated water and sewerage;
- provision of adequate access to the higher order centres (road and public transport);
- ability to provide for social services and facilities;
- the presence of unconstrained land surrounding the settlement;
- fragmentation of land surrounding the settlement; and
ability to absorb a higher population.

Topography, vegetation cover, and proximity to agriculture are also potential constraints to expansion.

Of the four rural villages, only Glenorie was identified as having the potential for expansion as follows:

“one of the major reasons for this is that Glenorie is listed on the Priority Sewerage Program to be provided with reticulated sewerage within the next ten years. The land for expansion is to the south east of the village. The land is relatively flat in this location however the existing lot pattern is such that it would have to be subdivided in a holistic manner with all of the land owners (or at least a large number of contiguous ones) subdividing for urban development.” (Rural Strategy pp 93)

In their Section 62 consultation, Sydney Water confirmed that Glenorie is listed on Stage Two of the NSW Government’s Priority Sewerage Program with approximately 300 existing urban zone lots in the village areas of Galston and Glenorie nominated for servicing. An improved sewage management service is anticipated to be provided to Glenorie by 2010, subject to planning approvals and availability of funds. However, Sydney Water’s servicing investigations will only focus on these 300 lots and will not extend to adjoining rural or residential zoned land. As such the servicing of areas under the PSP is not intended to facilitate the extension of urban development into surrounding rural areas.

The rural centres of Annangrove and Maraylya were also identified as having potential for further investigation as potential rural villages as they possess community buildings, commercial and recreational uses surrounded by mostly open land. However, it was noted by the Strategy that these centres would also need to be connected to a reticulated sewerage system. At this stage there are no plans for connection of these centres to a reticulated sewerage system.

Given the current servicing constraints to the settlements identified for possible expansion, the draft LEP does not propose any change to the current urban footprint of Glenorie village. Likewise the draft LEP does not propose any rezoning of rural land to allow for residential or commercial land uses at Annangrove or Maraylya. Should the servicing constraints be addressed in the future, specifically the provision of a reticulated sewerage system with additional capacity to service and expanded urban area, the expansion of the villages could be considered. A detailed master planning exercise to identify land capability, physical constraints and design guidelines should also accompany any rezoning process for the expansion of rural villages.

4.5.7. The Hawkesbury River

The Baulkham Hills LEP 2004 contains Clause 24 Development Near the Hawkesbury River. This provision outlines additional considerations for development within 1000 metres of the bank of the Hawkesbury River with regards to building materials and clearing of vegetation. Sub-clause (2) of this provision currently requires that buildings be erected no closer than 30 metres from the bank of the river.
The riparian zone plays a pivotal role in the overall health of our watercourses. One of the things evident during the fieldwork done on the Hawkesbury River was the impact, both visual and environmental, of permanent buildings developed within the building setback. Unauthorised and excessive clearing of riparian vegetation by property owners along the river bank has also led to considerable environmental damage of the riparian ecosystem, affecting stream nutrients, fish and wildlife habitat and the quality of the water. The effects of bank erosion are evident along the riverbank where the area has been cleared of vegetation to enable the direct access to the water.

Clause 24 currently applies to all development with 1000 metres of the bank of the Hawkesbury River. However, in some cases a development outside of the arbitrary 1000 metres may still have a significant visual impact on the riverscape. Conversely, where the escarpment is in close proximity to the river edge, the visual catchment and therefore any impact may be much smaller then 1000 metres. For this reason, it is proposed to amend the special provision to apply to development within the visual catchment of the river, where the visual catchment means the area between the river and the top of the escarpment.

For example the top of the escarpment at Upper Crescent Reach is very close to the edge of the river, whereas at Lower Crescent Reach the visual catchment is extensive.
The former DLWC, now DIPNR, advised Council in its submission to the draft Shire-Wide LEP that it has been strategically mapping watercourses and assigning a category to each watercourse. The category associates a distance for the riparian zone to be protected or enhanced. The Hawkesbury River is a Category 1 watercourse that requires a riparian zone greater than 40 metres plus a buffer width of 10 metres. Accordingly, the minimum building setback from the riverbank is proposed to be increased from 30 metres to 50 metres to align with the work the Department is undertaking.

4.5.8. Existing Uses

The Rural Strategy did not address the issue of existing non-conforming uses in the rural area or make any recommendations regarding specific sites. However, as the Stage 3 of the RLS has involved a comprehensive review of existing statutory provisions in relation to the rural area, the issue of existing non-conforming uses in the rural zones should be considered.

The area along Old Northern Road between Dural Public School and Galston Road is characterised by a proliferation of retail and quasi retail activities including restaurants, reception centres, shops, commercial premises, takeaway food establishments, plant nurseries, garden supply centres and the like serving the local community and passing commuters. Similar activities together with art galleries and a petrol station occur along Old Northern Road in Hornsby Shire.

Photograph 18 – Retail Development

This land is currently zoned Rural 1(c) which permits uses such as retail plant nurseries, health care premises, landscape supply establishments and restaurants. There are a number of these activities located in this area, as well as a number of non-conforming uses including retail and commercial premises. The area has been developed in an ad hoc manner with a small commercial/retail centre being established, permanently changing the character of the
area in the last thirty years. The current land use is not likely to be changed and impact of such development must be recognised and incorporated into Council’s planning scheme.

In order to recognise and formalise the existing uses in the area it is proposed to rezone the land from Rural 1(c) to Business 3(d)(Village Centre), being the new business zone for the rural area. This would recognise the established existing use rights that exist for some of the premises and allow future re-development of the site to be assessed in accordance with the land use provisions relating to commercial development.

Of consideration in rezoning this land is an examination of the potential economic impact on adjoining centres. The Retail and Commercial Centres Study prepared by Leyshon in 1997 focused on major retail and commercial centres in Baulkham Hills LGA. The report did not make any specific recommendations with respect to this area, as it is not zoned for business purposes. However, the study did make some comments with respect to smaller centres particularly those in rural areas.

“In relation to existing local centres in rural areas, no major change in their size or function is either envisaged or warranted. Centres such as Kenthurst, Glenhaven, Glenorie et cetera are unlikely to command a sufficient catchment population to justify any significant expansion of retailing particularly given existing and future competition from centres such as Round Corner, Mungerie Park and the proposed Kellyville district centre.” (Retail and Commercial Centres Study pp 68)

The proximity of this land to Round Corner Village Centre, being a district retail centre is a major factor influencing the planning regime for this area. Currently the extent of retailing in the locality does not have a marked impact on the viability of the Round Corner Centre. The existing retail development along Old Northern Road has flourished on the strength of the retailing convenience it provides to traffic already on Old Northern Road. However, any substantial increase in the amount retailing in this location could affect the viability of the centre at Round Corner.

In this regard, the extent of zoning shall be limited to the land area currently used for retail or commercial purposes, and any ancillary development such as car parking. Room to allow for adequate landscaping buffers and support structures at the rear the sites has also been taken into account in the area of land to be re-zoned. It is intended that the existing retail floor space be maintained but not expanded under the proposed land to be rezoned.

The existing character and scenic qualities of the locality must also be protected in the event that the land is re-development as a result of the certainty provided by rezoning. The Village Character Analysis also made the following comments in relation to any expansion or further development opportunities in this location:

“There are opportunities to capitalise on extensive views westward for residential and regional based commercial activities. View corridors, particularly from public places and roads, should be protected and maintained. Any expansion of commercial activity along Old Northern Road should ensure, through the inclusion of buffer zoned and a mix of uses that development is not absorbed into the Dural commercial area to the south and that a separate identify is maintained.” (Village Character Analysis pp 5.5)
In this regard, DCP provisions and a DCP map sheet have been developed to implement some of these urban design principles. See Section 5.2.4 for further details. Accordingly, the following sites are to be rezoned Business 3(d)(Village Centre): -

- No. 644 Old Northern Road, Dural
  Part Lot 4 DP 1006461
  Retail / commercial complex incorporating a supermarket, newsagency, take-away shop, chemist’s shop, butcher, liquor store and hairdressing salon.

- 642 Old Northern Road
  Lot 2 DP 315212,
  Contains a building incorporating a beauty salon and post office.

- 640 Old Northern Road
  Lot 2 DP 863435
  Contains a building incorporating a health care premise

- 636 Old Northern Road
  Part Lot 1 DP 136011
  Currently used for the display and sale of swimming pools.

- No. 634 Old Northern Road, Dural
  Lot 2 DP 136011,
  Contains a building with approximately 75 m² of floor space operating as a real estate office.
5. DEVELOPMENT CONTROL PLAN

In accordance with Council’s resolution, a draft Development Control Plan for the rural area has been prepared. This section outlines the background of the three existing rural DCPs and provides justification for their repeal. The components of the new draft Rural Lands DCP are also summarized.

5.1. EXISTING CONTROLS

There are three DCPs which control development within the rural area, being DCP No. 1 relating to land zoned Rural 1(a), 1(b) and 1(c), DCP No. 96 relating to land zoned Rural 1(d) and DCP No. 22 a site specific DCP relating to land at the corner of Old Northern Road and Schwebel Lane, Glenorie.

5.1.1. Development Control Plan No. 1 - Rural 1(a), 1(b) and 1(c)

Development Control Plan No. 1 - Rural 1(a), 1(b) and 1(c) was adopted by Council on 11 December 1990 and came into force on 1 March 1991 to support the Baulkham Hills Local Environmental Plan 1991 gazetted on this date.

The DCP was amended in March 1994 and came into force on 15 March 1994, in conjunction with the amendments to LEP 1991. The amendment incorporated reference to mushroom growing, dwellings in rural zones and reception establishments. The reference to setbacks in Annangrove Road was deleted at this time.

DCP 1 was further amended on 8 October 1996 to incorporate changes to LEP 1991, which removed a prohibition on certain forms of development such as roadside stalls, educational establishments, retail plant nurseries and the like, being carried out on the main roads in rural zones. The changes came into force on 15 October 1996.

Overall, there has been no serious review of the development control provisions relating to the rural area. The diversity and complexity of activities now undertaken in the rural area means that the development control plan must be comprehensive in its scope in order to provide guidance and certainty, whilst still being flexible enough to allow for innovation and changes in development trends. In this regard the general framework of DCP No. 1 – Rural 1(a), 1(b) and 1(c) has been retained, with additional provisions added where appropriate.

5.1.2. Development Control Plan No. 96 - Rural 1(d)

DCP 96 was originally known as Development Control Plan No. 87 and was adopted on 5 July 1988 to accompany Baulkham Hills LEP No. 98. Development Control Plan No. 96 was then adopted by Council on 11 December 1990 and came into force on 1 March 1991 to coincide with the gazettal of Baulkham Hills Local Environmental Plan 1991.

DCP 96 contains provisions to control the subdivision of land, bushfire hazard, natural environment and restricted development areas, roads, dwelling design and construction, landscaping, tree preservation, and services. Similar provisions regarding dwelling design and landscaping for all rural residential development have been incorporated into the draft Rural

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Lands DCP. Clause 27 in Baulkham Hills LEP 2004 regarding tree management has replaced the Tree Preservation Order referred to in DCP 96.

The section on Bushfire Hazard refers to the method for determining bushfire hazard as contained in the Department of Planning Circular No. C10, and the Bush Fire Act. The provisions also require a fuel free area 46 metres wide to be created adjacent to the escarpment and a fire trail to be constructed in the fuel free zone to provide access for fire fighting vehicles.

Since the drafting of DCP 96 there have been substantial changes in the regulations for bushfire protection. On 1 August 2002, the Rural Fires and Environmental Assessment Legislation Amendment Act 2002 came into force. This new Act amended the Environmental Planning and Assessment Act 1979 and the Rural Fires Act 1997 to provide a more streamlined system for the planning for bushfire protection. To accompany these changes DIPNR and the NSW Rural Fire Service developed a guideline document called ‘Planning for Bushfire Protection 2001’, for use by Council’s in preparing LEPs and DCP in areas identified as bushfire prone. Suitable provisions relating to planning for bushfire have been incorporated into the draft DCP.

DCP 96 also identified land with particular environmental significance as Restricted Development Areas. In these areas, development including the erection of a fence, filling of land and the removal of vegetation, with the exception of bushfire hazard reduction works, was prohibited. The map also identified the bushfire hazard categories, fuel free zones, proposed roads and open space. It is proposed that the map indicating the restricted development areas be retained and updated with current cadastre, and incorporated as a map sheet in the Rural Lands DCP. A clause relating to restricted development areas is also to be inserted into the draft DCP.

As previously discussed in Section 4.4.4 the majority of the land to which DCP 96 applies has been established for rural-residential development, in accordance with the provisions of the LEP and DCP. The objectives of the DCP have been met through the development of the precinct and the DCP is no longer relevant or necessary. The continuous management of the land to reduce the risk of bushfire and protect those areas designated restricted development is the only two remaining issues that are relevant. It is proposed that these issues be addressed in general terms in the draft DCP.

Given the above, it is considered that the objectives of DCP 96 have been achieved and is therefore no longer required. Any further development of the site would be required to comply with the provisions of the Rural Lands DCP. Accordingly, it is proposed DCP 96 be repealed upon the DCP No. 1 – Rural Lands coming into force.

5.1.3. Development Control Plan No. 22 - Cnr Old Northern Road and Schwebel Lane

Development Control Plan No. 22 was adopted by Council on 21 April, 1998 in support of the Amendment No. 57 to Baulkham Hills Local Environment Plan 1991. The amendment involved the addition of property on the corner of Schwebel Lane and Old Northern Road, Glenorie to Schedule 5 – Development for Additional Purposes.
The site is known as Lot 1 DP 1063774, No. 2 Schwebel Lane, and Nos 942 – 946 Old Northern Road, Glenorie. Although the land in this area was zoned part Rural 1(c) and part Residential 2(a), a concrete batching plant already existed and had been operating under existing use rights on the site. The amendment allowed for the continued operation of the concrete batching plant specifying that the annual production of concrete or concrete products or both must not exceed 20,000 tonnes.

DCP No. 22 is a site specific DCP relating to the same land and came into effect upon the gazettal of the LEP amendment on 9 October 1998. This DCP was introduced to reflect the existing commercial use of the land and to provide site specific guidelines to control any future development.

The plan contains a number of controls that aim to minimise the impact of any future development of the subject site and ensure that the rural village character and amenity of Glenorie is maintained through careful site design and noise control measures. Development standards include building setbacks, access, noise control and landscaping.

In an endeavour to consolidate the three DCPs into one document, it is proposed that DCP No. 22 will be repealed and these standards will be included in the Rural Lands DCP. It is proposed that the map indicating the specific setbacks areas be retained and updated with current cadastre, and incorporated as a map sheet in the Rural Lands DCP. The controls that will be included relate to site development, building setbacks, access, noise control and landscaping.

5.2. DRAFT DEVELOPMENT CONTROL PLAN NO. 1 – RURAL LANDS

The draft Rural Lands DCP is a comprehensive plan based on the original DCP No. 1, together with relevant provisions from DCP 96 and DCP 22. It also includes objectives, development controls and submission requirements for a variety of rural activities not previously addressed. The formatting has been revised, and standard introductory text included ensuring consistency with Council’s other DCPs. The DCP will be known as ‘Development Control Plan No. 1 – Rural Lands’.

5.2.1. Aims and Objectives

The objectives of the DCP have been drafted to provide guidance in the assessment of development in the rural area, taking into account the diversity of land uses in the rural area and the complexity of environments. Accordingly, the objectives aim to address the natural environment, land capability, land use conflict as well as promote the rural villages and economic activity and preserve the unique character of the rural area. The objectives of the DCP are as follows: -

“(a) to provide comprehensive guidelines for the development of the rural areas in the Shire;
(b) to protect, maintain and enhance the natural environment including bushland, threatened species, river foreshore, wetlands, riparian corridors, ridgelines and views;

(c) to ensure that development is compatible with the capability of the land, does not unreasonably increase demand for services and minimises risks from natural hazards;

(d) to encourage the use of the land for agriculture and rural uses, and minimise any conflict between competing land use;

(e) to encourage the development of vibrant rural villages and tourist facilities which contribute to the social and economic wellbeing of the rural area; and

(f) to ensure that development does not have a detrimental impact on the natural environment, scenic qualities of the area or amenity of surrounding residents, and contributes to the rural character of the area."

5.2.2. Ecologically Sustainable Development

Section 3 of the draft DCP is included in all Council’s DCPs to ensure that all development meets Council’s Sustainability Objectives, and fulfil Council’s statutory responsibilities as required by Schedule 2 of the Environmental Planning and Assessment Regulations, 1994 and the Local Government Amendment (ESD) Act, 1997 to meet its adopted goals and objectives as defined in its Environmental Management Plan.

Many of the provisions in the draft DCP have a direct correlation with the principle of ESD and one of the objectives of the DCP is to protect, maintain and enhance the natural environments.

The provisions of the Environmental Planning and Assessment Act Amendment (Building Sustainability Index: BASIX) Regulation 2004, also applies to residential development in the rural zone from 1 July 2004. Accordingly, the DCP will direct applicants to the relevant provisions of BASIX and their statutory need to comply.

5.2.3. Zone Functions

The Zone Functions section has been revised and expanded from DCP 1 – Rural 1(a), 1(b) and 1(c) to reflect the new land use zones proposed in the draft Rural Lands LEP. The section also provides additional background information relating to the rural settlement hierarchy identified in the Rural Strategy and shown in Figure 17.
Figure 17 – Settlement Hierarchy
5.2.4. Objectives and Development Controls

The majority of the existing objectives and development controls contained in DCP No. 1 – Rural 1(a), 1(b) and 1(c) have been incorporated into the new DCP. The DCP also contains a number of new provisions to provide objectives and controls for a variety of land uses. Submission requirements have been added to many of the controls, listing what information is required to be submitted with a development application.

The development controls have been grouped together for similar development to assist in the flow of the document, such as residential and associated development, tourist development, provisions relating to industry and agriculture, site specific provisions and general provisions relating to all rural land. The controls are summarised as follows:

**Development Sites**
This section combines the objectives from sections 3.1 Development Sites – Rural 1(a), 3.2 Development Sites – Rural 1(b) and 3.3 Development Sites Rural 1(c) in the current DCP 1 and expands the table to include the Residential 2(c) zone, Business 3(d) and Environmental Protection zones. It also includes provisions requiring satisfactory sewerage disposal system to be demonstrated and require compliance with provisions of SREP 20.

**Building Setbacks**
This section was formerly titled ‘Setbacks to Roads’ and incorporates an additional objective regarding setbacks from other buildings. The classified roads have not been listed as in the current DCP No. 1, as these are identified on the LEP 2004 zoning map. The clause relating to direct vehicular access to classified roads for a variety of uses is also contained within LEP 2004 and is therefore not repeated in the DCP. An additional development control providing a minimum side setback of 5 metres for all buildings and structures is included.

**Rural-Residential Development**
This section was formerly titled ‘Dwellings in Rural Zones’. The provisions regarding rural workers dwellings have been moved to a new section. Additional provisions regarding vehicular access, flooding, building platforms, dwelling design, height, building materials and landscaping have been added. The implementation of measures to prevent land uses conflict is also encouraged.

**Dual Occupancy**
Additional provisions in this section require shared vehicular access, consideration of tree removal, site clearance and adequate area for effluent disposal. The Rural Strategy suggests that if dual occupancy developments are to be considered on allotments less than 2 hectares in size, they should be connected to a reticulated water and sewer system. That is, where a dual occupancy development is being considered on an undersized lots, i.e. less than the minimum allotment size of 2 hectares, disposal of sewerage is to be via a reticulated Sydney Water system.

If connection to a reticulated water and sewerage system in not practicable, a variation to this requirement could be sought. A merit assessment of the variation will ensure that the site is suitable for on-site disposal and will not have an adverse impact on water quality or the natural environment. This would ensure that dual occupancy development does not have
adverse impact on the natural environment by way of overdevelopment of sites. A provision to this effect will be inserted in the Rural DCP and amendments made to DCP No. 2 - On-site Sewerage Management to reflect this position.

The existing provisions for attached dual occupancy remain, with an additional requirement for the consistency of materials and an additional provision to control the length of the front elevation in relation to the frontage of the site to improve the rural streetscape.

**Figure 18 – Attached Dual Occupancy**

![Attached Dual Occupancy Diagram]

**Rural Cluster Development**
This section provides development controls in addition to the requirements of the draft LEP to guide the development of rural cluster development, as discussed in Section 4.5.2.

The provisions seek to encourage innovative design, which blends the design of the dwelling-houses with the landscape, and prevent dwelling-houses being developed on land, which is too steep. The controls also seek to maximise the shared aspects of the development, with regards to vehicular access, common facilities and asset protections zones.

**Rural Workers Dwelling**
This is a new section that includes the controls for rural workers dwellings and additional controls setting a maximum floor area for rural workers dwellings, and justification for the development to be in accordance with the requirements of NSW Agriculture.

**Rural Fencing**
New provision to encourage the development of rural style fencing. Controls set a maximum height and prohibit certain type of materials for fencing along the street frontage.
Tennis Courts
New provision to ensure tennis courts are appropriately sited and do not impact upon the amenity of surrounding developments.

Rural Sheds
New provision to control the siting and design of rural sheds greater than 100m² in size including a maximum height and floor area.

Landscaping
New provision to encourage the planting of fire resistant species and landscaping that enhances the rural character. This section is to compliment provisions contained in DCP No. 10 – Landscaping.

Tourist Facilities
Maintains the existing objectives for tourist facilities as contained within DCP No. 1 – Rural 1(a), 1(b) and1(c). New provisions introduced regarding design of buildings, car parking, landscaping, bush fire hazard and impact on amenity of surrounding areas.

Reception Establishments / Restaurants
This section combines existing provisions for reception establishments and restaurants, maintaining the original objectives.

Farm Gate Sales
New provisions to reflect the inclusion of this land use in the draft LEP. The development controls set a minimum standard for the hours of operation and car parking, and reinforce the development standards contained within the draft LEP definition for the maximum area.

Signage
This section incorporates the controls for signage in rural zones from DCP 11 – Signage.

Development in Business 3(d)(Village Centre) Zone
New provision to provide controls for the development in the village business centres. Development Controls include controls for floor space ratio, height, setbacks, building design and access. The guidelines in the Village Character Analysis are also required to be addressed.

Rural Industries / Agricultural Products Establishments
Provides new provisions including noise, car parking, building materials and landscaping for rural industries such as packing sheds and agricultural products establishments.

Intensive Horticultural Establishments
New provision for intensive horticultural establishments. Includes provisions for landscaping, noise and car parking to ensure the activity does not adversely impact on the amenity of the surrounding area. Also requires the submission of an EMP.

Intensive Animal Industries
Introduces similar provisions as for intensive animal industries including building setbacks and car parking. Also requires the submission of an EMP.
Retail / Wholesale Plant Nurseries
New provisions for the control and management of sites used for retail and wholesale plant nurseries.

Farm Dams
New provision to guide the development of dams on rural properties, including a minimum side setback to allow for maintenance. Also provides information on dams, which require additional consent from DIPNR.

Filling of Land
New provision to provide controls for the filling of land in rural areas. Includes provisions for type of material allowed, compaction, and erosion and sedimentation controls.

Development Near the Hawkesbury River
The existing objectives and development standards provisions in the current DCP are maintained, including the provision for materials of low reflectivity for buildings. This section also introduces new provision to ensure that where a building can be viewed from the river, the maximum height shall be 8 metres above natural ground level, and located either below the top of the escarpment or setback 20 metres from the edge of escarpment, as illustrated Figure 19.

Figure 19 – Location of dwelling-houses adjacent to Hawkesbury River

Building on Foreshore
The existing objectives and development standards provisions in the current DCP are maintained with an additional requirement that buffer zones shall be revegetated with appropriate native species.
Biodiversity
The Natural Assets Mapping Report also made recommendations regarding the development of a Biodiversity Development Control Plan in areas with particular biodiversity conservation needs. The DCP should contain provisions that:

- Specify development and management guidelines to be considered in the assessment and determination of development applications;
- Specify principles to be followed in the development and management of land and how these should be implemented;
- Specify the manner in which matters relating to the protection of biodiversity are to be assessed; and
- Specify information required to be provided with development applications.

In this regard, the draft DCP includes provisions which require development be designed to retain existing bushland and preserve significant flora, fauna and ecological communities. It also requires the submission of an Eight Part Test or SIS if the site is vegetated.

Clearing of Bushland
The Baulkham Hills LEP 2004 requires development consent for the clearing of all land, other than for bushfire hazard reduction purposes in accordance with a reduction certificate. This section provides controls, which must be considered in the assessment of an application to clear bushland, including the justification for the proposal and the impact on flora and fauna.

Development on Bushfire Prone Land
These provisions are based on the sample DCP provisions in the ‘Planning for Bushfire Protection’ Guidelines prepared by DIPNR and RFS.

Water Storage
New provision requiring water storage for domestic purposes where there is no connection to the water mains, as well as water storage for fire fighting purposes for all rural developments.

Restrictive Development Areas
This section provides details of the land identified as a restricted development area in the area previously zoned Rural 1(d) and contained in DCP 96, as discussed in Section 5.1.2.

Erosion and Sediment Control
Introduces Council’s standard erosion and sediment control measures.

Waste Management Planning
Introduces Council’s standard waste management provisions. Waste Management Plan is contained in Appendix 2 of the draft DCP.

Salinity
This new provision requires the submission of a Salinity Management Plan if the site is identified as being in an area of known salinity hazard.

Land on Corner of Schwebel Lane and Old Northern Road, Glenorie
This section is a consolidation of provisions previously contained in DCP 22, as discussed in Section 5.1.3. The reference to LA_{10} is replaced by LA_{eq} (equivalent energy average), with noise to be measured over a 15-minute period whereas, previously there was no measuring period specified.

Noise is now to be measured at the most affected point on or within the residential boundary and any other noise sensitive areas and the reference to the NSW Environmental Protection Authority's Industrial Noise Policy has been updated.

5.2.5. Complying Development
In the rural zones the erection sheds between 50m² and 100m² in gross floor area, and ancillary rural development including garages, outbuildings and swimming pools are complying development. A new section in the DCP provides the development standards and conditions for the consideration and determination of applications for complying development certificates for development in rural zones.

5.2.6. DCP Map Sheets
The draft DCP includes four map sheets located at Appendix 1. Map Sheet 1 is carries over from DCP 96, as discussed in Section 5.1.2. Map Sheet 2 is carried over from DCP 22, as discussed in Section 5.1.3.

As the commercial land at Glenorie is to be rezoned from 3(a) to 3(d), it is appropriate for all controls regarding this land to be contained within the draft DCP. Accordingly, the Map Sheet for Glenorie has been carried over from DCP No. 6 – Business, as Map Sheet 3. When the draft DCP No. 1 – Rural Lands comes into force, DCP No. 6 will need to be amended to delete the map sheet.

Map Sheet 4 is a new sheet indicating the desired should re-development of the land to be rezoned 3(d) at Dural. The map sheet indicates landscaping buffers, access requirements and height restrictions.
6. CONCLUSION

This document represents the culmination of work undertaken in both Stage 3 of the Rural Lands Study, and the Rural Lands Study itself. It provides a summary of how the strategies identified in the Stage 2 Rural Strategy have been implemented through the draft LEP and DCP, describes the changes made to the existing statutory and development control provisions which relate to rural land, and provides details on the consultation undertaken in preparation of the draft plan.

The resulting draft LEP and zoning map, and draft DCP provides a comprehensive land use strategy for the development and management of rural land.

The draft LEP contains a range of zones, which relate specifically to the character and landscape of the rural area including the rural villages and the natural environment. It provides for new forms of development including, cluster development in selected locations, and new types of rural activities such as farm gate sales to encourage tourism and economic activity. The draft LEP also seeks to protect and enhance the natural environment including wetland areas, significant bushland and riparian corridors by introducing specific environmental protection zones.

The draft DCP provides a comprehensive plan to guide all development in the rural area of the Shire. It contains provisions to encourage a variety of residential development, encourage the development of vibrant rural villages and tourist facilities, encourage the use of the land for agriculture and rural uses, minimise any conflict between competing land uses, protect, maintain and enhance the natural environment including bushland, threatened species, river foreshore, wetlands, riparian corridors, ridgelines and views.

Overall the draft LEP and draft DCP incorporates sustainable planning principles to control and manage the changing needs of the rural area now, and into the future.
## 7. REFERENCES

<table>
<thead>
<tr>
<th>Reference</th>
<th>Preparation Details</th>
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8. **GLOSSARY**

<table>
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<td>ABS</td>
<td>Australian Bureau of Statistics</td>
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<td>attached dual occupancy</td>
<td>means the erection of two dwellings, or the modification of an existing dwelling to create a second dwelling, under a common roof on a single allotment of land. (LEP 1991)</td>
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<td>IDO</td>
<td>Interim Development Order</td>
</tr>
<tr>
<td>LEP</td>
<td>Local Environmental Plan</td>
</tr>
<tr>
<td>MDP</td>
<td>Metropolitan Development Program</td>
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<tr>
<td>NSW</td>
<td>New South Wales</td>
</tr>
<tr>
<td>PSP</td>
<td>Priority Sewerage Program</td>
</tr>
<tr>
<td>RLS</td>
<td>Rural Lands Study</td>
</tr>
<tr>
<td>rural area</td>
<td>Area of Baulkham Hills Shire Council included in the study</td>
</tr>
<tr>
<td>Shire</td>
<td>the local government area of the Baulkham Hills Shire Council</td>
</tr>
<tr>
<td>SREP 19</td>
<td>Sydney Regional Environmental Plan No. 19 – Rouse Hill Development Area.</td>
</tr>
<tr>
<td>SREP 20</td>
<td>Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River</td>
</tr>
</tbody>
</table>
APPENDIX 1 – RURAL STRATEGIES
### Social and Economic Factors

#### 1. Growth Management

**Objective:** Provide for coordinated and effective growth in the Shire’s rural lands.

<table>
<thead>
<tr>
<th>Implementation Strategy</th>
<th>Policy Action</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Provide a sustainable growth management approach to future development.</td>
<td>1.1 Adopt the growth management philosophy outlined in section 11.2 of this document and which is shown on Map 11.1.</td>
<td>The Settlement Hierarchy identified in Section 4 of draft DCP 1 – Rural Lands</td>
</tr>
</tbody>
</table>
| 2. Promote a hierarchy of settlements based on Villages and Rural Centres and encourage appropriate development within them. | 2.1 Adopt the following settlement hierarchy:  
**Villages**  
- Wisemans Ferry  
- Glenorie  
- Kenthurst  
- Round Corner - Dural  
**Rural Centres**  
- Lower Portland  
- Maraylya  
- Annangrove  
- Box Hill  
- Sackville  
- South Maroota  
- Maroota  | This is subject to a further resolution of Council. |
| 3. Identify Investigation areas that may accommodate further development subject to the provision of water and sewerage infrastructure and will require rezoning. | 3.1 Adopt the following village expansion areas as outlined on map 11.2  
- Glenorie  
- Annangrove  
- Maraylya  
3.3 Once adequate water and sewerage infrastructure are available, prepare a draft LEP for the village expansion and large lot residential investigation areas. | This is subject to a further resolution of Council. |
| 4. Limit further metropolitan urban | 4.1 Limit urban releases to that land identified by the Sydney | This is outside the scope of the current draft Rural Lands LEP and DCP. |
releases. The Regional Environmental Plan No. 19 – Rouse Hill Development Area.

4.2 Request Planning NSW to place the north Kellyville area on the Metropolitan Development Program.

and DCP. Awaiting outcomes from DIPNR’s Future Urban Lands investigations for North West Sector.

5. Provide for the economic and social growth of Shire’s rural areas and in particular, maintain and enhance rural job opportunities.

5.1 Prepare Strategies for the economic and social growth in the rural areas of Baulkham Hills Shire.

5.2 Work with Hornsby Council to prepare joint plans for the village of Glenorie and provide for the coordinated development of the village of Wisemans Ferry.

The draft Rural Lands LEP and DCP encourages tourist orientated land uses and supports economic development.

Consultation with Hornsby Council was undertaken as part of the Section 62 Consultation process.

## 2. Land Use Planning

**Objective:** Develop a land use framework that will give a level of certainty to the people who live in the rural areas of the Shire

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<thead>
<tr>
<th>Implementation Strategy</th>
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<tbody>
<tr>
<td>1. Develop a new suite of land use designations</td>
<td>1.1. Adopt the following land use designations as outlined on map 11.2: Rural Landscape; Mixed Rural; Nature Conservation Biodiversity Protection (overlay) Village</td>
<td>The draft Rural Lands LEP incorporates the following zones: - Rural 1(a) Rural 1(b)(Rural Landscape) Rural 1(c)(Rural Living) Residential 2(c)(Tourist Village) Business 3(d)(Village Centre) Environmental Protection 7(a)(Wetlands) Environmental Protection 7(b)(Bushland) Environmental Protection 7(c)(Riparian Corridor)</td>
</tr>
<tr>
<td></td>
<td>1.2 Prepare a draft LEP to formalise these as statutory zones.</td>
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<tr>
<td>2. Include in each land use designation a set of desired future character statements, which will provide the basis for objectives of each zone.</td>
<td>2.1. Prepare a set of desired future character statements for each of the land use designations which address the following matters: 2.1.1. Rural Landscape Preservation of the open rural landscape and its cultural heritage values. Maintenance of large holdings. Provision for both intensive and extensive forms of agriculture Buildings to blend into the landscape.</td>
<td>The draft Rural Lands LEP incorporates the following zones and objectives: - Rural 1(b)(Rural Landscape) Zone See Section 4.4.2 for details of objectives</td>
</tr>
<tr>
<td>Area</td>
<td>Objectives</td>
<td>Details</td>
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<td>-----------------------------</td>
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</table>
| Rural 1(c)(Rural Living)    | • Protection and improvement of water quality.  
• Preservation and enhancement of native vegetation, including habitat linkages.  
• Protection of the amenity of existing residents.  
2.1.2. Rural Living Mixed Uses  
• Preservation of the open rural landscape and its cultural heritage values.  
• Buildings to blend into the landscape by having ‘earthy’ colours and low scale buildings.  
• Protection and improvement of water quality.  
• Preservation and enhancement of native vegetation including habitat linkages.  
• Protection of the amenity of existing residents.  
• Screening from public places.  
2.1.3. Village  
• Retain rural village character.  
• Develop a core commercial centre.  
• Ensure that new dwellings respect the character of surrounding dwellings.  
• Promote the provision of water and sewerage infrastructure  
• Make provision for commercial and community facilities to serve the surrounding areas.  
• Ensure new residential development blends with the existing streetscape.  
2.1.4. Biodiversity Protection (overlay)  
• Preserve the integrity of the native vegetation for its own values as well as habitat conservation.  
• Protect areas of significant habitat.  
• Discourage clearing of vegetation, subdivision and incompatible development  
• Limit clearing of land and construction of buildings  
2.1.5. Nature Conservation  
• Preserve the integrity of the native vegetation for its own values as well as habitat conservation.  
| Residential 2(c)(Tourist Village) | See Section 4.4.5 for details of objectives  
Incorporated into the Environmental Protection 7(b)(Bushland) Zone. |
<p>| | | |</p>
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<tbody>
<tr>
<td></td>
<td>values as well as habitat conservation.</td>
<td>Environmental Protection 7(b) (Bushland)</td>
</tr>
<tr>
<td></td>
<td>• Recognise areas of significant threatened species.</td>
<td>See Section 4.4.10 for details of objectives</td>
</tr>
<tr>
<td></td>
<td>• Protect areas of significant habitat.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Discourage clearing of vegetation, subdivision and incompatible development</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Identify linkages to be protected and enhanced.</td>
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<tr>
<td></td>
<td>• Limit clearing of land and construction of buildings in close proximity to the edges of the zone.</td>
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<td>3.</td>
<td>Identify minimum lot sizes that will enable the continuation of the use.</td>
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<td></td>
<td>3.1. Adopt the following lot size minimum for the corresponding land use designation:</td>
<td>Special Provision – Subdivision in the draft Rural Land LEP sets the following minimum allotment size: -</td>
</tr>
<tr>
<td></td>
<td>• Rural Landscape 10 hectares</td>
<td>• Zone No. 1(a) - 40 hectares;</td>
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<tr>
<td></td>
<td>• Nature Conservation 40 hectares</td>
<td>• Zone No. 1(b) - 10 hectares;</td>
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<td></td>
<td>• Mixed Rural 2 hectares</td>
<td>• Zone No. 1(c) - 2 hectares;</td>
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<tr>
<td></td>
<td></td>
<td>• Zone No. 7(b) – 40 hectares</td>
</tr>
<tr>
<td>4.</td>
<td>Permit subdivision for clustering of development, which uses community titling.</td>
<td>Rural Cluster Development is defined as a land use and is permissible in the Rural 1(b) zone. A Special Provision has been drafted to control the minimum allotment size, density and require consideration of environmental features. Additional controls have been inserted into the draft DCP.</td>
</tr>
<tr>
<td></td>
<td>4.1. Develop controls to allow rural cluster development to occur only in the Rural Landscape land use designation. These to include slope of the land, soil type, good agricultural land, surrounding land uses and potential land use conflicts, visual landscape features, water courses, and native vegetation.</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Prepare one set of land use regulations for the rural parts of the Shire.</td>
<td>All existing provisions in the LEP have been reviewed as part of preparation of draft LEP. This draft will amend LEP 2004 to maintain one comprehensive LEP for the entire Shire.</td>
</tr>
<tr>
<td></td>
<td>5.1. Review and consolidate the existing LEP into one instrument for the rural lands.</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Provide plans that consider the future design aspects of the villages identified in the settlement hierarchy.</td>
<td>Specific masterplans for each village may be developed at later date in accordance with a further resolution of Council.</td>
</tr>
<tr>
<td></td>
<td>6.1. Prepare Master plans for the following villages:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Wisemans Ferry</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Glenorie</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Kenthurst</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Round Corner – Dural</td>
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<tr>
<td>7.</td>
<td>Prepare management guidelines for land uses in rural parts of the Shire.</td>
<td>Draft Development Control Plan No. 1 – Rural Lands has been prepared to provide comprehensive guidelines for the development of the rural areas in the Shire.</td>
</tr>
<tr>
<td></td>
<td>7.1. Prepare a Development Control Plan to provide effective and appropriate land use management guidelines for the rural lands of the Shire.</td>
<td></td>
</tr>
</tbody>
</table>
8. Provide controls and management requirements for specific land uses that are considered to be non-sustainable or problematic.

8.1. Prepare specific controls for the following land uses and regulate them in a new rural LEP and DCP:
- Dual Occupancies
- Farm gate Sales (Roadside Stalls)
- Home Based Businesses
- Intensive Animal Establishment
- Intensive Plants
- Rural Produce Stores
- Rural Sheds
- Rural Truck Business
- Tourism (Bed and Breakfast and Ecotourism)
- Dams
- Land Clearing
- Fencing
- Signage

Specific controls for attached dual occupancy development, farm gate sales, intensive animal industries, intensive horticulture establishments, rural sheds, rural industries, tourist developments, dams, clearing of bushland, fencing and signage are provided in draft DCP 1.

The definition of ‘home business’ in the LEP provides suitable restrictions on operation and use. Rural truck business can be classified as a home business. Further controls were not considered necessary.

### 3. Quality of Life

**Objective:** Ensure that residents have adequate access to appropriate services and facilities.

<table>
<thead>
<tr>
<th>Implementation Strategy</th>
<th>Policy Action</th>
<th>Comment</th>
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</thead>
<tbody>
<tr>
<td>1 Monitor the provision of services and facilities for the people who live in the rural parts of Baulkham Hills Shire to ensure that they are receiving adequate level of service.</td>
<td>1.1 Prepare a set of Quality of Life indicators, which can be measured and used to assess the level of service provided to the people who live in the rural parts of the Shire.</td>
<td>This is outside the scope of a draft LEP or DCP.</td>
</tr>
<tr>
<td>2 Facilitate greater use of the Council’s facilities and services by rural residents.</td>
<td>2.1 Review all Council facilities/services to ensure that actions are in place to increase access for rural residents including improved information, transport, new service models etc.</td>
<td>The draft LEP rezones those sites currently owned or managed by Council for public open space or recreation to Open Space 6(a)(Existing and Proposed).</td>
</tr>
<tr>
<td>3 Facilitate improved involvement of rural residents in Council’s consultation and decision making processes.</td>
<td>3.1 Review all Council consultation structures and provide an improved community participation strategy for rural residents.</td>
<td>This is outside the scope of a draft LEP or DCP.</td>
</tr>
<tr>
<td>4 Provide rural residents with better links to government and non-government service providers</td>
<td>4.1 Review all Council committees, inter Council and inter governmental working groups and consultation structures to ensure that rural issues are represented and if required, establish new structures for rural residents to link with government and non-government service providers.</td>
<td>This is outside the scope of a draft LEP or DCP.</td>
</tr>
<tr>
<td>5 Improve access to Council and community information for residents of the rural parts of the Shire.</td>
<td>5.1 Develop a media strategy for the regular distribution of Council and community information to all residents of the rural parts of the Shire.</td>
<td>5.2 Implement the recommendations that are contained in Appendix 3, which relate to communication.</td>
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<tr>
<td>6 Encourage participation of rural residents in developing and implementing actions that improve their quality of life.</td>
<td>6.1 Develop a policy that supports existing and establishes new rural community networks and organisations. This may include the provision of Council information and resources.</td>
<td></td>
</tr>
<tr>
<td>7 Ensure that there is equal access to Local, State and Federal Government Services</td>
<td>7.1 Review and lobby for government programs and polices to provide equity of access for rural residents to all services e.g. Council’s Management Plan, Teamwest, Area Health Action Plans, Disability Plans etc</td>
<td></td>
</tr>
<tr>
<td>8 Provide an adequate level of service for the provision of public transport in the rural parts of the Shire.</td>
<td>8.1 Implement the recommendations that are contained in Appendix 3 which relate to public transport.</td>
<td></td>
</tr>
<tr>
<td>9 Improve physical and social environment of Rural Villages and Service Centres</td>
<td>9.1 Prepare a set of action plans for all Rural Villages and Service Centres to meet local needs for community, recreation and other needs.</td>
<td></td>
</tr>
<tr>
<td>10 Ensure that the needs of specific target groups in the community are met</td>
<td>10.1 Review Council’s Social Plan and other relevant policies to integrate actions, which address the needs of rural: youth, older residents, residents with a disability, residents from a non-English speaking background and low income families</td>
<td></td>
</tr>
<tr>
<td>11 Explore a range of funding options, which facilitate the delivery of facilities, services and infrastructure to rural areas.</td>
<td>11.1 Develop a Rural Areas S.94 Contributions Plan.</td>
<td>11.2 Develop a long-term funding strategy for rural services and infrastructure delivery.</td>
</tr>
</tbody>
</table>
### 4. Economic Development and Employment Opportunities

**Objective**: To provide for economic development opportunities that are in keeping with the rural character of the Shire.

<table>
<thead>
<tr>
<th>Implementation Strategy</th>
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<th>Comment</th>
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<tbody>
<tr>
<td>1 Ensure that the economic development of Baulkham Hills Shire considers the rural land.</td>
<td>1.1 Amend the current Economic development strategy to incorporate rural based activities such as tourism, rural employment opportunities, value adding onto existing rural activities. 1.2 Develop a Shire Marketing Plan that promotes the rural lifestyle benefits of working and living in the Baulkham Hills Shire.</td>
<td>This is outside the scope of a draft LEP or DCP.</td>
</tr>
<tr>
<td>2 Provide employment generating opportunities the rural parts of the Shire</td>
<td>2.1 Encourage the existing businesses to remain and expand.</td>
<td>This is outside the scope of a draft LEP or DCP.</td>
</tr>
<tr>
<td>3 Provide economic incentives to encourage the development of rural activities.</td>
<td>3.1 Investigate the implementation of a scheme of rewards and incentives covering financial (rate rebates) non-financial (subdivision bonus criteria)</td>
<td>This is outside the scope of a draft LEP or DCP. The development of a Rural Incentives Program is subject to a further resolution of Council.</td>
</tr>
<tr>
<td>4 Promote the Shire as a place for rural based tourism</td>
<td>4.1 Encourage the development of rural accommodation including bed and breakfast and some ecotourism type uses. 4.2 Encourage the development of tourist facilities that provide a recreation theme. 4.3 Consider the suitability of resort / convention centres to be able to utilise large holdings with the possibility of creating small lots only via a community titles scheme. 4.4 Encourage the Hawkesbury Harvest Farm Gate Trail to be extended into the Shire in conjunction with Hornsby Shire. 4.5 Promote the continuation of the farmers market at Castle Hill</td>
<td>The draft Rural Lands LEP and DCP encourages tourist orientated land uses and supports economic development through its objectives and controls. Rural cluster development will provide some opportunity for community title development. The definition ‘farm gate sales’ has been incorporated into the draft LEP to allow for farm gate trail type developments.</td>
</tr>
</tbody>
</table>

### 5. Infrastructure Requirements

**Objective**: Provide an adequate level of infrastructure for the people who live and work in rural parts of the Shire.
<table>
<thead>
<tr>
<th>Implementation Strategy</th>
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<tbody>
<tr>
<td>1 Ensure that an adequate reticulated water supply is available residents.</td>
<td>1.1 Adopt a policy of not permitting subdivision of land in the low pressure areas identified by Sydney Water.</td>
<td>The draft LEP does not permit wide scale subdivision of the rural areas.</td>
</tr>
<tr>
<td>2 Ensure that the most appropriate sewage disposal system is provide for all land in the rural parts of the Shire.</td>
<td>2.1 Encourage Sydney Water to provide reticulated sewerage to Glenorie and Kenthurst villages. 2.2 Adopt a policy of not permitting subdivision of rural land less than 1 ha unless it can be connected to a reticulated sewerage system.</td>
<td>Glenorie is listed on Stage 2 of Sydney Water’s Priority Sewerage Program  The draft LEP maintains the minimum allotment size for subdivision in the rural area at 2 hectares.</td>
</tr>
<tr>
<td>3 Ensure that there are adequate community facilities to house the required level of social services.</td>
<td>3.1 Develop and implement action plans for the rural villages and centres to ensure that the appropriate levels of community facilities are provided.</td>
<td>This is outside the scope of a draft LEP or DCP.</td>
</tr>
<tr>
<td>4 Ensure that recreation facilities are adequate to serve the needs of the residents of rural parts of the Shire.</td>
<td>4.1 Develop and implement action plans for the rural villages and centres to ensure that the appropriate levels of recreation facilities are provided.</td>
<td>This is outside the scope of a draft LEP or DCP.</td>
</tr>
<tr>
<td>5 Ensure that the roads in the rural parts of the Shire are adequate for the amount of existing and traffic demands future</td>
<td>5.1 Prepare a road upgrading program in consultation with the Traffic Committee and local residents.</td>
<td>This is outside the scope of a draft LEP or DCP.</td>
</tr>
</tbody>
</table>
| 6 Develop a sustainable transport system for the rural parts of the Shire. | 6.1 Prepare a Transport Plan which will integrate Council with the urban areas and address the following issues:  
Transport routes  
Provide a range of sustainable transport and modes i.e. walking, cycling, public transport, community transport  
Links between the transport nodes  
Maintaining the amenity of the rural parts of the Shire. | This is outside the scope of a draft LEP or DCP. |

Environmental Opportunities and Constraints

1. Water Catchments

Objective: To ensure that the quality of surrounding waterways is not adversely affected by development.
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<tr>
<th><strong>Implementation Strategy</strong></th>
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<tbody>
<tr>
<td>1. Consider the cumulative impact of development on the catchment.</td>
<td>1.1 Establish a set of Catchment Health Indicators by which the cumulative impact of development can be measured and managed.</td>
<td>This is outside the scope of a draft LEP or DCP.</td>
</tr>
<tr>
<td>2. Ensure development does not increase the sedimentation load in surrounding water bodies.</td>
<td>2.1 All development is to utilise best management practices for soil and water management on the site.</td>
<td>Erosion and Sedimentation Controls are included in the Draft DCP.</td>
</tr>
<tr>
<td>3. Ensure new development is located so it does not have a detrimental impact on nearby water bodies.</td>
<td>3.1 All development to be located an appropriate distance from waterways</td>
<td>The introduction of the Environmental Protection 7(c)(Riparian Corridor) zone restricts development within the riparian corridor and provides a buffer to creeks,</td>
</tr>
<tr>
<td>4. Ensure Domestic and other forms of Effluent Disposal does not have a detrimental impact on water quality.</td>
<td>4.1 On–site effluent disposal is to be in accordance with Council's policy for dealing with On-site Sewage Management and the NSW Environment and Health Protection Guidelines for On-site Sewage Management for Single Households.</td>
<td>DCP No. 2 – On-Site Sewerage Management Systems contains specific controls to disposal of effluent in non-sewered areas. This DCP has replaced Council’s policy on On-Site Sewerage Management.</td>
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### 2. Ecological Management

**Objective:** To ensure that the ecological integrity of the rural lands are enhanced and maintained.

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<th><strong>Implementation Strategy</strong></th>
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<tbody>
<tr>
<td>1 Recognise and understand the biodiversity values of the rural parts of the Shire.</td>
<td>1.1 Prepare plans linking core areas of remnant vegetation to facilitate species migration. 1.2 Establish a land use and management approach consistent with State, regional, local biodiversity goals 1.3 Investigate reserves and areas subject of agreement between owners and government agencies for their preservation. 1.4 Incorporate significant bushland in future Local Environmental Plans. 1.5 Determine conservation strategies for endangered and vulnerable species in the Council area in association with the National Parks and wildlife Service. 1.6 Consider the implementation of environment protection</td>
<td>This is outside the scope of an LEP. The results of the vegetation mapping project have been incorporated into the draft LEP with significant bushland being incorporated into the Environmental Protection 7(b)(Bushland) zone.</td>
</tr>
</tbody>
</table>
2 Preserve the existing biodiversity habitat on private lands throughout the rural parts of the Shire.

2.1 Identify and protect significant linkages of native vegetation as outlined in the Natural Assets Mapping Report and incorporate in the draft LEP for the Shire’s Rural Lands.

3 Encourage the State Government to continue to investigate and identify the biodiversity values of the Shire.

3.1 Implement actions in the NSW Government Biodiversity Strategy that have identified Baulkham Hills Shire Council as a lead organisation, the Australian Local Government Biodiversity Strategy and the Cumberland Plain Endangered Ecological Communities Recovery Plan.

The proposed Environmental Protection 7(b) zone encompasses areas of significant biodiversity and threatened species.

4 Provide a mechanism to conserve roadside vegetation.

4.1 Prepare a roadside vegetation management plan for the rural parts of the Shire.

This is outside the scope of a draft LEP or DCP.

5 Develop a mechanism that will allow for the accessing of information provided with development applications.

5.1 Create a database that will provide details of the information submitted with development applications such as flora and fauna study findings, flooding information and aboriginal heritage study findings.

This is outside the scope of a draft LEP or DCP.

6 Increase awareness and involvement in identifying, protecting and enhancing biodiversity.

6.1 Prepare guidelines for tree/vegetation evaluation including use of the 8 part test for significance under the provisions of the Threatened Species Conservation Act.

The draft DCP contains controls to address the protection of biodiversity.

### 3. Scenic and Landscape

**Objective:** Ensure that development has a minimal impact on the scenic and cultural landscape of the Shire.

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<tr>
<th>Implementation Strategy</th>
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<tbody>
<tr>
<td>1 Incorporate the preservation of landscape into a development control plan for rural areas.</td>
<td>1.1 Ensure that dwelling houses and outbuildings in rural areas are classified as local development under the provisions of the Environmental Planning and Assessment Act. 1.2 Develop guidelines for the siting and design of buildings in the rural landscape and incorporate them into a DCP.</td>
<td>Dwelling–houses and sheds greater than 100m² are identified as local development in the draft LEP. The draft DCP provides controls for the siting and design of buildings including dwelling–houses and rural sheds.</td>
</tr>
</tbody>
</table>
**Objective:** Ensure that urban growth is managed to retain the rural character of the Shire

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<tr>
<th>Implementation Strategy</th>
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</thead>
<tbody>
<tr>
<td>1. Carry out investigations into the impact of both urban and residential development proposals to ensure that it has minimal impact on the scenic and cultural landscape values.</td>
<td>1.1 Require all rezoning applications for new urban and rural residential development to investigate the impact of the proposal on the Landscape Character of the rural lands.</td>
<td>The submission requirements for rezoning application is determined on a merit basis.</td>
</tr>
</tbody>
</table>

### 4. Heritage and Culture

**Objective:** To preserve the rural heritage and culture of the Shire

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<tr>
<th>Implementation Strategy</th>
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<th>Comment</th>
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</thead>
<tbody>
<tr>
<td>1. Formally recognise the heritage values of the rural areas.</td>
<td>1.1 Incorporate any unlisted existing heritage items into the proposed LEP for the Shire’s Rural Lands.</td>
<td>This was undertaken as part of the ‘Shire-Wide’ LEP.</td>
</tr>
<tr>
<td>2. Protect and enhance the recognised heritage values.</td>
<td>1.2 Prepare guidelines to ensure that the heritage values of the landscape are preserved and not harmed by development and incorporate these into a DCP for the rural areas.</td>
<td>The draft zone objectives and objectives of the DCP reflect the heritage values of the rural area. DCP No. 10 – Heritage contains detailed provisions regarding the protection of heritage and applies to the rural area.</td>
</tr>
<tr>
<td>3. Identify the Aboriginal Heritage significance of the Shire</td>
<td>1.3 Update the planning controls to protect aboriginal cultural heritage sites.</td>
<td>The Baulkham Hills LEP contains provisions for the protection of relics, which includes any deposit, object, or material evidence of any age relating to Aboriginal habitation of Baulkham Hills Shire.</td>
</tr>
<tr>
<td>4. Promote and support the rural culture of the Shire</td>
<td>1.4 Publish information on heritage items and include in community and tourist information. 1.5 Support cultural and tourist activities, which promote rural heritage eg local shows, agricultural days, heritage tourist trails etc</td>
<td>This is outside the scope of a draft LEP or DCP.</td>
</tr>
<tr>
<td>5. Provide incentives to protect the heritage values.</td>
<td>1.6 Encourage landowners to carry out a heritage curtilage study and conservation plans of historic homesteads</td>
<td>This is outside the scope of a draft LEP or DCP.</td>
</tr>
</tbody>
</table>
including homestead gardens.

5. Natural Hazards

**Objective:** Recognise the impact of natural hazards on future land use and settlement.

<table>
<thead>
<tr>
<th>Implementation Strategy</th>
<th>Policy Action</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Ensure bush fire risk is considered in all future settlement areas.</td>
<td>1.1 Implement the requirements of the Planning for Bushfire Protection into the proposed LEP and DCP.</td>
<td>The Baulkham Hills LEP 2004 already contains requiring Council to take into account development likely to be affected by bushfire. The draft DCP incorporates the sample provisions in the Planning for Bushfire Protection Guidelines.</td>
</tr>
<tr>
<td>2. Ensure that land degradation is minimised.</td>
<td>2.1 Do not allow development to occur on land where vegetation clearing will cause erosion.</td>
<td>The draft DCP contains Council’s standard erosions and sediment control provisions, and provisions regarding the clearing of bushland.</td>
</tr>
<tr>
<td>3. Ensure that salinity is minimised.</td>
<td>3.1 Identify the areas of salinity occurrence and place controls on clearing of land and land use.</td>
<td>The draft DCP includes provisions to address salinity.</td>
</tr>
<tr>
<td>4. Identify the flooding of land as a constraint to future development.</td>
<td>4.1 Adopt the 1% Annual Exceedence Probability Flood as the design flood for all new development and do not allow development to occur in the identified area.</td>
<td>The flood standard adopted by LEP 2004 is the 1% probability flood as referred to in the Floodplain Management Manual published by the NSW government in 2001.</td>
</tr>
</tbody>
</table>
APPENDIX 2 – SECTION 62 CONSULTATION
<table>
<thead>
<tr>
<th>PUBLIC AUTHORITY</th>
<th>SUMMARY</th>
<th>COMMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW Fisheries</td>
<td>• Recommends that the following points be incorporated into any detailed plan.</td>
<td>• The existing special provision ‘Development Near the Hawkesbury River’ of Baulkham Hills LEP 2004 has been amended to increase the minimum building setback from the riverbank from 30 metres to 50 metres.</td>
</tr>
<tr>
<td></td>
<td>• Develop a 50 metre wide riparian zone be retained adjacent to any waterway;</td>
<td>• This is outside the scope of a draft LEP or DCP. However, the newly created Environmental Protection 7(c) (Riparian Corridor) Zone aims to improve management of riparian zones. The objective of the zone is to protect and conserve the ecological, scenic and environmental attributes of riparian corridors.</td>
</tr>
<tr>
<td></td>
<td>• Vegetation management plan including a planting strategy using endemic riparian vegetation and aquatic vegetation be required to rehabilitate riparian zones;</td>
<td>• An objective of each rural zone is to protect and enhance water quality.</td>
</tr>
<tr>
<td></td>
<td>• New development should aim to achieve no net increase in runoff and no reduction in water quality;</td>
<td>• The draft DCP requires landscaping buffers are required for intensive horticulture developments. Agriculture, which includes grazing of livestock, will be a prohibited use in the proposed 7(c)(Riparian Corridor) zone.</td>
</tr>
<tr>
<td></td>
<td>• Land uses such as agriculture should aim to minimize impacts on aquatic habitat by requiring buffer distance between waterways and agriculture, restricting stock in riparian zone.</td>
<td>• The protection and enhancement of groundwater resources is an objective in each rural zone.</td>
</tr>
<tr>
<td></td>
<td>• Consider potential contamination and downstream effects of ground water.</td>
<td>• The draft DCP incorporates provisions for development within an area affected by salinity.</td>
</tr>
<tr>
<td></td>
<td>• Salinity should be determined and mitigation measures identified.</td>
<td></td>
</tr>
</tbody>
</table>
| NSW Agriculture | • Raises concern that the growth management principle/philosophy to provide opportunities for rural subdivision is inconsistent with the strategy objective to maintain long-term sustainable agricultural lands.  

• The draft LEP should continue to provide opportunities for agricultural investment and limit fragmentation of existing and potentially key agricultural production areas.  

• Develop a transition strategy to avoid land used conflicts | • The draft LEP provides limited opportunity for growth in rural areas.  

• The minimum allotment size of 40 ha and 10 ha respectively in the 1(a) and 1(b) zones ensure that further fragmentation of land is not an impediment to future agricultural activities.  

• One of the principle objectives of draft DCP is to encourage the use of the land for agriculture and rural uses, and minimize any conflict between competing land use. |
### Sydney Water

- Same comments as received during exhibition of Draft Rural Strategy.
  - Provides details of Sydney Water’s Operating Licence and Rural Water Supply Policy.
  - Provides details of Sydney Water’s Rural Water Supply Policy regarding whether the existing system has sufficient capacity to supply the minimum standard water pressure at the main to existing and future customers.
  - Provides details on Rural Sewer Supply Policy including Priority Sewerage Program (PSP). Anticipates improved sewage management services to be provided to Glenorie by 2010 for the existing urban zone lots. Advised that servicing investigations will not extend to surrounding adjoining rural or rural-residential zoned land.
  - Policy on minor sewer extension is on full cost recovery of services which is generally expensive in the rural area given the distances and economy of scales involved.
  - Servicing additional rural lots is not consistent with Sydney Water’s objectives of reducing per capita potable water consumption, maintaining water pressure, connection policy and full recovery of its costs. Increased rural subdivision has potential to hinder this objective.
  - Supports policy action to restrict subdivision within low pressure areas. However, notes that subdivision outside of these areas also impacts on pressure and is not supported.
  - The PSP will only investigate and provide improved wastewater services to the existing urban zoned lots in Glenorie. This area should not be identified as an area of potential expansion.
  - The feasibility of connecting Annangrove and Maraylya to the Rouse Hill Sewerage System has not been demonstrated or planned for.

### Notes

- Policy information noted.
- Policy information noted.
- Timeframe for Glenorie noted.
- Policy noted.
- As the draft LEP does not make any change to the minimum allotment size in the rural zones, there will be limited opportunity the development of additional rural lots.
- Noted, limited opportunity for subdivision will assist in maintaining water pressure across the rural area.
- The current draft LEP does not proposed any major expansion of the existing area of Glenorie however the Rural Strategy identified Glenorie as having potential for future expansion based on the absence of constraints found elsewhere.
- This would be investigated as part of future investigations and land capability assessment in considering the development of a rural village at Maraylya and Annangrove.
<table>
<thead>
<tr>
<th>Entity</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney Water 2 July 2004</td>
<td>Advises that there are no plans to extend services into the rural areas. Water and wastewater servicing feasibility studies should occur prior to the preparation of a draft LEP if substantial development was proposed.</td>
</tr>
<tr>
<td></td>
<td>Noted</td>
</tr>
<tr>
<td></td>
<td>Request Sydney Water site at No. 9 Pellit Lane be partly rezoned from Special Uses 5(a)(Sewage Treatment Works) to Rural 1(c). The remaining part to be renamed Special Uses 5(a)(Sewage Pumping Station). The site is no longer used as a sewage treatment works due to capacity exceedence and is surplus to the operational needs of Sydney Water.</td>
</tr>
<tr>
<td></td>
<td>This request is considered to be reasonable and will support the orderly development of the site. This will not result in any additional development above what can be currently achieved on the site under the current zoning regime. However, rezoning the site will allow the zoning map to reflect the future land use activities on the site.</td>
</tr>
<tr>
<td>Integral Energy</td>
<td>Existing electricity infrastructure in rural area was designed to cater for a low density usage pattern and as such would not be sufficient to accommodate any additional demands that may be placed upon it by any proposed development.</td>
</tr>
<tr>
<td></td>
<td>Further liaison with Council would be required to ascertain infrastructure requirements to service redevelopment in rural areas.</td>
</tr>
<tr>
<td></td>
<td>As the draft LEP does not make any change to the minimum allotment size in the rural zones, there will be limited opportunity for additional development.</td>
</tr>
<tr>
<td></td>
<td>Noted.</td>
</tr>
<tr>
<td>Hornsby Shire Council</td>
<td>No comment at this stage.</td>
</tr>
<tr>
<td></td>
<td>Noted.</td>
</tr>
<tr>
<td>Transgrid</td>
<td>No objection to preparation of plan</td>
</tr>
<tr>
<td></td>
<td>Information on easements and map indicating location of transmission lines provided.</td>
</tr>
<tr>
<td></td>
<td>Information Noted.</td>
</tr>
<tr>
<td>NSW Department of Mineral Resources</td>
<td>The draft LEP should make provision for “mines” and “underground mining” with development consent i.e. permit underground mining of coal remote from localised surface infrastructure. This would also allow the installation of gas production wells if economic reserves were identified.</td>
</tr>
<tr>
<td></td>
<td>Request mines and extractive industries be permissible in the Rural 1(a), 1(b), 1(c) and 1(d) zones but not National Parks or Nature Reserves</td>
</tr>
<tr>
<td></td>
<td>At present no significant mineral resources have been identified in Baulkham Hills LGA that would justify “mines” and “underground mining” as permissible developments.</td>
</tr>
<tr>
<td></td>
<td>Sydney Regional Environmental Plan No. 9 – Extractive industries, applicable to Baulkham Hills LGA identifies land that contains extractive material of regional significance. Accordingly, BHSC LEP 1991 permits extractive industry development with consent only in Rural 1(b) zone.</td>
</tr>
</tbody>
</table>
Deerubbin Local Aboriginal Land Council (Submission made by Chalk & Fitzgerald)

- Neither the Draft Rural Strategy nor the Sustainable Natural Assets Mapping Report constitutes an Environmental Study for the purpose of Section 57 of the Environmental Planning and Assessment Act. Where legislation has the potential to interfere with vested property interests any procedure put in place as preconditions to that interference are interpreted strictly and required to be fully implemented. Is of the view that by disavowing its [BHSC's] responsibility to prepare an environmental study an alteration of the current zoning carried out in reliance with the Draft Rural Lands Study will be unlawful.
- Deerubbin LALC was denied procedural fairness in the preparation of the Sustainable Natural Assets Mapping Report, as Deerubbin LALC is a corporation established by statute to benefit a socially and economically disadvantaged group and was not consulted in the preparation of the Sustainable Natural Assets Management Report pursuant to S.62 of EPA&Act.
- The Draft Rural Strategy is not a bonafide implementation of the Sustainable Natural Assets Mapping Report. The Sustainable Natural Assets Mapping Report is considered too general, inaccurate and inadequate to justify any planning strategy that would result in zoning changes or affect private property interests.
- The Draft Rural Strategy is discriminatory and disproportionately affects the interests of Deerubbin LALC, as 87% of land owned by or being transferred to Deerubbin LALC as a result of successful land claims is designated nature conservation whilst the current zoning Rural 1(b). It is considered that the status of Deerubbin's land was a factor in it being identified as falling within the nature conservation area and that the owner has been disproportionately targeted to provide the nature conservation requirements of the region.
- The Land and Environment Court and NSW Court of Appeal have established that the land subject to Aboriginal land claims was not needed or likely to be needed for the essential public purpose of nature conservation.
- Request that in the event that BHSC proceeds with the draft LEP, Deerubbin’s land should be rezoned Rural Landscape which is consistent with the current zoning.

- In its Section 54 Submission to the Department dated 27 August 2003, Council concluded that the preparation of an Environmental Study under Section 74(2) of the EP&A Act was not required given the extensive nature of the studies already undertaken as part of the Rural Lands Study and Natural Assets Assessment Project. The Department supported this position in its correspondence dated 6 July 2004. See Appendix 4.
- The Natural Assets Mapping Report prepared by AES Environmental Consultancy outlines the findings of bushland mapping and vegetation identification and distribution work. Section 62 requires consultation with relevant bodies in the preparation of an LEP. The Natural Assets Mapping Report does not constitute a draft LEP. The Natural Assets Mapping Report is an ecological assessment of vegetation. There is little opportunity for community involvement or consultation due to the highly technical nature of the tasks involved and the professional input required.
- The purposes of the Rural Strategy and Natural Assets Mapping Report is to inform the drafting of the draft LEP.
- The land use designations in the Rural Strategy were derived through a process of data gathering, identification of constraints and land units, an assessment of agricultural potential and consideration of appropriate zones. The ownership of the land was not a consideration in the designations of land use.
- It is not proposed that the any of the zones with the exception of Special Uses 5(a) and Open Space 6(a) be used for any particular public purpose.
- The proposed zoning in the draft LEP are not based on ownership.
### Deerubbin Local Aboriginal Land Council (Submission made by Design Collaborative)

- It is unclear how the land use designations in the Rural Strategy were derived from the Natural Assets Mapping Report, in particular how areas were selected for designation. A comparison of the vegetation map and land use designation indicates that bushland is far more widespread than reflected in the land use designations.
- The Nature Conservation designation in the rural strategy has ignored the distribution of endangered ecological communities.
- Only two of six areas of significant natural areas identified have been designated Nature Conservation.
- The land use designation approach relies on historical patterns of land ownership not an objective process of identification based on the findings of the Natural Assets Mapping Report.
- Deerubbin will bear a disproportionate burden of responsibility for biodiversity conservation compared with other property owners (private and Public) within the Shire.
- Request that the Nature Conservation land use designation affecting Deerubbin LALC be deleted and designated in a similar manner as surrounding land i.e. Rural Landscape and corresponding zone in the draft LEP.

### Western Sydney Area Health Service

- Council has a high level responsibility to address biodiversity conservation issues, in this regard Council’s 2000 – 2001 State of the Environment Report identifies that there is a poor level of protection within the Shire for biodiversity which faces major threats from human activities in the form of clearing, fragmentation, degradation introductive species and altered fire regimes.
- The draft LEP creates two new Environmental Protection zones: 7(b) Bushland and 7(c) Riparian Corridor. The existing Environmental Protection 7(a) Wetlands zone has been extended to zone additional wetland areas. The objectives of the zones are to protect, conserve and enhance significant biodiversity areas. Provisions in the draft DCP regarding Biodiversity, Clearing of Bushland, Development on Bush Fire Prone Land also address these issues.
<table>
<thead>
<tr>
<th>Section Consultation Department of Environment and Conservation (formerly NSW NPWS)</th>
<th>DEC recommends the draft LEP seeks to achieve the following broad objectives:</th>
</tr>
</thead>
<tbody>
<tr>
<td>34A</td>
<td>- Incorporation of biodiversity conservation measures, bushfire and threatened species into the LEP is supported, particularly the implementation of environmental protection zones.</td>
</tr>
<tr>
<td></td>
<td>- Supports Council’s decision to not support further subdivision in most rural areas, however there is concern about the proposal to reduce the minimum allotment size in the 1(a) zone to allow rural cluster subdivision.</td>
</tr>
<tr>
<td></td>
<td>- DEC recommends the draft LEP seeks to achieve the following broad objectives:</td>
</tr>
<tr>
<td></td>
<td>- Identification, protection and management of areas of high and moderate ecological value, including potential linkages. i.e. Council’s vegetation mapping should identify areas of high, moderate and low ecological value. These areas should be zoned accordingly, and protected and managed for conservation purposes under one conservation or environmental protection zone.</td>
</tr>
<tr>
<td></td>
<td>- Identification, protection and management of areas of moderate ecological value (not adjoining areas of high ecological value) and areas of low ecological value.</td>
</tr>
<tr>
<td></td>
<td>- Identification, protection and management of Aboriginal heritage values. The potential for the rural lands to contain areas of Aboriginal heritage significance will need to be assessed as part of the development of the LEP, i.e. through consultation with Local Aboriginal Land Councils. There may be significant opportunity for the protection of overlapping Aboriginal heritage and biodiversity values through the LEP.</td>
</tr>
<tr>
<td></td>
<td>- Application of incentive provisions and schemes. Encourages the opportunity to incorporate incentive provisions in the LEP i.e. bonus development options associated with rural cluster subdivision.</td>
</tr>
<tr>
<td></td>
<td>- Noted.</td>
</tr>
<tr>
<td></td>
<td>- Rural cluster housing is proposed to be permissible in the Rural 1(b) zone only, not in Rural 1(a) zone. This concept of housing will not reduce the minimum allotment size as subdivision of rural cluster housing would not be permissible.</td>
</tr>
<tr>
<td></td>
<td>- Council’s Natural Assets Assessment Project identified the distribution of plant communities in the Shire, in particular endangered ecological communities. The outcome of the study led to introduction of two new Environmental Protection Zones: Bushland 7(b) and Riparian Corridor 7(c). The Environmental Protection 7(a) Wetlands has been expanded to incorporate wetland areas in the Shire.</td>
</tr>
<tr>
<td></td>
<td>- All developments are required to meet Sustainability Objectives of Council’s Environmental Management Plan (Section 3 - ESD of the draft DCP) including those in the areas of moderate/low ecological values. The draft DCP also includes development controls for biodiversity, clearing of bushland, etc.</td>
</tr>
<tr>
<td></td>
<td>- The Baulkham Hills LEP 2004 incorporates the Heritage Offices Model Provisions, which requires protection of heritage items, relics, and heritage conservation areas. The possibility of including known sites of Aboriginal significance within Schedule 1 – Heritage Items was investigated, however the current legislative regime does not permit publication of such sites at this point in time.</td>
</tr>
<tr>
<td></td>
<td>- Incentive provisions and schemes are outside the scope of a draft LEP/DCP. The concept of rural cluster housing aims to protect and preserve land of high ecological value.</td>
</tr>
</tbody>
</table>
APPENDIX 3 – CHANGES IN DRAFT LOCAL ENVIRONMENTAL PLAN
Definitions

5. (1) In this plan

*agricultural products establishment* means a building or place used for the sale of goods, machinery or materials used in agricultural production, but does not include a building or place elsewhere specifically defined by this clause.

*agriculture* means horticulture and the use of land for any purpose of husbandry, including the keeping or breeding of livestock, poultry or bees, and the growing of fruit, vegetables and the like but not for the purpose of *aquaculture*, intensive animal industries, or intensive horticulture establishments.

*ancillary rural development* means minor development that is ancillary to, but detached and separated from a dwelling-house lawfully erected in a rural area, and includes garages, swimming pools, and outbuildings or structures but does not include tennis courts, squash courts and the like.

*aquaculture* means a building or place used for the commercial breeding, hatching, rearing or cultivation of marine, estuarine or fresh water organisms, including aquatic plants or animals such as fin fish, crustaceans, molluscs or other aquatic invertebrates.

*creek* means the path of a permanent or intermittent flow of water

(a) any watercourse, whether perennial or intermittent and whether comprising a natural channel or a natural channel artificially improved; and

(b) any tributary, branch or other watercourse into or from which a watercourse referred to in paragraphs (a) flows.

*farm gate sales* means a buildings or place used for the selling of agricultural products grown on the land, and may include the selling of products made from agricultural products grown on the land on which the building or place is situated provided that:

(a) sales take place in a building, an area within a building or a defined area of land, and

(b) the area used for selling is not greater than 75 square metres, and

(c) the building or area is located more than 20 metres from the boundary between the land and the public road, and

(d) a defined car parking area is provided on the land.

*intensive animal industry* means agricultural animal production where cattle, horses, goats, poultry or other livestock are held in buildings or in a confined area for feeding and, without limiting the generality of the above, may involve the use of where livestock are held in a building or place for the purposes of nurturing solely by a feeding method other than natural grazing and may involve the use of:
(a) a beef cattle feedlot; or
(b) a dairy farm; or
(c) a piggery, including a free-range piggery; or
(d) a poultry farm, including a free-range poultry farm; or
(e) a worm farm; or
(f) a building or place used for fish farming (that may consist of or include farming crustaceans).

but does not include use of a building or place for keeping livestock intended solely for personal consumption or enjoyment by the owner or occupier of the building or place.

**intensive horticultural establishment** means a building or place used for the horticulture production at which of plants or fungi are grown using an intensive agricultural system, or for where such as hydroponics, housing, climate control system, crop protection system structures or equipment are used, and may involve the following: - without limiting the generality of the above:
(a) hydroponics;
(b) market gardening;
(c) orcharding;
(d) field flowers;
(e) vineyards;
(f) turf farming; and
(g) mushroom growing
(a) may consist of or include a shed, greenhouse or poly housing; and
(b) may involve automated heating, irrigation or sprinkler systems, or the use of shade cloth, hail netting or animal scaring devices;

but does not include a place used to grow produce solely for personal household consumption or enjoyment.

**prescribed materials, in relation to a site or building**, means materials of low reflective quality low reflectivity that blend with the landscape of the site and its surroundings.

**roadside stall** means a building or place, not exceeding 20m² in floor areas or areas respectively, where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail.

**riparian corridor** means that component of land (including flood plains) adjacent to watercourses.

**riparian vegetation** means emergent aquatic and semi aquatic plants as well as the over and understorey vegetation in the zone immediately adjacent to, or verging watercourses.

**rural cluster development** means development that includes
(a) the subdivision of land into three or more residential allotments and the erection of a detached dwelling-house on each allotment; and
(b) in the same subdivision a separate community allotment of land for the preservation of any significant natural feature(s) on the site.

**rural industry** means handling, treating, processing, packing or transporting of primary products, whether or not the products are produced on the site and may **and includes** the servicing in a workshop of plant or equipment used for rural purposes in the locality, but does not include the repair of motor vehicles.

**rural workers dwelling** means a dwelling-house which is situated on land on which there is already erected a dwelling-house and which is occupied by a person who is engaged in the an existing use of the land for the purposes of agriculture, aquaculture, intensive animal industries or intensive horticulture establishments.

**stock and sale yard** means a building or place used for the purpose of offering animals for sale, and includes a public cattle market.

**tourist facility** means an establishment providing facilities for holiday tourist accommodation or recreation, and may include a boat sheds, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, houseboat marina, motel, playground, restaurant, water sport facilities or a club used in conjunction with any such activity, or any other similar uses that attract tourists to the area.

**wetland** means an area with characteristics of both terrestrial and aquatic environments that is flooded or waterlogged often enough to support aquatic or other plants typical of areas with those characteristics.

### 8 Zones indicated on the map

For the purposes of this plan, land to which this plan applies shall be within a zone specified hereunder if the land is shown on the map in the manner specified hereunder in relation to that zone:

Zone No. l(a) (Rural l(a) Zone) - coloured light brown and lettered "l(a)".

Zone No. l(b) (Rural l(b)(Rural Landscape) Zone) - coloured **light** brown, **edged red** and lettered "l(b)".

Zone No. l(c) (Rural l(c)(Rural Living) Zone) - coloured **light-dark** brown, **edged red** and lettered "l(c)".

Zone No. l(d) (Rural l(d) Zone) - coloured light brown, edged red and lettered "l(d)".

Zone No. 2(a) (Residential 2(a) Zone) - coloured light scarlet, edged red and lettered "2(a)".
Zone No. 2(a1) (Residential 2(a1) Zone) - coloured light scarlet, edged red and lettered "2(a1)".

Zone No. 2(a2) (Residential 2(a2) Zone) - coloured light scarlet, edged red and lettered "2(a2)".

Zone No. 2(a3) (Residential 2(a3) Zone) - coloured light scarlet, edged red and lettered "2(a3)".

Zone No. 2(a4) (Residential 2(a4) (Rouse Hill Regional Centre) Zone) – coloured dark scarlet and lettered 2(a4).

Zone No. 2(b) (Residential 2(b) Zone) - coloured light scarlet and lettered "2(b)".

Zone No. 2(c) (Residential 2(c) (Tourist Village) Zone) - coloured light scarlet and lettered "2(c)".

Zone No. 2(d) (Residential 2(d) (Protected) Zone) - coloured light scarlet, edged red and lettered "2(d)".

Zone No. 2(e) (Residential 2(e) (Protected) Zone) - coloured light scarlet, edged red and lettered "2(e)".

Zone No. 3(a) (Business 3(a) (Retail) Zone) - coloured light blue and lettered "3(a)".

Zone No. 3(b) (Business 3(b) (Commercial) Zone) - coloured medium blue and lettered "3(b)".

Zone No. 3(c) (Service Business 3(c) Zone) – coloured dark blue and lettered “3(c)”.  

Zone No. 3(d) (Business 3(d)(Village Centre) Zone) - coloured dark blue and lettered "3(d)".

Zone 4(b)(Light Industry 4(b) Zone)- coloured purple and lettered "4(b)".

Zone No. 5(a) (Special Uses 5(a) (Existing and Proposed) Zone) - coloured yellow, edged red, with black lettering and lettered "5(a)".

Zone No. 5(b) (Special Uses 5(b) (Existing and Proposed Roads) Zone) - coloured grey, with classified roads shown by a blue centerline.

Zone No. 5(c) (Special Uses 5(c) (Trunk Drainage and Conservation) Zone) – coloured yellow, edged red, with black lettering and lettered “5(c)”.

Zone No. 6(a) (Open Space 6(a) (Existing and Proposed Public Recreation) Zone) - coloured light green and lettered "6(a)".

Zone No. 6(b) (Open Space 6(b) (Private Recreation) Zone) - coloured dark green and lettered "6(b)".
Baulkham Hills Rural Lands Study
Plan Making - Background Report

Zone No. 7(a) (Environmental Protection 7(a) (Wetlands) Zone) - coloured light orange and lettered "7(a)".

Zone No. 7(b) (Environmental Protection 7(b) (Bushland) Zone) - coloured medium orange and lettered "7(b)".

Zone No. 7(c) (Environmental Protection 7(c) (Riparian Corridor) Zone) - coloured dark orange and lettered "7(c)".

Zone No. 8(a) (National Parks and Nature Reserves 8(a) Zone) - edged green and lettered "8(a)".

Zone No. 10(a) (Employment Area 10(a) (Business Park) Zone) - coloured light blue and lettered "10(a)".

**Zone 1(a) (Rural 1(a) Zone)**

1. **Objectives of Zone**

   The objectives of the zone are:

   (a) to ensure that existing or potentially productive agricultural land is not withdrawn prematurely from agricultural production; and

   (b) to ensure that development is carried out in a manner that minimises risks from natural hazards and does not unreasonably increase demand for public services and public facilities; and

   (c) to provide for urban support functions; and

   (d) to ensure that development is designed and carried out having regard to adjoining land uses and the natural environment; and

   (e) to ensure that development is designed and carried out having regard to the rural and heritage character of the surrounding area; and

   (f) to ensure that development is designed and carried out having regard to:

      (i) the adjoining land uses;
(ii) the amenity of existing residents; and
(iii) the rural and heritage character of the surrounding area.

2 Development allowed without consent

Exempt development and development for the purpose:

agriculture (other than dams); bed and breakfast establishments; bush fire hazard reduction; home activities.

3 Development allowed only with consent

Development for the purpose of:

additions and alterations to an existing dwelling-house; advertising structures; agricultural products establishments; aquaculture; attached dual occupancies; bushfire fighting establishments; caretaker’s dwellings; cemeteries; child care centres; clearing of bushland; community facilities; dams; demolition; dwelling-houses; environmental protection works; exhibition homes; exhibition villages; health care premises; farm gate sales; filling of land; firewood establishments; guest houses; home businesses; home industries; intensive animal industries; intensive horticulture establishments; landscape supply establishments; leisure facilities; places of worship; public buildings; public utility undertakings; recreation areas; recreation facilities; renewable energy facilities; retail plant nurseries; roads; roadside stalls; rural industries (other than poultry processing); rural worker’s dwellings; sheds; stables; stock and sale yards; tennis courts in association with a dwelling; utility installations (other than gas holders or generating works); veterinary establishments; wholesale plant nurseries.

Development for the purpose of the following (which is notifiable development):

animal boarding breeding and training establishments; clubs; educational establishments; forestry; guest houses; hospitals, institutions; reception establishments; research establishments; telecommunications facilities.

Included in this item is the following complying development:

ancillary rural development; erection of sheds between 50m² and 100m² in gross floor area.

4 Prohibited development

Any development not included in item 2 or 3.
Zone 1(b) - (Rural 1(b)(Rural Landscape) Zone)

1 Objectives of the Zone

The objectives are:

(a) to ensure that existing or potentially productive agricultural land is not withdrawn unnecessarily from agriculture production; and

(a) to preserve and maintain the open rural landscape character of the locality and provide for intensive and extensive forms of agriculture; and

(b) to maintain the rural character of the locality without adversely affecting the carrying out of agriculture activities; and

(b) to provide for a variety of rural-residential development and tourist facilities in appropriate locations; and

(c) to ensure that development is carried out in a manner that minimises risks from natural hazards, does not unreasonably increase demand for public services and public facilities and is within the servicing capacity of the area; and

(d) to provide urban support functions; and

(d) to protect and enhance the natural environment including biodiversity, native vegetation, habitat linkages, surface water and groundwater resources, and areas of scenic and environmental value; and

(e) to protect and enhance those areas of particular scenic and environmental value; and

(e) to ensure that development is designed and carried out having regard to:

(i) the adjoining land uses;
(ii) the amenity of existing residents; and
(iii) the rural and heritage character of the surrounding area.

(f) to ensure that development is designed and carried out having regard to the rural and heritage character of the surrounding area; and

(g) to ensure that development is designed and carried out having regard to adjoining land uses and the natural environment.

2 Development allowed without consent
Exempt development and development for the purpose of:

agriculture (other than dams); bed and breakfast establishments; bushfire hazard reduction; home activities.

3 Development allowed only with consent

Development for the purpose of:

additions and alterations related to an existing dwelling-house; advertising structures; agricultural products establishments; aquaculture; attached dual occupancies; bushfire fighting establishments; caretaker’s dwellings; cemeteries; child care centres; clearing of bushland; community facilities; convenience stores; dams; demolition of existing structures; dwelling-houses; environmental protection works; exhibition homes; exhibition villages; farm gate sales; firewood establishments; filling of land; health care premises; helipads; heliports; home businesses; home industries; intensive animal industries; intensive horticulture establishments; landscape supply establishments; leisure facilities; places of worship; public buildings; public utility undertakings; recreation areas; recreation facilities; restaurants; renewable energy facilities; retail plant nurseries; roads; road side stalls; rural cluster development; rural industries; rural worker’s dwellings; sawmills; sheds; stables; stock and sale yards; tennis courts in association with a dwelling; utility installations (other than gas holders or generating works); veterinary establishments; wholesale plant nurseries.

Development for the purpose of the following (which is notifiable development):

animal boarding breeding and training establishments; caravan parks; clubs; educational establishments; extractive industries or industries directly associated with, or dependent upon, extractive industries; forestry; guest houses; hospitals; institutions; liquid fuel depots; motels; reception establishments; research establishments; service stations; telecommunications facilities; tourist facilities.

Included in this item is the following complying development:

ancillary rural development; erection of sheds between 50m$^2$ and 100m$^2$ in gross floor area.

4 Prohibited development

Any development not included in item 2 or 3.
1 Objectives of the Zone

The objectives are:

(a) to accommodate rural-residential development that is sympathetic to the environment and minimises risks from natural hazards; and

(b) to provide for a range of activities that are compatible with the rural residential character of the locality; and

(c) to ensure that development is carried out in a manner that minimises risks from natural hazards, does not unreasonably increase demand for public services and public facilities and is within the servicing capacity of the area; and

(d) to ensure that development is designed and carried out having regard to adjoining land uses and the natural environment; and

(e) to encourage the preservation of suitable areas for open space purposes; and

(f) to ensure that development is designed and carried out having regard to:

   (i) the adjoining land uses;
   (ii) the amenity of existing residents; and
   (iii) the rural and heritage character of the surrounding area.

2 Development allowed without consent

Exempt development and development for the purpose of:

agriculture (other than dams); bed and breakfast establishments; bushfire hazard reduction; home activities.

3 Development allowed only with consent

Development for the purpose of the following:

additions and alterations related to an existing dwelling-house; advertising structures; aquaculture; attached dual occupancies; bushfire fighting establishments; caretaker’s
dwellings; cemeteries; child care centres; clearing of bushland; community facilities; dams; demolition; dwelling-houses; environmental protection works; exhibition homes; farm gate sales; filling of land; health care premises; home businesses; home industries; intensive animal industries; intensive horticulture establishments; landscape supply establishments; leisure facilities; places of worship; public buildings; public utility undertakings; recreation areas; recreation facilities; renewable energy facilities; retail plant nurseries; roads; roadside stalls; rural industries (other than poultry processing); rural workers’ dwellings; sheds; stables; tennis courts in association with a dwelling; utility installations (other than gas holders or generating works); veterinary establishments; wholesale plant nurseries.

Development for the purpose of the following (which is notifiable development):

animal boarding breeding and training establishments; clubs; educational establishments; hospitals; restaurants; research establishments; telecommunications facilities.

Included in this item is the following complying development:
ancillary rural development; erection of sheds between 50m² and 100m² in gross floor area.

4 Prohibited development

Any development not included in item 2 or 3.

Zone 1(d) (Rural 1(d) Zone)

1 Objectives of zone

The objectives are:

(a) to accommodate rural-residential development that is sympathetic with the environment and minimises risks from natural hazards; and

(b) to ensure that development is compatible with the rural-residential character of the locality; and

(c) to preserve environmentally sensitive locations, natural areas and the scenic quality of the area; and

(d) to ensure that development in the area does not unreasonably increase demand for public services and public facilities; and

(e) to ensure that development is designed and carried out having regard to adjoining land uses and the natural environment; and
(f) to facilitate the creation of a range of lot sizes to provide variety and choice for housing compatible with the environmental quality and rural character of the locality and the protection of development from the hazards of bushfires.

2 Development allowed without consent

Exempt development and development for the purpose of the following:

- bed and breakfast establishments; bushfire hazard reduction; home activities.

3 Development allowed only with consent

Development for the purpose of the following:

- additions and alterations related to an existing dwelling-house; advertising structures; attached dual occupancies; bushfire fighting establishments; child care centres; clearing of bushland; community facilities; dams; demolition of existing structures; dwelling-houses; environmental protection works; filling of land; home businesses; home industries; places of worship; public utility undertakings; recreation areas; recreation facilities; renewable energy facilities; roads; sheds; stables; tennis courts in association with a dwelling; utility installations (other than gas holders or generating works); veterinary establishments.

Development for the purpose of the following (which is notifiable development):

- animal boarding breeding and training establishments; telecommunications facilities.

Included in this item is the following complying development:

- erection of sheds between 50m² and 100m² in gross floor area.

4 Prohibited development

Any development not included in item 2 or 3.

Zone 2(c) - (Residential 2(c)(Tourist Village) Zone)

1 Objectives of zone

The objectives are:

(a) to provide for tourist-orientated activities and housing developments that are appropriately located in the village setting; and
(b) to provide for a range of uses (primarily support services) serving the needs of residents and complementary to the scale of neighbouring land uses; and

(c) to ensure the provision of water and sewerage infrastructure to services the needs of residents; and

(e)(d) to allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the amenity of neighbours or the surrounding area; and

(e) to promote development that encourages public transport use and minimizes private transport generation; and

(e) to allow a range of developments, ancillary to residential uses, that:

(i) is capable of visual integration with the surrounding environment; and

(ii) serves the needs of the surrounding population without conflicting with the residential intent of the zone; and

(iii) does not place excessive demands on services.

2 Development allowed without consent

Exempt development and development for the purpose of the following:

home activities

3 Development allowed only with consent

Development for the purpose of the following:

additions or alterations related to an existing dwelling-house; advertising structures; agriculture (other than dams); bed and breakfast establishments; bushfire fighting establishments; bushfire hazard reduction; cemeteries; child care centres; community facilities; convenience stores; demolition; dwelling-houses; dwellings; educational establishments; environmental protection works; exhibition homes; filling of land; health care premises; home businesses; medical practitioner’s surgeries; places of worship; public buildings; public utility undertakings; recreation areas; recreation facilities; renewable energy facilities; research establishments; restaurants; retail plant nurseries, service stations; shops; tennis courts in association with a dwelling; utility installations (other than gas holders or generating works); veterinary establishments.

Development for the purpose of the following (which is notifiable development):
apartment buildings; attached dual occupancies; car repair stations; caravan parks; clubs; detached dual occupancies; environmentally integrated housing; exhibition villages; guest houses; hospitals; hotels; motels; reception establishments; telecommunications facilities; tourist facilities; town houses; villas.

Included in this item is the following complying development:

additions and alterations related to an existing dwelling-house, being an addition to the ground floor only, with not more than 1 metre cut or 0.6 metre fill (that do not increase the number of the storeys in the dwelling); different shop use resulting from change of use of a shop; different commercial premises use resulting from change of use of commercial premises; erection of single-storey dwelling-houses with not more than 1 metre cut or 0.6 metre fill; internal alterations related to existing commercial premises; internal alterations related to an existing shop.

4 Prohibited development

Any development no included in item 2 or 3.

Zone 3(d) - (Business 3(d)(Village Centre) Zone)

1 Objectives of zone

The objectives are:

(a) to encourage appropriate development to accommodating the retail, commercial and social needs of residents and the surrounding rural areas; and

(b) to encourage the development of tourist-orientated activities that are appropriately located in a village setting; and

(c) to ensure that new development is compatible with the heritage character of the rural village; and

(d) to allow a range of developments, that:

(i) are visually integrated with development carried out on land in the surrounding area; and

(ii) does not significantly impact upon the natural environment; and

(iii) are within the servicing capacity, of the area.

2 Development allowed without consent

Exempt development and development for the purpose of the following:
home activities.

3 Development allowed only with consent

Development for the purpose of the following:

- advertising structures; agricultural products establishments; bus station; bushfire hazard reduction; car repair stations; civic centres; community facilities; commercial premises; convenience store; demolition; filling of land; health care premises, leisure facility; medical practitioner’s surgeries; motor vehicle servicing; place of assembly; place of worship; public building; public utility undertaking; recreation area; recreation facility; renewable energy facilities; research establishment; restaurant; shops; shop-top housing; utility installations; veterinary establishment.

Development for the purpose of the following (which is notifiable development):

- child care centres, clubs; educational establishments, guest houses; hospitals; hotels; motels; reception establishments; service station; telecommunications facilities; tourist facilities.

Included in this item is the following complying development:

- change of use of a commercial premises to commercial premises; change of use of a shop to a shop; internal alterations related to an existing commercial premises; internal alterations related to an existing shop.

4 Prohibited development

Any development not included in item 2 or 3.

Zone 7(a) - (Environmental Protection 7(a)(Wetlands) Zone)

1 Objectives of zone

The objectives are:

(a) to conserve and enhance the ecological, scenic and environmental attributes of wetland areas; and

(b) to allow development only where it will not have a significant detrimental effect on wetlands.

2 Development allowed without consent
home activities.

3 Development allowed only with consent

Development for the purpose of the following:

additions or alterations related to an existing dwelling-house, agriculture (other than dams); bushfire hazard reduction; demolition of existing structures; dwelling houses; environmental protection works; public open space; renewable energy facilities; rural cluster development.

Development for the purpose of (which is notifiable development):

Nil.

4 Prohibited development

Any development not included in item 2 or 3.

Zone 7(b) - (Environmental Protection 7(b)(Bushland) Zone)

1 Objectives of zone

The objectives are:

(a) to conserve and enhance the ecological, scenic and environmental attributes of areas of significant bushland in rural areas;

(b) to ensure the continued existence of threatened flora, fauna, and endangered ecological communities; and

(c) to allow development only where it will not have a detrimental effect on areas of significant bushland.

2 Development allowed without consent

Development for the purpose of:

home activities

3 Development allowed only with consent
Development for the purpose of:

alterations and additions related to existing an dwelling-house; bushfire fighting establishment; demolition; dwelling-houses; environmental protection works; environmental protection works in association with a land use permissible in an adjoining zone; fencing; home businesses; renewable energy facilities; rural cluster development; utility installations.

Development for the purpose of (which is notifiable development):

telecommunications facility; tourist facilities.

4 Prohibited development

Any development not included in item 2 or 3.

Zone 7(c)(Environmental Protection 7(c)(Riparian Corridor) Zone)

1 Objectives of zone

The objectives are:

(a) to protect and conserve the ecological, scenic and environmental attributes of riparian corridors; and

(b) to create and maintain wildlife linkages along riparian corridors; and

(c) to allow a limited range of development only where it will not have a detrimental effect on riparian corridors.

2 Development allowed without consent

Development for the purpose of:

home activities

3 Development allowed only with consent

Development for the purpose of:
alterations and additions related to existing dwellings; demolition; environmental protection works; public open space; roads; rural cluster development; utility installations.

Development for the purpose of (which is notifiable development):

Nil.

4 Prohibited development

Any development not included in item 2 or 3.

Part 3 – Special Provisions

18 Subdivision in Zones Nos 1(a), 1(b), 1(c), 4(d) 7(a), & 7(b)

(1) Subject to subclause (5), land within a zone specified in paragraph (a) - (d) shall not be subdivided unless each separate allotment to be created by the subdivision has an area of not less than the area so specified in respect of that land:

(a) Zone No. 1(a) - 40 hectares;
(b) Zone No. 1(b) - 10 hectares;
(c) Zone No. 1(c) - 2 hectares; and
(d) Zone No. 7(a) - 40 hectares.

The Council shall not grant consent to the subdivision of land within Zone No. 1(d) unless:

(a) the land forms part of an existing holding; and

(b) the number of lots to be created for the purpose of erecting a dwelling-house is not greater than the area of the existing holding, expressed in hectares, divided by 2 and calculated to the nearest whole number; and
(c) the area of each separate allotment to be created is not less than 0.6 hectares.

(3) An allotment of land created in accordance with subclause (2) shall not be further subdivided into lots for the purpose of erecting a dwelling house.

(4) Nothing in subclause (3) precludes a subdivision which complies with subclause (2) being carried out in stages.

(2) Notwithstanding any other provision of this plan, land may be subdivided, with the consent of the Council, for any of the following purposes:

(a) creating a public reserve;

(b) creating an allotment or allotments which is, or is intended to be, used for public purposes, including drainage purposes, bushfire brigade or other rescue service purposes or public convenience;

(c) making a minor adjustment to a common boundary between allotments, being an adjustment that does not involve the creation of any additional allotment;

(d) rectifying an encroachment on an allotment;

(e) consolidating allotments;

(f) opening or widening a public road; and

(g) enlarging the area of any existing allotment without reducing the area of any existing allotment, below the minimum described in subclause (1).

(3) Council will not consent to the creation of allotments solely zoned Environmental Protection 7(a)(Wetland) or Environmental Protection 7(c)(Riparian Corridor) unless the purpose of the subdivision is to enable the dedication or transfer of the allotment to a statutory agency.

18A Rural Cluster Development

(1) Subdivision of land within Zone No 1 (b), 7(a), 7(b) or 7(c) in accordance with the Community Land Development Act 1989 to create a neighbourhood scheme is permitted, but only with the consent of the council. Such subdivision is referred to in this clause as a community title subdivision.
(2) Despite clause 18, the council may consent to a community title subdivision for the purposes of rural cluster development only where:

(a) the total area of the land is equal to or greater than 20 hectares; and
(b) there is a maximum of 1 residential allotment for every 4 hectares of land;
(c) where each residential allotment is a minimum of 0.4 hectares in area and a maximum of 1 hectare in area, and is wholly contained within land zoned Rural 1(b);
(d) the remaining land is contained in a community allotment; and
(e) any land zoned 7(a), 7(b) or 7(c) shall be contained within the community allotment.

(3) Despite part (2) of this clause, Council shall not grant consent to the development of land for the purposes of rural cluster development unless it is satisfied that the landscape, biodiversity and rural setting of the site shall be protected and enhanced through the implementation of appropriate management measures.

(4) Council must not consent to the development of land for a dual occupancy, either attached or detached, on any residential allotment created as a result of rural cluster development.

(5) Council shall not consent to the further subdivision of a community allotment created as part of a rural cluster development.

24 Development Near Hawkesbury River

(1) This clause applies to all land, within Zone No. 1(b), which is within 1000 metres of the bank the visual catchment of the Hawkesbury River (the visual catchment meaning the area between the river and the top of the escarpment).

(2) No building or structure, including movable dwellings or manufactured homes (other than loading ramps, jetties, pontoons or the like) shall be erected on land within 30-50 metres of the bank of the Hawkesbury River.

(3) The external surface of any building shall be constructed of prescribed materials.

(4) Land shall not be developed or cleared of vegetation or trees without the consent of the Council.

28 Clearing of Bushland in Zone 1(a), 1(b), 1(c), 1(d) or 7(a) 7(b)
Despite any other provisions in this plan, the clearing of bushland in the Rural 1(a), 1(b), 1(c), 1(d) and 7(a) 7(b) zones requires consent from Council, unless a land owner has been directed by Bushfire and Emergency Services to carry out bushfire hazard reduction works.

31 Advertising structures and advertisements

This clause refers to provisions of the Act as in force on 30 June 1998.

(1) A person shall not erect or display an advertising structure or advertisement without the consent of the Council, except advertising structures or advertisements referred to under Schedule 4 – Exempt Development.

(2) The Council shall consent to the erection or use of an advertising structure only where it advertises the purpose for which the premises or land on which it stands is used.

(3) The Council, or any organisation approved by Council, may erect advertising structures on land within Zone No. 1(a), 1(b) or 1(c) for the purpose of directing the travelling public to tourist areas or for the purpose of displaying private advertisements to tourist facilities.

34 Environmental management and monitoring

Council shall not consent to development within the Rural 1(a), 1(b), 1(c), 1(d)7(a), 7(b), 7(c) or 8(a) zones, unless the Council is satisfied that the following issues are addressed:

(a) water quality;
(b) soil erosion;
(c) air quality;
(d) noise;
(e) salinity;
(f) bushfire hazard;
(g) flora and fauna; and
(h) the continued monitoring of the above issues.

34(a) Tourist facilities in 7(b) zone

Council shall not consent to the development of a tourist facility within the Environmental Protection 7(b)(Bushland) zone, unless the Council is satisfied that:

(a) the primary focus of the tourist facility is on experiencing nature;
(b) the facility fosters environmental and cultural understanding, and may include educational or interpretative activities;

(c) the facility is ecologically sustainable and the extent of clearing is minimised;

(d) the siting of the development responds to the nature and topography of the land;

(e) the tourist facility may include some form of tourist accommodation where the maximum number of accommodation units shall not exceed four (4) within any one building;

(f) the height, bulk, scale and relationship of buildings with each other is compatible with the character of the locality and the environmental features of the site;

(g) the buildings are constructed of prescribed materials;

(h) access roads do not require substantial changes to the landform; and

(i) the impact of on-site effluent on water quality is minimised.

52 Classified roads – special landuse controls

(1) This clause applies to land within Zone No. 1(a), 1(b), 1(c), 2(c) and 3(d) which has, or is proposed to have, direct vehicular access to a classified road.

(2) The Council shall not consent to the carrying out of development for the purposes of agricultural products establishments, caravan parks, clubs, educational establishments, farm gate sales, firewood establishments, hospitals, institutions, landscape supply establishments, places of worship, retail plant nurseries, reception establishments, recreation establishments, restaurants, roadside stalls, rural industry, service stations, stock and sale yards, tourist facility, or waste disposal on land to which this clause applies unless Council has given consideration to:

(a) the availability of access from an alternate road; and

(b) the limits of visibility to and from existing or proposed points of egress and ingress; and

(c) the speed limit applicable to the road in the vicinity of the land; and

(d) road improvements necessary to render safe any existing or proposed pedestrian and vehicular egress and ingress points to the site; and
(e) the requirements of the Roads and Traffic Authority; and

(f) localised road conditions; and

(g) any recent accident history in the locality; and

(h) the potential for unsafe pedestrian movements; and

(i) the need for street lighting; and

(j) the visual impact of the proposed development.

Schedule 3 Development prohibited in certain zones

Airline terminals
Amusement parks
Animal boarding, breeding and training establishments
Aquaculture
Bulky goods retailing
Bus depots
Bus stations
Car repair stations
Caravan parks
Clubs
Commercial premises
Extractive industries
Farm Gate Sales
Generating works
Guest houses
Helipads
Heliports
Hospitals
Hotels
Industries (other than home activities)
Institutions
Intensive animal industry
Intensive horticulture establishment
Intensive lot feeding of livestock
Junk yards
Landscape supply establishments
Light industries
Liquid fuel depots
Mines
Motels
Motor showrooms
Motor vehicle servicing
Offensive or hazardous industries
Pig keeping
Poultry farming
Reception establishments
Recreation facilities
Research establishments
Restaurants
Retail plant nurseries
Roadside stalls
Road transport terminals
Rural cluster development
Rural industries
Rural workers' dwellings
Sawmills
Service stations
Shop top housing
Shops
Stock and sale yards
Tourist facilities
Transport terminals
Veterinary establishments
Warehouses
Waste disposal
Wholesale plant nurseries
APPENDIX 4 – CORRESPONDENCE FROM DIPNR
Dear Mr Mead

Attn: Rebecca Johnston

Subject: Baulkham Hills Rural Lands Draft Local Environmental Plan

I am writing in response to your letter dated 27 August 2003 advising pursuant to section 54 of the Environmental Planning and Assessment Act 1979 of Council’s decision to prepare a draft Local Environmental Plan for rural lands in the local government area and subsequent discussions between officers of the Department and Council. I apologise for the delay in responding.

It is noted that Council intends to proceed with the preparation of a draft plan supported by the following studies:

- Background and Issues Report;
- Strategic Environmental Assessment and Strategy Framework Report;
- Community Consultation Report;
- Baulkham Hills Rural Strategy;
- Community Communication Report;
- The Village Character Analysis Urban Design Guidelines;
- Natural Assets Mapping – Plant Communities in Baulkham Hills Shire; and,
- Natural Assets Project Part 2 – Wetland Assessment

Given the extensive nature of these studies, it is agreed with Council that, pursuant to section 74(2) of the Act, a formal local environmental study is not required and the requirements of section 57 shall not apply in this instance.

I would add that the Department appreciates the comprehensive planning approach adopted by Council in its examination of a broad range of rural issues. In addition, the Department continues to support the general direction of the Strategy, particularly the intent to protect agriculturally viable and environmentally sensitive land by limiting rural-residential development. The Strategy also represents a reasonable planning response for the management of rural lands for the foreseeable future.

.../2

Sydney Region West Level 4, 10 Valentine Avenue, Parramatta. PO Box 404 Parramatta 2124
Phone 02 9695 7633  Fax 02 9695 6270  www.dipr.nsw.gov.au
Subdivision of Rural Lands

While this is the case, the Department holds some concerns over foreshadowed subdivision of rural lands.

As you are aware, the Department generally discourages further rural-residential or large lot subdivision of rural lands in the Sydney Basin as:

- it is often an inefficient use of land and may impact on the agricultural viability of the area, and,
- as it may cause significant adverse environmental impacts and increase the demand for facilities.

It is understood that Council’s proposed land use designation of Rural Landscape and Rural Living Mixed Uses proposes to permit lot sizes of 10 ha and 2 ha respectively. It is further understood that both Rural Landscape and Rural Mixed Uses would incorporate some areas from the current Rural 1(a) zone in which subdivision into lots of less than 40 ha is prohibited.

Similarly, it is proposed to permit rural cluster subdivision into minimum 1ha and 2ha lots in the proposed Rural Landscape designation, which would involve current Rural 1(a) and Rural 1(b) zones. At present subdivision into lots less than 40 ha and 10 ha is not permitted in Rural 1(a) and Rural 1(b) zone.

In addressing the above issues Council has advised that, with the exception of a very limited number of properties, the proposed designations would reflect the current land size holdings in these areas. As you would be aware, these proposals would appear to be generally inconsistent with the provisions of Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean and the Shaping Western Sydney document. The Shaping Western Sydney publication in particular, includes the reasons for the retention of minimum allotment sizes. Consequently, any such proposals should be examined taking into consideration all the issues including economic and environmental considerations, together with the position concerning supply and demand for large allotments, and justification should not merely rely on existing subdivision patterns.

Accordingly, Council may care to reconsider this matter and, if it wishes to proceed, provide comprehensive supporting advice to the public and authorities at exhibition stage for any such proposals.

Issues raised by the Deerubbin Local Aboriginal Land Council:

In November 2003, Chalk & Fitzgerald Lawyers & Consultants, on behalf of the Deerubbin Local Aboriginal Land Council wrote to Council highlighting their concerns in relation to the supporting studies. A copy of the Land Council’s advice was made available to the Department.

It is noted that the Land Council has provided a comprehensive critique of the supporting studies and Council is asked to ensure that the issues raised by the Land Council are thoroughly addressed. Should Baulkham Hills Council resolve to public exhibit a draft plan, it is requested that the apparent anomalies raised by the Land Council are adequately addressed prior to exhibition and, if found necessary, the exhibition is supported by a supplementary study.

.../3
It is noted that Council does not intend to exercise its section 65 and 69 delegation in this instance and the Department considers this appropriate.

If you have any further enquiries, please do not hesitate to contact Amar Saini on 9895 7807.

Yours sincerely,

Andrew Watson
Regional Planning Coordinator
Sydney Region West